

SourceAmerica (formerly National Industries for the Severely Handicapped) and National Industries for the Blind, approximately 2,000 jobs of individuals who are disabled and approximately 800 jobs of individuals who are blind, respectively, are associated with VA contracts. In mid-2019, there were roughly 90 such contracts held by NPAs located in 30 states and the District of Columbia. Some of these contracts have passed from AbilityOne NPAs to SDVOSBs or VOSBs since May 20, 2019. Available information indicates that more contracts for products have been affected than contracts for services, due to the fact that the particular services that are prevalent in the AbilityOne Program, such as custodial, food, and call center services, are relatively less likely than products to pass the Rule of Two. Available information indicates that many affected NPAs have furloughed employees while attempting to secure work for them on other contracts. However, the extent of layoffs that have already occurred is unknown, while the Committee has been provided no example of a SDVOSB or VOSB gaining a contract which was formerly performed by an NPA and taking on the NPA's employees who would otherwise be displaced.

The destruction of employment and employment opportunities for individuals who are blind or disabled is extremely unsatisfactory; it is also unnecessary and avoidable. The courts in the cases discussed above relied on the general maxim of statutory interpretation that a specific statute (the VBA of 2006) takes precedence over a general statute (the JWOD Act), particularly when the specific statute was later enacted. They also gave weight to the Veterans Benefits Act of 2003's clarity as to the treatment of the JWOD Act in contrast to the VBA of 2006's silence and imputed there congressional intent to subsume the AbilityOne Program in VA. The purpose of H.R. 4920 is to clarify Congress's intent. The Vets First Program and the AbilityOne Program should coexist in VA as they did after the enactment of the VBA of 2006, through the April 28, 2010 policy, through the time of Kingdownmare, until PDS Consultants fundamentally changed the programs' alignment. However, recognizing the time that has passed and the inherent fairness issue that informs the relevant bid protests and cases, it is more appropriate to use the date of enactment of the VBA of 2006, December 22, 2006, as a point of demarcation than the date of VA's former policy, April 28, 2010. This legislation would exempt the award of contracts in VA for products and services that were placed on the Procurement List on or before December 22, 2006 from the Rule of Two and thereby preserve a substantial amount of, though not all, employment in the NPAs that rely on these contracts. All contracting for products and services added to the Procurement List later must comply with the Rule of Two. In effect, all future contracting opportunities will flow through the Vets First Program.

Finally, it should be emphasized that in contrast with PDS Consultants, this intent is wholly consistent with the Supreme Court's opinion in Kingdomware as well as the congressional intent expressed in the amici curiae brief submitted in conjunction with that case and the functioning of the Vets First Program since Kingdomware. I share the solicitor general's assessment, in his December 9, 2019 response to Winston-Salem Industries for the Blind's petition, that the treatment of ordering against Federal Supply Schedules, which was the matter at issue in Kingdomware, is not generalizable to the AbilityOne Program's mandatory source. It should also be noted that although the AbilityOne Program's status as a mandatory source is directly comparable to that of

the Federal Prison Industries Program, also known as UNICOR, and these two programs present a similar question as to their relationship to the Vets First Program, the volume of usage of Federal Prison Industries in VA has declined to a minimal level and no longer represents a significant controversy. For this reason, H.R. 4920 does not address Federal Prison Industries.

#### PERSONAL EXPLANATION

**HON. ANTHONY G. BROWN**

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, December 17, 2019*

Mr. BROWN of Maryland. Madam Speaker, on December 12, 2019 I was absent from the House of Representatives. Had I been present, I would have voted "YEA" on Roll Call No. 659, on Motion to Suspend the Rules and Pass, as Amended, FUTURE Act.

Historically Black Colleges and Universities make substantial contributions to the nation's economic strength. A recent report by the United Negro College Fund found that HBCUs generate \$15 billion in annual economic impact, and created over 134,000 jobs. HBCUs enroll on average, 24 percent of all black undergraduates pursuing a bachelor's degree, graduate 26 percent of all black bachelor's degrees and 32 percent of STEM degrees earned by black students. Having a degree from an HBCU lifts the lifetime earnings of a graduate by nearly a million dollars. This legislation provides permanent funding for HBCUs and other minority-serving institutions attended by over 2 million students, recognizing the value of their missions and academic offerings. Furthermore, the bill takes an important step in simplifying the Free Application for Federal Student Aid for 20 million working families.

#### SECURE AND TRUSTED COMMUNICATIONS NETWORKS ACT OF 2019

SPEECH OF

**HON. ANNA G. ESHOO**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, December 16, 2019*

Ms. ESHOO. Mr. Speaker, I rise in support of H.R. 4998, the Secure and Trusted Communications Networks Act of 2019, as amended.

For nearly a decade I've raised how the vulnerabilities in our telecommunications infrastructure directly impact our national security. On November 2, 2010, I wrote to the Chairman of the Federal Communications Commission (FCC) expressing grave concerns about Huawei and ZTE, which have opaque relationships with the Chinese government, and I request that my letter be entered into the CONGRESSIONAL RECORD.

Sadly, in the intervening nine years many small and rural providers have invested hundreds of millions of dollars in equipment made by Huawei and ZTE because the equipment is the cheapest available, and this investment was often funded by the FCC's own programs.

I'm pleased that H.R. 4998 addresses this problem by strengthening the supply chain of

the U.S. telecommunications infrastructure by prohibiting purchases of compromised equipment when FCC funds are used. The bill also creates a program to assist providers with the costs of removing and replacing prohibited equipment. This is necessary since smaller providers can't afford these upgrades on their own.

However, H.R. 4998 is limited to strengthening our supply chain issue and is not a comprehensive network security effort. The threats we face are constantly evolving, and Congress must remain diligent in ensuring our communications are secure, private, and reliable.

I support H.R. 4998 and urge my colleagues to do the same.

HOUSE OF REPRESENTATIVES,

WASHINGTON, DC, NOVEMBER 2, 2010.

HON. JULIUS GENACHOWSKI,

*Chairman, Federal Communications Commission, Washington, DC*

DEAR CHAIRMAN GENACHOWSKI, As a senior member of the House Permanent Select Committee on Intelligence, I have had grave concerns about the implications of foreign-controlled telecommunications infrastructure companies providing equipment to the U.S. market for quite some time. In particular, I'm very concerned that Huawei and ZTE, Chinese telecommunications infrastructure manufacturers are looking to increase their presence in the U.S.

These companies have long-standing relationships with the Chinese People's Liberation Army, and are not subject to the same kinds of independence and corporate transparency that other countries require of their telecommunications companies.

Last May, I wrote to the Director of National Intelligence and asked him to assess the national security implications of Chinese-origin telecommunications equipment on our law enforcement and intelligence efforts, as well as on our switched-telecommunications infrastructure. While I cannot discuss the results of that assessment in an unclassified letter, suffice to say the answers were troubling, and the National Counter Intelligence Executive has made communications infrastructure security a top priority.

Huawei and ZTE have recently taken aggressive steps to increase penetration into the U.S. telecommunications market. This summer, Huawei was in discussions with Sprint to provide mobile telecommunications equipment. And in August of 2009, Huawei signed a deal with Clearwire to provide equipment to their wireless network. Unlike mergers and acquisitions by foreign firms, agreements to directly supply equipment to the U.S. telecommunications infrastructure are not subject to CFIUS requirements.

However, the net result is the same, where sensitive U.S. communications will travel over the networks and switches provided by a foreign-controlled entity.

Clearly, the current CFIUS regime does not provide scrutiny of procurements from foreign companies to assess the risk to the U.S. telecommunications infrastructure. I would like to understand what your role is to protect the U.S. networks in order to assess what additional legislation may be needed.

Do you have authority to protect the U.S. telecommunications infrastructure from inappropriate foreign control or influence?

What authorities do you have to review procurements of foreign equipment by U.S. companies operating our telecommunications networks? What additional authorities would you need to ensure that the U.S.