

S. 3246. A bill to prohibit the importation of any textile or apparel article that is produced, manufactured, or grown in Burma; to the Committee on Finance.

By Mr. HARKIN:

S. 3247. A bill to establish a Chief Labor Negotiator in the Office of the United States Trade Representative; to the Committee on Finance.

By Mr. BAYH (for himself and Mr. LUGAR):

S. 3248. A bill to authorize the Hoosier Automobile and Truck National Heritage Trail Area; to the Committee on Energy and Natural Resources.

By Mr. HARKIN (for himself, Mr. WELLSTONE, Mr. KENNEDY, Mrs. MURRAY, Mr. FEINGOLD, Mr. BINGAMAN, Mrs. BOXER, Ms. MIKULSKI, Mr. SARBANES, Mr. DODD, Mr. KERRY, Mr. AKAKA, Mr. LIEBERMAN, Mr. LEAHY, Mr. BAUCUS, and Mr. ROCKEFELLER):

S. 3249. A bill to amend the National Labor Relations Act and the Railway Labor Act to prevent discrimination based on participation in labor disputes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BROWNBACK (for himself, Mrs. FEINSTEIN, Mr. LUGAR, Mr. SCHUMER, Mr. GORTON, Mr. JOHNSON, Mr. HELMS, Mr. ALLARD, Mr. ASHCROFT, Mr. WYDEN, Mr. TORRICELLI, Mr. DEWINE, Mr. GRAMS, Mr. ROTH, Mrs. HUTCHISON, Mr. SMITH of Oregon, Mr. BOND, Mr. DURBIN, Mr. CLELAND, Mr. GRASSLEY, Ms. COLLINS, Mr. KYL, Mr. BREAUX, Mr. LAUTENBERG, Mr. HATCH, Mr. MURKOWSKI, Mrs. LINCOLN, Ms. LANDRIEU, Mr. SPECTER, Mr. VOINOVICH, Mr. MILLER, Mr. ROBB, Mr. INHOFE, Mr. CRAPO, Mr. BUNNING, Mr. EDWARDS, Ms. MIKULSKI, Mr. LOTT, Mr. DASCHLE, Mr. REID, Mr. SANTORUM, Mr. FITZGERALD, Ms. SNOWE, Mrs. BOXER, Mr. REED, Mr. LEVIN, Mr. MCCONNELL, Mr. HAGEL, Mr. GRAMM, Mr. MOYNIHAN, Mr. KENNEDY, Mr. L. CHAFEE, Mr. CAMPBELL, and Mr. ROCKEFELLER):

S. 3250. A bill to provide for a United States response in the event of a unilateral declaration of a Palestinian state; to the Committee on Foreign Relations.

By Mr. BIDEN:

S. 3251. A bill to authorize the Secretary of State to provide for the establishment of nonprofit entities for the Department's international educational, cultural, and arts programs; to the Committee on Foreign Relations.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MURKOWSKI:

S. Con. Res. 156. A concurrent resolution to make a correction in the enrollment of the bill S. 1474; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

Mr. HARKIN:

S. 3243. A bill to enhance fair and open competition in the production and sale of agricultural commodities; to the Committee on Agriculture, Nutrition, and Forestry.

AGRICULTURAL PRODUCER PROTECTION ACT OF 2000

Mr. HARKIN. Mr. President, I am introducing the Agricultural Producer Protection Act of 2000, a bill which will help ensure an open competitive agricultural marketplace. There is no issue raising more concerns in agriculture today than the rapid increase of economic concentration and vertical integration. The structure of agriculture and the entire agribusiness and food sector is being massively transformed—and the pace is accelerating. Large agribusinesses through mergers, acquisitions, and strategic alliances are controlling more and more of the production and processing of our agricultural commodities. Beyond this horizontal concentration, these large firms are relying on production and marketing contracts to hasten the trend toward vertical integration in agriculture.

According to the Department of Agriculture, the top four fed cattle packers control 80 percent of the market, while the top four pork processors control almost 60 percent of the market. In the grain industry, the top four firms control 73 percent of the wet corn milling, 71 percent of soybean milling, and 56 percent of flour milling. This conglomeration of power is limiting producers' marketing choices and adversely affecting the prices they receive. While the market basket of food has only increased by 3 percent since 1984, the farm value of that market basket has plummeted 38 percent. In fact, the farmer's share of the retail food dollar has dropped from 47 percent in 1950 to 21 percent in 1999. In addition, the farm-to-wholesale price spreads for pork increased by 52 percent and for beef by 24 percent in the past five years.

But farmers are not the only ones at risk because of the conglomeration of economic power by a few large agribusinesses and the reductions in competition. Consumers are also at risk. I liken arrangement to an hourglass, with many farmers on one side and many consumers on the other side. In the middle is a choke point with just a few large agribusiness firms. We, as consumers, should not become reliant on an every dwindling number of companies for our food.

Agribusiness is changing the way they play the game and it is becoming increasingly clear that enforcement of the antitrust and competition laws—including the Sherman Act, the Clayton Act, the Federal Trade Commission Act, and the Packers and Stockyards Act—is not enough by itself to ensure healthy competition in agriculture. Congress must step in and clarify the rules of the game before the big conglomerates push the independent producers out entirely. That is what my legislation is designed to do.

Consolidation and vertical integration in the agricultural sector is re-

sulting in a great disparity in bargaining power and a gross inequality in economic strength between agribusinesses and producers. The impacts of this disparity are being most dramatically seen in the increased use of contracting in agriculture. I recognize that it is probably inevitable that there will be more contracting for a number of reasons. However, as recognized by several state Attorneys General who have proposed model state contract legislation, contracting with large agribusinesses pose serious problems that our current laws do not reach.

First, large companies are increasingly leveraging their economic muscle and control of market information to dictate contract terms to the detriment of producers. Large companies often offer contracts to producers on a "take it or leave it" basis. The company tells the farmer to sign a form contract with no opportunity to negotiate different terms and with little or no ability to take time to think about whether or not to sign the contract.

Second, large agribusinesses are transferring a disproportionate share of the economic risks to farmers through contracts. The contractual risks producers will face under a contract are usually buried in pages of legalese and fine print. Producers are often stuck with unfair contract terms they did not even know existed because of the lack of opportunity to consult with an attorney or an accountant.

Third, increasing use of contracts threatens market transparency. Prevailing prices for agricultural commodities have traditionally been readily available through public transactions. The use of strict confidentiality clauses in contracts veil transactions in secrecy. These clauses prohibit farmers from comparing contracts and negotiating for a fair deal. Farmers are often prohibited from discussing their deals with other producers, let alone with a financial or market advisor, an attorney, or an accountant.

Fourth, once a producer enters into a contractual relationship with a company there is virtually no realistic protection from unfair practices, abuses, or retaliation. Most production contracts require producers to make substantial long term capital investments in buildings and equipment prior to ever getting a contract. Once a producer makes the financial commitment, they are offered short term contracts that must be continually renewed. Because of these financial obligations, producers often have no other alternative than to sign whatever contract is offered to them. This situation not only makes it easier for a company to retaliate against those who try to speak up for their rights but also eliminates virtually any bargaining power the producer may have had. They often have no other alternative than to take

a contract which further exploits them with unfair terms and which further shifts the economic risks to producers. In addition, if a producer has to litigate individually against an agribusiness conglomerate it is very expensive and they are at a huge disadvantage.

The Agricultural Producer Protection Act of 2000 provides reasonable oversight of agricultural contracting that will address these problems and promote fair, equitable, and competitive markets in agriculture. The Act would: (1) require contracts to be written in plain language and disclose risks to producers; (2) provide contract producers three days to review and cancel production contracts; (3) prohibit confidentiality clauses in contracts; (4) provide producers with a first-priority lien for payments due under contracts; (5) prohibit producers from having contracts terminated out of retaliation; and (6) make it an unfair practice for processors to retaliate or discriminate against producers who exercise rights under the Act.

My legislation also recognizes that there must be a balance between providing oversight of contracting and addressing the root of the problem—the growing disparity in bargaining power between large agribusinesses and independent producers. Independent farmers can compete and thrive if the competition is based on productive efficiency and delivering abundant supplies of quality products at reasonable prices. But no matter how efficient farmers are, they cannot survive a contest based on who wields the most economic power.

Because of the increased levels of concentration and vertical integration in agriculture, it is imperative that Congress facilitate a more competitive and balanced marketplace for negotiations between large agribusinesses and producers. The Agricultural Producer Protection Act of 2000 provides farmers with the tools necessary to bargain more effectively with large agribusiness conglomerates for fair and truly competitive prices for the commodities they grow.

Congress passed the Agricultural Fair Practices Act of 1967 to ensure that farmers could join together to market their commodities without fear of interference or retribution from processors. Unfortunately, the law has several weaknesses which prevent it from truly helping producers generate enough market power to bargain effectively with large processors. The law: (1) does not require that processors bargain with association members; (2) contains a loophole allowing agribusinesses to refuse to bargain with producers for any reason besides belonging to an association, which makes it much easier to manufacture an excuse for why they refuse to deal with association members; and (3) does not

give the Secretary of Agriculture authority to impose penalties for violations of the Act, which greatly reduces the incentive for processors to obey the law.

My legislation addresses these shortcomings. The Agricultural Producer Protection Act of 2000 sets up a procedure where farmers can voluntarily form an association of producers and petition to the Secretary to become accredited. Once accredited, agribusinesses are required to bargain in good faith with the association of producers. This requirement will help producers organize in order to negotiate fairly and effectively on the price and marketing terms for their commodities. In addition, my legislation gives the Secretary increased investigative and enforcement authority to ensure that these large processors follow the law.

Finally, my legislation amends the Packers and Stockyards Act of 2000 to give the Secretary administrative enforcement authority to stop unfair practices in the poultry industry. Unlike the livestock industry, the Secretary does not currently have authority to take administrative actions, including holding hearings and assessing civil and criminal penalties for violations of the Packers and Stockyards Act in the poultry industry. My legislation addresses this discrepancy and responds to the Administration's repeated requests for this authority.

Unfortunately, current law has resulted in little being done to stop the rapid consolidation and vertical integration in agriculture which is threatening both farmers and consumers. We must address this trend now before it builds more momentum, making independent farmers a footnote in the history books and putting consumers at the mercy of large agribusiness companies.

My legislation attacks the problems resulting from agribusiness concentration and vertical integration in two very fundamental ways. First, it provides reasonable oversight of contracting practices in order to stop the current inequalities and unfair practices farmers are facing due to the lack of bargaining power. But, I also recognize that we must address the increasing disparity in bargaining power head on. My legislation gives producers the tools necessary to enhance their bargaining position in order to negotiate fairly and equitably on the price and marketing terms for their commodities. I believe both must be done in order to ensure a fair, open agricultural marketplace.

Mr. HARKIN (for himself, Mr. LEAHY, Mr. WELLSTONE, Mr. HOLLINGS, Mr. FEINGOLD, Mr. LAUTENBERG, and Mr. SCHUMER):

S. 3246. A bill to prohibit the importation of any textile or apparel article

that is produced, manufactured, or grown in Burma; to the Committee on Finance.

BURMA APPAREL AND TEXTILE IMPORT BAN BILL

Mr. HARKIN. Mr. President, while we are encouraged by democratic gains in Serbia, the people of Burma continue to suffer at the hands of the world's most brutal military dictatorship—a regime which, perversely, calls itself the State Peace and Development Council (SPDC). Now more than ever, as a nation committed to democracy, freedom, and universal human and worker rights, America must dissociate itself from Burma's repressive regime. We must do all we can to deny any material support to the military dictators who rule that country with an iron fist. Amidst the most recent crackdown on pro-democracy forces launched in mid-August, we must demonstrate anew to the Burmese people our recognition of their nightmarish plight and our support for their noble struggle to achieve democratic governance.

A few years ago, Congress enacted some sanctions and President Clinton issued an Executive Order in response to a prolonged pattern of egregious human rights violations in Burma. At the heart of those measures is the existing prohibition on U.S. private companies making new investments in Burma's infrastructure. Pre-1997 investments were not affected.

Nevertheless, the ruling military junta in Burma has hung on to power and continues to blatantly violate internationally-recognized human and worker rights. The most recent State Department Human Rights Country Report on Burma cites "credible reports that Burmese Army soldiers have committed rape, forced portage, and extrajudicial killing." It mentions arbitrary arrests and the detention of at least 1300 political prisoners.

Human Rights Watch/Asia reports that children from ethnic minorities are forced to work under inhumane conditions for the Burmese Army, deprived of adequate medical care and sometimes dying from beatings.

The UN Special Rapporteur on Burma, just released a chilling and alarming account which puts the number of child soldiers at 50,000—the highest in the world. Sadly, the children most vulnerable to recruitment into the military are orphans, street children, and the children of ethnic minorities.

The same UN report also discussed how minorities in Burma continue to be the targets of violence. It deals vicious human rights violations aimed at minorities including extortion, rape, torture and other forms of physical abuse, forced labor, "portering", arbitrary arrests, long-term imprisonment, forcible relocation, and in some cases, extrajudicial executions. It also cites reports of massacres in the Shan state in the months of January, February and May of this year.

A 1998 International Labor Organization Commission of Inquiry has determined that forced labor in Burma is practiced in a "widespread and systematic manner, with total disregard for the human dignity, safety, health and basic needs of the people."

In one recent high-profile court case, California District Court Judge Ronald Lew found "ample evidence in the record linking the Burmese Government's use of forced labor to human rights abuses."

In sum, gross violations of human rights and systematic labor repression inside Burma go on and on, outside the purview of CNN and the rest of the international media.

But despite the onslaught of the Burmese military regime and their vow to destroy the National League for Democracy (NLD) by the end of this year. Aung San Suu Kyi, a remarkably courageous leader, stands steadfast—like a living Statue of Liberty—in her work with the Burmese people for democracy. We must never forget that she and her NLD colleagues won 392 of 485 seats in a democratic election held in 1990. But they have never been allowed to take office.

Still, Aung San Suu Kyi—the 1991 Nobel Peace Prize winner—and countless others are denied freedom of association, speech and movement on a daily basis. During the past two and a half months, she has come under renewed threats and intimidation. Last August, her vehicle was forced off the road by Burmese security forces when she tried to travel outside Rangoon to meet with her NLD colleagues. She sat in her car on the roadside for a week until a midnight raid of 200 riot police forced her back to her home and placed her under house arrest until September 14, 2000. Nevertheless, she tried again on September 21st, but she was prevented from boarding a train. The latest pathetic excuse from the authorities for abridging her freedom to travel within Burma on that occasion, was that all tickets had been sold out.

Mr. President, we must answer anew the cry of the Burmese people and their courageous leaders. That is why I wrote to President Clinton on September 12th and I ask that my letter be included in the RECORD at this time. In that letter, I spelled out in detail all of the reasons why a ban on apparel and textile imports from Burma makes good sense. As yet, I don't have a formal reply from the White House.

Accordingly, I am introducing legislation today with Senators LEAHY, WELLSTONE, HOLLINGS, FEINGOLD, LAUTENBERG, and SCHUMER to ban soaring imports of apparel and textiles from Burma. I am pleased that U.S. Congressman TOM LANTOS from California is introducing the companion bill in the U.S. House of Representatives at the same time.

Most Americans think that a trade ban with Burma already exists. This is simply not true.

In fact, imports of apparel and textiles from Burma are increasing, sending hundreds of millions of U.S. dollars straight into the coffers of the Burmese military dictatorship. These ruthless military dictators and their drug-trafficking cohorts are spending this hard currency to purchase more guns and to buy loyalty among their troops to continue their policy of repression and cruelty.

According to the National Labor Committee, U.S. apparel imports from Burma between 1995 and 1999 increased by 272%. The World Trade Atlas shows that in just one year (1998–1999), apparel imports more than doubled, dramatically rising from \$61 million to \$131 million. In particular, knit and woven apparel accounted for over 80% of U.S. imports from Burma during 1999.

In other words, every time American consumers buy travel and sports bags, women's underwear, jumpers, shorts, tank tops and towels made in the Burmese gulag, they are unwittingly helping to sustain and tighten the repressive military junta's grip on power.

U.S. apparel imports from Burma provide the SPDC with critically-needed hard currency because the military dictators directly own or have taken de facto control of production in many apparel and textile factories. They profit even more from a 5% export tax. As I said earlier, this hard currency is used to buy new weapons and ammunition from China and elsewhere, thus underwriting the perpetuation of modern-day slavery, forced labor and forced child labor in Burma.

But you don't have to take my word for it. At a recent news conference in Washington, DC, U Maung Maung, the General Secretary of the Federation of Trade Unions in Burma stated that "the practice of purchasing garments made in Burma extends the continued exploitation of my people, including the use of slave labor by the regime, by further delaying the return of democratic government in Burma." At grave personal risk, he and other NLD leaders have disclosed that apparel and textile exports to America and other foreign markets are increasingly important in helping sustain the Burmese military junta in power.

Some may ask whether a ban on Burmese apparel and textile imports might harm American companies and consumers. Nothing could be further from the truth. Currently, U.S. apparel and textile imports from Burma account for less than one-half of one percent of total US apparel and textile imports.

Other may assert that enactment of this legislation would violate WTO rules. But if and when the Government of Burma should file a WTO complaint, I don't think we should shy away from

such a case. It would present the opportunity to argue the view that WTO member nations should have the right, at a minimum, to enact laws to block imports of products made by forced labor or in flagrant violation of other internationally-recognized worker rights. In effect, if national governments cannot take a stand against trafficking in products made with forced labor in international trade, then under what human rights conditions or by what standards of civility will it ever be possible in the WTO system?

Mr. President, America must take a stronger stand in solidarity with the Burmese people and in defense of universal human rights and worker rights in that besieged nation. Banning apparel and textile imports from Burma reflects the belief of the American people that increased trade with foreign countries must promote respect for human rights and worker rights as well as property rights.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, September 12, 2000.
Hon. WILLIAM J. CLINTON,
President, Office of the White House, Washington, DC.

DEAR MR. PRESIDENT: I am writing to express concern that developments in trade between the U.S. and Burma may be strengthening the Burmese military junta. To support the duly-elected democratic government of Burma and promote internationally recognized human and worker rights, and to remedy this inconsistency in U.S. policy toward Burma, a ban on U.S.-Burmese trade in apparel seems warranted.

Since the U.S. instituted a ban on new investment in Burma at your initiative in May, 1997, little has changed. The authoritarian regime continues to actively violate human rights and tacitly condone narcotrafficking. A 1998 International Labor Organization (ILO) Commission of Inquiry detailed the military's "widespread and systematic" use of forced labor (Attachment 1). The most recent State Department Human Rights Country Report on Burma also addresses forced labor practices and other human rights violations; according to the Report, in March 2000, about 1300 political prisoners remained in detention (Attachment 2). Democratically-elected Aung San Suu Kyi and eight other leaders of the National League for Democracy have been confined to their homes since this Saturday, September 2, in yet another standoff with the State Peace and Development Council (SPDC). Furthermore, Burma continues to be the world's second leading producer of opium (Attachment 2).

I am concerned that allowing rapidly increasing apparel imports from Burma by U.S. importers implicitly supports the SPDC and may undermine the effects of divestment. Between 1995 and 1999, Burmese apparel imports by the U.S. skyrocketed by 272% and the trend continues (Attachment 8). Compared with last year's data, apparel imports rose 121% in the first five months of

2000 alone (Attachment 9). As U.S. apparel companies attracted by low production costs increase their apparel orders, critically-needed hard currency earnings in the form of U.S. dollars flow in ever-greater amounts into the coffers of the Burmese military. This revenue is spent on arms from China and elsewhere, further oppressing the Burmese people. We cannot ignore the impact that our dollars are having on the human rights and core labor standards of the people of Burma. Furthermore, a ban on apparel imports would not significantly hurt U.S. businesses or consumers, since Burma accounts for only 0.46% of U.S. apparel imports (Attachment 10).

As Burma's economy continues to deteriorate, the apparel industry serves as a valuable lifeline for the SPDC. Both labor and human rights organizations, and prominent leaders of the democratic Burmese government in exile, have emphasized the connection between apparel and Burma's military (Attachment 3 and 4). U Bo Hla Tint, Minister for North and South American Affairs of the National Coalition Government for the Union of Burma, stated in a recent press conference that "it is the Burmese military that directly owns most of the garment and textile manufacturing facilities in Burma" (Attachment 5). Furthermore, U Muang Muang, the General Secretary of the Federation of Trade Unions of Burma and the President of the Burma Institute for Democracy and Development, argued in a recent speech that "the military regime and Burma's drug lords control most commercial activities in Burma and this is especially true of the garment and textile industry. By purchasing garments made in Burma, American companies are directly enriching and strengthening those most brutal and un-democratic elements in Burma that continue to oppress the people" (Attachment 6). Not only does the SPDC benefit from direct ownership of apparel factories, but also from an export tax of 5% on all apparel leaving Burma (Attachment 7). We should act to curb this significant source of hard currency earnings to the SPDC.

A ban on apparel imports from Burma would further demonstrate U.S. opposition to the Burmese military junta and reinforce our commitment to universal human rights and internationally recognized worker rights. In addition, cutting back revenue for the SPDC may help lead to a more rapid demise of that brutal military regime and allow Aung San Suu Kyi and her National League for Democracy to assume their positions of power in a duly-elected democratic government.

I look forward to your reply. Thank you for your attention and thoughtful consideration of my concerns and proposal for a complete ban on apparel imports from Burma.

With best regards,

TOM HARKIN,
U.S. Senator.

Mr. HARKIN:

S. 3247. A bill to establish a Chief Labor Negotiator in the Office of the United States Trade Representative; to the Committee on Finance.

LEGISLATION TO ESTABLISH A CHIEF LABOR NEGOTIATOR

Mr. HARKIN. Mr. President, I am also introducing legislation today that would ensure working men and women the representation they deserve in future trade negotiations.

The Trade and Labor Negotiation Fairness Act would create a new, Presi-

dentially-appointed and Senate-confirmed position of Chief Labor Negotiator at the United States Trade Representative's USTR office. The Chief Labor Negotiator would represent the interests of workers during trade negotiations.

Nearly three years ago, farmers and others in the U.S. agriculture sector felt they needed stronger representation and greater attention by USTR. So I called for the creation of a new position at USTR having ambassadorial rank and devoted solely to representing the U.S. in agricultural trade matters. I met with Ambassador Barshefsky and pursued my proposal in the Administration. Peter Scher was appointed early in 1997 to the new USTR position and was succeeded by Greg Frazier. Both of them have done a good job representing U.S. farmers and our agriculture sector.

Earlier this year, in the Trade and Development Act of 2000, Congress specified in statute that USTR shall have a Chief Agricultural Negotiator. That position will exist regardless of who is in the White House or USTR. This position would have equal status to that of the Chief Agricultural Negotiator at USTR.

Why do we need a Chief Labor Negotiator at USTR? Because the crucial role that worker rights play in the global economy has been ignored for too long. Enforceable labor standards have been left out of the trade agreements the U.S. has negotiated.

U.S. working men and women are placed at a disadvantage by this unfair competition. If this trend continues, U.S.-based companies will face continuing pressure to lower their standards to compete in the global economy.

The result will be depressed wages, fewer benefits, unsafe working conditions for American workers, and little or no improvement in other countries.

We need to use trade negotiations to raise standards around the world—not drag down standards here at home. We must ensure that labor rights are a key consideration in future trade negotiations and an integral part of future trade agreements. The Chief Labor Negotiator's primary job would be to make this happen by ensuring that the interests of workers are represented in future trade negotiations.

I've heard the argument that other countries don't want to talk about labor rights in trade discussions. USTR needs to take the lead and insist labor standards are an essential part of future trade negotiations. Our own economy and the well being of our families depend on it. And if trade is truly going to improve living standards around the world, it is essential that labor standards are included in future trade agreements.

USTR needs someone who represents workers' interests—not on the sidelines, but in the room during discus-

sion of future trade agreements. Because the Chief Labor Negotiator at USTR will have ambassadorial rank, that person will be able to meet with the highest-level trade officials of other countries—and to insist that labor standards are on the table and are included in future agreements.

Vice President GORE recognizes that. He has repeatedly said that as President, he would work to ensure workers' rights are included in future trade agreements. Establishing a Chief Labor Negotiator position at USTR would help him and future Presidents keep that commitment.

I urge my colleagues to review this bill over the coming weeks because I will be re-introducing it next year with the hope of getting it passed in the Senate and signed into law.

Mr. HARKIN (for himself, Mr. WELLSTONE, Mr. KENNEDY, Mrs. MURRAY, Mr. FEINGOLD, Mr. BINGAMAN, Mrs. BOXER, Ms. MIKULSKI, Mr. SARBANES, Mr. DODD, Mr. KERRY, Mr. AKAKA, Mr. LIEBERMAN, Mr. LEAHY, Mr. BAUCUS, and Mr. ROCKEFELLER):

S. 3249. A bill to amend the National Labor Relations Act and the Railway Labor Act to prevent discrimination based on participation in labor disputes; to the Committee on Health, Education, Labor, and Pensions.

WORKPLACE FAIRNESS ACT—STRIKER REPLACEMENT

Mr. HARKIN. Mr. President, I along with 15 of my colleagues are introducing a bill today that addresses an issue we haven't talked enough about in the Senate in recent years—but it's a critically important issue that we cannot continue to ignore.

I am talking about workers rights—specifically the erosion of a worker's fundamental right to strike, to protect that right.

Today, we are introducing the Workplace Fairness Act. This may sound familiar to many of my colleagues here in the Senate. It was a bill my good friend and former colleague Senator Howard Metzenbaum from Ohio introduced in the 102d and 103d Congress.

The Workplace Fairness Act would amend the National Labor Relations Act and the Railway Labor Act by prohibiting employers from hiring permanent replacement workers during a strike. It would also make it an unfair labor practice for an employer to refuse to allow a striking worker who has made an unconditional offer to return to go back to work.

Why do we need this legislation?

Because right now, a right to strike is a right to be permanently replaced—to lose your job. Every cut-rate, cut-throat employer knows they can break a union if they are willing to play hardball and ruin the lives of the people who have made their company what it is. In my own state of Iowa—Titan

Tire Company out of Des Moines, is trying to drive out the union workers with permanent replacements—the union has been on strike for two and a half years now.

Over the past two decades, workers' right to strike has too often been undermined by the destructive practice of hiring permanent replacement workers. Since the 1980s, permanent replacements have been used again and again to break unions and to shift the balance between workers and management.

Titan Tire just outside is just one of many examples.

On May 1, 1998, the 650 members of the United Steelworkers of America, Local 164, who work in Des Moines Titan Tire plant, were forced into an Unfair Labor Practice Strike.

During the contract negotiations preceding this strike, Titan International Inc. President and CEO, Morry Taylor, attempted to eliminate pension and medical benefits and illegally move jobs and equipment out of the plant. He also forced employees to work excessive mandatory overtime, sometimes working people as many as 26 days in a row without a day off.

Well, the membership decided that Titan's final offer was impossible to accept, and they voted to strike. Two months later, in July, 1998, Titan began hiring permanent replacement workers.

During the past two and a half years, approximately 500 permanent replacement workers have been hired at the Des Moines plant. And little or no progress has been made toward reaching a fair settlement. In fact, on April 30, 2000, the day before the second anniversary of the Titan strike, Morrie Taylor predicted that the strike would never be settled.

Workers deserve better than this. Workers aren't disposable assets that can be thrown away when labor disputes arise.

When we considered this legislation in 1994, the Senator Labor and Human Resources Committee heard poignant testimony about the emotional and financial hardships caused by hiring permanent replacement workers. We heard about workers losing their homes; going without health insurance because of the high costs of COBRA coverage; feeling useless when they were permanently replaced after years of loyal service.

The right to strike—which we all know is a last resort since no worker takes the financial risk of a strike lightly—is fundamental to preserving workers' right to bargain for better wages and better working conditions. Without the right to strike, workers forego their fair share of bargaining power.

Permanent striker replacement not only affects the workers who were replaced. It affects other workers in com-

peting companies. When one employer in an industry breaks a union, hires permanent replacements, and cuts salaries and benefits, it affects all the other companies in the industry. Now they either have to find a way to compete with the low-wages and shoddy benefits of a cut-rate, cut-throat business—or they have to follow suit.

Also, workers faced with being replaced are forced to make a choice. They can either stay with the union and fight for their jobs, or they can cross the picket line to avoid losing the job they've held for ten or twenty or thirty years.

Is this a free choice, as some of our colleagues would suggest? Or is this blackmail that takes away the rights and the dignity of the workers of this country? What does it mean to tell workers, "you have the right to strike"—when we allow them to be summarily fired for exercising that right?

In reality, there is no legal right to strike today. And because there is no legal right to strike, there is no legal right to bargain collectively. And since there is no legal right to bargain collectively, there is no level playing field between workers and management.

In other words, Management gets to say that you must bargain on their terms—or find some other place to work. If you're permanently replaced, that means you're out of work; you lose all your pension rights; you lose your seniority; you lose your job forever.

How did this happen? We've got to go back to the 1930's for the answer.

In response to widespread worker abuses—and union busting—Congress passed the National Labor Relations Act—the Wagner Act—in 1935 and it was signed into law by President Roosevelt. The Wagner Act guarantees workers the right to organize and bargain collectively and strike if necessary. It makes it illegal for companies to interfere with these rights. In fact, it specifies the right to strike and states: 'Nothing in this act—except as specifically provided herein—shall be construed so as to interfere with or impede or diminish in any way the right to strike.'

In 1938, the Supreme Court dealt the Wagner Act a mortal blow in the case *National Labor Relations Board (NLRB) versus Mackay Radio and Telegraph Co.* In that case, the Court said that Mackay Radio could hire permanent replacement workers for those engaged in an economic strike.

There are two types of strikes: economic and unfair labor practices. Employers must rehire employees in unfair labor practice strikes. The NLRB determines if the strike is economic or based on unfair labor practices. Union cannot know in advance whether NLRB will rule that their employer has engaged in unfair labor practices. So any

employee participating in a strike runs a risk of permanently losing his or her job.

What's interesting is that following the Court's ruling, companies did not take advantage of this loophole until the 1980s. Before then, they recognized that doing that would upset this level playing field. For almost 40 years, management rarely hired permanent replacements.

That began to change in the 1980s. Since then, hiring permanent replacements has become a routine practice to break unions and shift the balance between workers and management.

Again Mr. President, the Workplace Fairness Act would restore the fundamental principle of fair labor-management relations—the right of workers to strike without having to fear losing their jobs.

Permanent striker replacement keeps us from moving forward as a nation into an era of high-wage, high-skilled, highly productive jobs in the global marketplace. Without the right to strike, workers' rights will continue to erode. The result will be fewer incentives and less motivation to produce good work, and companies will also suffer with less quality in their products.

Obviously, Mr. President, this legislation won't be adopted this year. But we are introducing it today to begin the debate and to signal our intent on raising it and other fundamental labor law reforms in the next session of Congress. Its time for us to level the playing field for hard-working Americans.

Mr. BIDEN:

S. 3251. A bill to authorize the Secretary of State to provide for the establishment of nonprofit entities for the Department's international educational, cultural, and arts programs; to the Committee on Foreign Relations.

ASSISTANCE FOR INTERNATIONAL EDUCATIONAL, CULTURAL, AND ARTS PROGRAMS OF THE DEPARTMENT OF STATE

Mr. BIDEN. Mr. President, I introduce legislation which would authorize the establishment of nonprofit entities to provide grants and other assistance for international educational, cultural and arts programs through the Department of State. This is an initiative I have discussed with officials of the Department of State and introduce today to initiate discussion on how to best stimulate a vibrant exchange of international educational, cultural and arts programs.

We are in an era in which cultural issues are increasingly central to international issues and diplomacy. Trade disputes, ethnic and regional conflicts and issues such as biotechnology all have cultural and intellectual underpinnings.

Cultural programs are increasingly necessary to promoting international

understanding and achieving U.S. national objectives. American multinational companies and other Americans doing business overseas welcome opportunities to show their support for the unique cultures of nations in which they do business, as well as their interest in telling the story of America's diversity in other countries.

One way they could do this is by helping to sponsor cultural exchange programs arranged through the Department of State. The problem is that there is apparently no clear easy way to do that—no point of contact for corporations or others interested in supporting cultural diplomacy—no clear avenues to assist cultural programs supported by our government. There also are concerns about possible conflicts of interest. Moreover, many people in our own government are uncertain whether they should engage in presenting the creative, intellectual and cultural side of our nation.

Under this legislation Congress would authorize the establishment of private nonprofit organizations for the support of international cultural programs, making it both easy and attractive for private organizations to support cultural programs in cooperation with the Department of State. In so doing, we would affirm support for the promotion and presentation of the nation's intellectual and creative best as part of American diplomacy.

This initiative would support a broad range of cultural exchange programs—projects that send Americans abroad and that bring people from other countries to the United States. Its priority would be to support the organization and promotion of major, high-profile presentations of art exhibitions, musical and theatrical performances which represent the finest quality of creativity our nation produces. These should be presentations that reach large numbers of people, which contribute to achieving our national interests and which represent the diversity of American culture.

There would be authority to solicit support for specific cultural endeavors, offering individuals, foundations, multinationals corporations and other American businesses engaged overseas the opportunity to publicly support cross-cultural understanding in countries where they do business.

The nonprofit entity would work with the Bureau of Educational and Cultural Affairs as well as the Under Secretary for Public Diplomacy and Public Affairs at the Department of State.

Mr. President, that is the overall purpose of this legislation. I am sure we will be able to improve on how to encourage a vibrant exchange of cultural programs, and I welcome suggestions on how best to do that. It is for that purpose that I introduce this legislation at the end of this Congress,

with the intention of reintroducing it next year with the benefit of those suggestions.

I ask consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3251

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. FINDINGS.

The Congress makes the following findings:

(1) It is in the national interest of the United States to promote mutual understanding between the people of the United States and other nations.

(2) Among the means to be used in achieving this objective are a wide range of international educational and cultural exchange programs, including the J. William Fulbright Educational Exchange Program and the International Visitors Program.

(3) Cultural diplomacy, especially the presentation abroad of the finest of America's creative, visual and performing arts, is an especially effective means of advancing the U.S. national interest.

(4) The financial support available for international cultural and scholarly exchanges has declined by approximately 10 per cent in recent years.

(5) Funds appropriated for the purpose of ensuring that the excellence, diversity and vitality of the arts in the United States are presented to foreign audiences by and in cooperation with our diplomatic and consular representatives have declined dramatically.

(6) One of the ways to deepen and expand cultural and educational exchange programs is through the establishment of nonprofit entities to encourage the participation and financial support of multinational companies and other private sector contributors.

(7) The U.S. private sector should be encouraged to cooperate closely with the Secretary of State and her representatives to expand and spread appreciation of U.S. cultural and artistic accomplishments.

SEC. 2. AUTHORITY TO ESTABLISH NONPROFIT ENTITIES.

Section 105(f) of the Mutual Educational and Cultural Exchange Act of 1961, as amended, (22 U.S.C. 2255(f)) is further amended—

(1) by inserting "(1)" after "(f)"; and by adding at the end the following new paragraphs:

(2) The Secretary of State is authorized to provide for the establishment of private, nonprofit entities to assist in carrying out the purposes of the Act. Any such entity shall not be considered an agency or instrumentality of the United States government, nor shall its employees be considered employees of the United States government for any purposes.

(3) The entities may, among other functions, (a) encourage participation and support by U.S. multinational companies and other elements of the private sector for cultural, arts and educational exchange programs, including those programs that will enhance international appreciation of America's cultural and artistic accomplishments; (b) solicit and receive contributions from the private sector to support these cultural arts and educational exchange programs; and (c) provide grants and other assistance for these programs.

(4) The Secretary of State is authorized to make such arrangements as are necessary to carry out the purposes of these entities, in-

cluding the solicitation and receipt of funds for the entity; designation of a program in recognition of such contributions; and designation of members, including employees of the U.S. government, on any board or other body established to administer the entity.

(5) Any funds available to the Department of State may be made available to such entities to cover administrative and other costs for their establishment. Any such entity is authorized to invest any amounts provided to it by the Department of State, and such amounts, as well as any interest or earnings on such amounts, may be used by the entity to carry out its purposes.

ADDITIONAL COSPONSORS

S. 1536

At the request of Mr. DEWINE, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 1536, a bill to amend the Older Americans Act of 1965 to extend authorizations of appropriations for programs under the Act, to modernize programs and services for older individuals, and for other purposes.

S. 2789

At the request of Mr. COCHRAN, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 2789, a bill to amend the Congressional Award Act to establish a Congressional Recognition for Excellence in Arts Education Board.

S. 2938

At the request of Mr. BROWNBACK, the name of the Senator from Kentucky (Mr. MCCONNELL) was added as a cosponsor of S. 2938, a bill to prohibit United States assistance to the Palestinian Authority if a Palestinian state is declared unilaterally, and for other purposes.

S. 3139

At the request of Mr. ABRAHAM, the name of the Senator from Minnesota (Mr. GRAMS) was added as a cosponsor of S. 3139, a bill to ensure that no alien is removed, denied a benefit under the Immigration and Nationality Act, or otherwise deprived of liberty, based on evidence that is kept secret from the alien

S. 3147

At the request of Mr. ROBB, the names of the Senator from Ohio (Mr. VOINOVICH) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 3147, a bill to authorize the establishment, on land of the Department of the Interior in the District of Columbia or its environs, of a memorial and gardens in honor and commemoration of Frederick Douglass.

S. 3181

At the request of Mr. INHOFE, his name was added as a cosponsor of S. 3181, a bill to establish the White House Commission on the National Moment of Remembrance, and for other purposes.

At the request of Mr. HAGEL, the names of the Senator from Maine (Ms.