

requires a finding of "mixed motivation," many women and children asylum-seekers have a difficult time proving motive. Most gender and age related claims are based on persecution by a private rather than government actor. Often, the violence occurs in private settings. It is thus extremely difficult to prove that the perpetrator is motivated by the victim's age or gender.

Furthermore, the provision would require the applicant to provide corroborating evidence unless unreasonable to do so. The private nature of most gender and age related persecution makes it highly unlikely that such evidence will be available. Moreover, even if it exists, children in particular are unlikely to be able to produce it unless intensive legal assistance is provided; the reality is that more than one-half of children are unrepresented when presenting asylum claims.

This section would also allow an adjudicator to consider any statements made by asylum-seekers in determining credibility. Thus, if a woman or child discusses their persecution for the first time in front of an asylum officer or an immigration judge, their failure to discuss it in prior conversations with immigration officials could be considered proof of inconsistent statements. This requirement again fails to consider the extremely difficult nature of age and gender related claims. It is unrealistic to expect a woman or child claimant to articulate the embarrassing details of their abuse to immigration officials when they first arrive in the United States and are still fearful and confused. To later use this natural reticence against them is grossly unfair.

Furthermore, this section condones the evaluation of an applicant's demeanor in assessing credibility without clarifying that an applicant's behavior should be considered in the context of their culture. This framework completely discounts the complex psychological, social and cultural context of many women and children asylum-seekers.

Section 3033. Additional Removal Authorities. This section authorizes the removal of individuals to countries other than their country of origin. Deporting women and children to a third country may be extremely hazardous to their safety. Women often and children always are heavily dependent on family and community support to ensure their well-being.

Section 3082. Expanded pre-inspection at foreign airports. This provision would require the expansion of pre-inspection at foreign airports. Immigration officials charged with enforcing pre-inspection would not have sufficient training or expertise to determine whether a woman or child is fleeing persecution. Even if such training were provided, the lack of oversight of such officers and the absence of assistance for women and children are likely to result in many at-risk women and children being prevented from departing the country in which they are being persecuted.

Section 3083. Immigration Security Initiative. This provision mandates the posting of immigration officials at overseas airports to check documentation of individuals traveling to the United States. This provision may inadvertently lead to more trafficking in women and children. Asylum seekers who are desperate to leave countries in which they are experiencing persecution often resort to the assistance of outsiders, who may wish to exploit them through trafficking. The more difficult it is to travel without appropriate documents, the more such vulnerable refugees will resort to avenues that could result in their further persecution.

While we have limited our comments to those sections of H.R. 10 that we believe are particularly harmful to women and children,

we stand with our colleagues in also opposing those other sections (for example, section 3032) that harm all people fleeing past and future harm. Women and children constitute both the majority of and the most vulnerable of the world's refugees. Regardless of the critical merits of fighting the war against terrorism, we cannot afford to relinquish our strong international leadership role in their protection, especially when these women and children present no harm to us.

Thank you for considering our concerns. Please do not hesitate to contact us if you would like to discuss any of these issues further.

Sincerely,

WENDY YOUNG,
*Director of External
Relations.*
JOANNE KELSEY,
*Senior Coordinator for
Detention and Asylum.*

ADDITIONAL STATEMENTS

TRIBUTE TO RETIRED COLONEL FRANK ROHRBOUGH, UNITED STATES AIR FORCE

• Mr. McCAIN. Mr. President, today I honor a true leader and exceptional American. After a long and distinguished career of service to our Nation, COL Frank Rohrbough is retiring from his position as Deputy Director for Government Relations of the Military Officers Association of America, MOAA. On this occasion, it is fitting to recognize his 30 years of commissioned service as an Air Force officer and 13 years as one of the foremost health benefit advocates for the uniformed services community. Colonel Rohrbough's career illustrates a lifelong commitment of service to the nation and to preserving the welfare of uniformed members and their families.

In 1961, Frank Rohrbough graduated from the Reserve Officer Training Corps at Texas A&M University, earning his commission as a second lieutenant in the U.S. Air Force. Appointed to the Medical Service Corps, he served with distinction at all levels in the Air Force, from small community military medical treatment facilities to large regional hospitals. His distinguished career culminated with his appointment to the Air Force's top Medical Service Corps position—Chief of the Air Force Medical Service Corps and Assistant Surgeon General for Healthcare Support.

After retiring from the Air Force in 1991, Colonel Rohrbough joined the MOAA staff and served as principal advisor on health issues. In this position, he worked with the Armed Services Committees of both the House and the Senate, the Department of Defense, and numerous organizations and agencies to protect health care benefits for uniformed services beneficiaries. His personal efforts contributed significantly towards important legislation including lifetime health care and pharmacy coverage for Medicare-eligible beneficiaries and extending eligi-

bility for the Federal Long Term Care Insurance Program to the entire military community.

Our Nation is grateful to Colonel Rohrbough for supporting members of the Armed Forces and their families, the Military Coalition, and all veterans, while serving in uniform and in private life. We offer him a sharp salute and wish him continued success and happiness in retirement. •

AMERICAN JOBS CREATION ACT OF 2004

• Ms. MIKULSKI. Mr. President, I rise today in support of the American Jobs Creation Act. This bill is known as the "JOBS" Act because it will bring American jobs home, it will protect American jobs here, and it will create more American jobs.

I have been fighting for a patriotic tax code that closes tax loopholes. This bill is not perfect. I have some yellow flashing lights about provisions that were stripped out in this conference report, particularly those affecting our workers right to overtime and our National Guard and Reservists.

Our middle class is hurting. They are worried about keeping their jobs, paying for health care, and sending their children to college. America is hemorrhaging jobs—2.7 million manufacturing jobs have disappeared since 2001. My State of Maryland has lost 21,000 manufacturing jobs since 2001.

Where are these jobs going? They are going overseas. They are going on a slow boat to China or on the fast track to Mexico. These jobs are headed to dial 1-800 anywhere.

Why are they going? These jobs are leaving because American companies are at a competitive disadvantage. Our American companies pay their workers a livable wage, pay their fair share of taxes, and provide health care and retirement benefits to their employees.

I think it is wrong to give companies incentives to send millions of jobs to other countries when millions of Americans are losing their jobs. It is wrong to put companies who stay in America at a competitive disadvantage. They are at a competitive disadvantage because they have their business here at home, because their workers are here at home, because they pay their fair share of taxes, and because they provide health care to their employees.

We should be rewarding these companies with good guy bonuses for hiring and building their businesses here in America. That is what I am fighting for in the U.S. Senate.

But, this bill is not perfect which is why I fought to improve this bill during the Senate debate. Senator DORGAN and I offered an amendment to end tax subsidies to U.S. companies that send plants and U.S. jobs overseas. Our amendment would have required U.S. companies that open foreign plants or move plants overseas then export those goods made abroad back to the U.S. to pay taxes on the profits from these operations. Our amendment said the U.S.

Tax Code can no longer be used to boost corporate rewards at the expense of American workers.

We should be rewarding our American companies who hire and build their businesses right here in the United States with good guy tax breaks. We should be giving good guy bonuses to American businesses that are providing health care to their workers and to their retirees.

I have fought to help make health insurance more affordable for self-employed individuals by allowing self-employed individuals to be able to fully deduct their health care premiums.

I fought to provide workers and retirees who have lost health insurance due to trade with a tax credit of 65 percent for health care premiums, and I am still fighting to provide small businesses with a 50 percent tax credit for the cost of health insurance premiums for their workers.

I am standing up for America by standing up for a strong economy right here at home. This bill would help American jobs in three ways. This bill will help reinvigorate the U.S. manufacturing sector by creating incentives to retain more U.S. manufacturing jobs here in the U.S. by lowering the cost of production. Next, this bill helps U.S. companies compete abroad by putting U.S. companies on a more equal footing with foreign competitors. Lastly, this bill will help put an end to the tariffs imposed by EU on U.S. exports by repealing the income tax preferences that have been ruled illegal by the World Trade Organization. If we don't pass this legislation, these tariffs would cost American businesses up to \$4 billion per year. And that's not okay.

When I consider any tax proposal, I apply three criteria. Does it create jobs? Are the tax cuts targeted or temporary? Does the proposal increase structural deficit? The JOBS bill meets all my criteria. This bill would provide nearly \$137 billion in new business tax cuts. There are four major sections of this bill: a new domestic manufacturing tax break; international tax simplification; small business provisions; and, shutting down tax shelters and closing tax shelters.

The JOBS bill would reduce taxes for many of our U.S. based manufacturers, by reducing their overall tax rate by 3 percent. This would lower the cost of doing business in the U.S. for U.S. manufacturers, and would help U.S. manufacturers compete against low-cost manufacturing in other countries. The domestic manufacturing tax break is based on the amount of U.S.-based manufacturing profits. So companies can only get the tax break if they manufacture here at home. This bill also includes a very broad definition of manufacturing so it would help a broad range of companies.

This bill also helps American companies working abroad to be more competitive with about \$42.6 billion in tax breaks to U.S.-based multinationals.

This legislation simplifies international tax rules, eliminates many redundant and complicated tax provisions, and reduces the double taxation of foreign-earned profits for U.S.-based companies. If our American companies are strong at home and abroad, our American economy will be strong. And that's what I'm fighting for.

I know how important small businesses are to the health of the economy and to the communities that they serve. This legislation includes about \$7.1 billion in tax breaks for small businesses in two important ways. First, this bill will provide tax breaks for restaurant owners and certain real estate developers so that they can write off the cost of improving their facilities faster, saving thousands of dollars. This legislation also extends the small business tax breaks from 2003 bill which allows small businesses to write off up to \$100,000 for the purchase of new equipment. If we do not pass this legislation, our small businesses will only be able to write off \$25,000 for investments in new equipment.

This legislation funds tax breaks for our good guys by shutting down the types of tax loopholes used by Enron, cracking down abusive shelters, closing tax loopholes for companies and individuals who hide assets in tax havens to avoid paying U.S. taxes, and ending certain leasing arrangements for public infrastructure projects. I don't believe that the American taxpayer should be subsidizing the Paris metro. I say let's keep those dollars here at home.

Though I am supporting today's bill, I also believe there are problems with it. I introduced an amendment with my colleague from Louisiana—Senator MARY LANDRIEU. Though this amendment passed unanimously in the Senate, it is nowhere to be found in this conference report. Senator LANDRIEU and I introduced an amendment that provides benefits to our good guy employers who pay their employees the difference between their National Guard salary and their civilian job. This important provision would have provided a 50 percent tax credit to employers who continue to pay their activated Guard and Reserve employees their civilian wages. This provision would also have provided a \$6,000 tax credit to help small business owners hire temporary workers and provided a \$10,000 tax credit for small manufacturers to hire temporary workers when their National Guard employees have been deployed. I wish that these provisions were included in the bill that we passed today.

Our National Guardsmen are often our first responders. They are our policemen and firemen in times of crisis. They are "Our Active Duty Americans"—on duty in times of peace and war. When our National Guardsmen and women are sent to Iraq, Afghanistan, or called to protect our critical military installations here in the U.S., they shouldn't have to worry about paying their bills here at home. It's

just wrong that this provision was not included in the final JOBS bill.

I am happy that we were able to reach a compromise and pass a bill, H.R. 1779, which would provide a 50 percent tax credit to small businesses who continue to pay their activated Guard and Reserve employees their civilian wages, and provide a \$6,000 tax credit to help small business owners hire temporary workers. But, the bill we passed today leaves out our First Responders. It also leaves out the extra help for our manufacturers. Now that we have done our job here in the Senate, we have to hope that the House takes action on this bill when we return. Well, we all know what that means. I am going to continue to fight for this provision when we come back. I am also going to fight to do the same thing for our federal government employees with the Durbin-Mikulski Pay Security Act.

I have another problem with the legislation we are discussing today. I am so disappointed that the amendment to protect overtime pay was again stripped out in conference. Once again, the White House got its way even though Congress and the American public are opposed to the new overtime rules. Millions of Americans depend on overtime pay to pay their bills and to make ends meet. I thought that in this country the best social program was a job. Yet, up to 6 million workers have lost overtime protection under the new overtime rules. Workers should receive overtime pay for working overtime. It's just that simple. This isn't complicated—it's fair and right.

The JOBS bill makes good things happen by helping U.S. companies. The JOBS bill also stops bad things from happening by going after tax cheats. But, the conference report is not near the bill that was passed by the Senate.

I will vote for this legislation because I think it helps create a patriotic Tax Code, provides good guy bonuses to American manufacturing companies that keep jobs here, creates a level playing field for U.S. companies competing abroad, and cracks down on tax cheats and closing tax loopholes.

I call on my colleagues to think about where America is going in the 21st century. Where are we going to be? Are we going to create more opportunity? Are we going to create more jobs that pay a living wage and have a decent benefit structure?

I really want to have a patriotic Tax Code that brings our jobs back home, helps us compete overseas, and stands up for America.

I urge my colleagues to pass this important bill. ●

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STEVENS, from the Committee on Appropriations:

Special Report entitled "Further Revised Allocation To Subcommittees of Budget Totals for Fiscal Year 2005" (Rept. No. 108-398).