

**Congress of the United States**  
**Washington, DC 20515**

January 17, 2020

The Honorable Dan R. Brouillette  
Secretary  
U.S. Department of Energy  
1000 Independence Ave. SW  
Washington, DC 20585

Dear Secretary Brouillette:

We write to call your attention to several provisions we supported in section 3202 of the recently enacted National Defense Authorization Act for fiscal year 2020. These provisions are explicitly in response to DOE Order 140.1, Interface with the Defense Nuclear Facilities Safety Board, which severely limits the DNFSB's statutory oversight responsibility to ensure the safety of communities and workers at New Mexico's two nuclear security labs and the Waste Isolation Pilot Plant. We will follow closely the Department's strict adherence to the clear intent of these important legislative provisions.

Congress established the DNFSB as an independent safety organization in 1988 to address mounting health and safety concerns at DOE defense nuclear facilities across the country, which are largely unregulated by any other state or federal agency. We believe the board helps DOE fulfil its mission of maintaining a safe, secure and reliable nuclear deterrent. The board's expertise will be especially valuable as plans for production of plutonium pits at Los Alamos National Laboratory are developed and implemented. However, you approved the new order changing how DOE supports DNFSB's oversight authority on May 14, 2018, without notice and consultation with the board or any involvement by the communities most impacted by DOE's defense nuclear facilities. The clear effect of Order 140.1 has been to diminish the Board's ability to perform its statutory mandate under the Atomic Energy Act.

We strongly support the amendments to the Atomic Energy Act in section 3202 to reinforce DNFSB's statutory authority to provide independent safety oversight of DOE's defense nuclear facilities. In particular, the amendments make clear that the mission of the Board includes providing recommendations covering the health and safety of the public as well as employees and contractors at defense nuclear facilities. The legislation also requires DOE to provide to the Board prompt and unfettered access to all facilities within its purview, regardless of the hazard or risk category of these facilities. Finally, the amendments require you to report to Congress twice each year identifying any request for access made by the Board that was denied by DOE, including the reason for the denial.

In our view, a good first step in implementing section 3202 would be an immediate suspension of Order 140.1. We would then again urge you to initiate a collaborative effort

with the members of the Board to develop a new interface with DNFSB that fully complies with the amendments and affords the board its statutory authority for oversight of DOE's defense nuclear facilities.

We look forward to hearing your plans for implementation of section 3202.

Sincerely,



TOM UDALL  
United States Senator



MARTIN HEINRICH  
United States Senator



BEN RAY LUJÁN  
Member of Congress

DEB HAALAND  
Member of Congress

XOCHITL TORRES SMALL  
Member of Congress