

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the enactment of such section 105.

By Mr. HUTCHINSON:

S. 962. A bill to preserve open competition and Federal Government neutrality towards the labor relations of Federal Government contractors on Federal and federally funded construction projects; to the Committee on Governmental Affairs.

Mr. HUTCHINSON. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 962

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Government Neutrality in Contracting Act".

**SEC. 2. PURPOSES.**

It is the purpose of this Act to—

(1) promote and ensure open competition on Federal and federally funded or assisted construction projects;

(2) maintain Federal Government neutrality towards the labor relations of Federal Government contractors on Federal and federally funded or assisted construction projects;

(3) reduce construction costs to the Federal Government and to the taxpayers;

(4) expand job opportunities, especially for small and disadvantaged businesses; and

(5) prevent discrimination against Federal Government contractors or their employees based upon labor affiliation or the lack thereof, thereby promoting the economical, nondiscriminatory, and efficient administration and completion of Federal and federally funded or assisted construction projects.

**SEC. 3. PRESERVATION OF OPEN COMPETITION AND FEDERAL GOVERNMENT NEUTRALITY.**

(a) PROHIBITION.—

(1) GENERAL RULE.—The head of each executive agency that awards any construction contract after the date of enactment of this Act, or that obligates funds pursuant to such a contract, shall ensure that the agency, and any construction manager acting on behalf of the Federal Government with respect to such contract, in its bid specifications, project agreements, or other controlling documents does not—

(A) require or prohibit a bidder, offeror, contractor, or subcontractor from entering into, or adhering to, agreements with 1 or more labor organization, with respect to that construction project or another related construction project; or

(B) otherwise discriminate against a bidder, offeror, contractor, or subcontractor because such bidder, offeror, contractor, or subcontractor—

(i) became a signatory, or otherwise adhered to, an agreement with 1 or more labor organization with respect to that construction project or another related construction project; or

(ii) refused to become a signatory, or otherwise adhere to, an agreement with 1 or more labor organization with respect to that construction project or another related construction project.

(2) APPLICATION OF PROHIBITION.—The provisions of this section shall not apply to con-

tracts awarded prior to the date of enactment of this Act, and subcontracts awarded pursuant to such contracts regardless of the date of such subcontracts.

(3) RULE OF CONSTRUCTION.—Nothing in paragraph (1) shall be construed to prohibit a contractor or subcontractor from voluntarily entering into an agreement described in such paragraph.

(b) RECIPIENTS OF GRANTS AND OTHER ASSISTANCE.—The head of each executive agency that awards grants, provides financial assistance, or enters into cooperative agreements for construction projects after the date of enactment of this Act, shall ensure that—

(1) the bid specifications, project agreements, or other controlling documents for such construction projects of a recipient of a grant or financial assistance, or by the parties to a cooperative agreement, do not contain any of the requirements or prohibitions described in subparagraph (A) or (B) of subsection (a)(1); or

(2) the bid specifications, project agreements, or other controlling documents for such construction projects of a construction manager acting on behalf of a recipient or party described in paragraph (1), do not contain any of the requirements or prohibitions described in subparagraph (A) or (B) of subsection (a)(1)

(c) FAILURE TO COMPLY.—If an executive agency, a recipient of a grant or financial assistance from an executive agency, a party to a cooperative agreement with an executive agency, or a construction manager acting on behalf of such an agency, recipient or party, fails to comply with subsection (a) or (b), the head of the executive agency awarding the contract, grant, or assistance, or entering into the agreement, involved shall take such action, consistent with law, as the head of the agency determines to be appropriate.

(d) EXEMPTIONS.—

(1) SPECIAL CIRCUMSTANCES.—

(A) IN GENERAL.—The head of an executive agency may exempt a particular project, contract, subcontract, grant, or cooperative agreement from the requirements of 1 or more of the provisions of subsections (a) and (b) if the head of such agency determines that special circumstances exist that require an exemption in order to avert an imminent threat to public health or safety or to serve the national security.

(B) DEFINITION.—For purposes of subparagraph (A), a finding of "special circumstances" may not be based on the possibility or existence of a labor dispute concerning contractors or subcontractors that are nonsignatories to, or that otherwise do not adhere to, agreements with 1 or more labor organization, or labor disputes concerning employees on the project who are not members of, or affiliated with, a labor organization.

(2) ADDITIONAL EXEMPTION FOR CERTAIN PROJECTS.—The head of an executive agency, upon the application of an awarding authority, a recipient of grants or financial assistance, a party to a cooperative agreement, or a construction manager acting on behalf of any of such entities, may exempt a particular project from the requirements of any or all of the provisions of subsections (a) or (c), if the agency head finds—

(A) that the awarding authority, recipient of grants or financial assistance, party to a cooperative agreement, or construction manager acting on behalf of any of such entities had issued or was a party to, as of the date of the enactment of this Act, bid specifica-

tions, project agreements, agreements with one or more labor organizations, or other controlling documents, with respect to that particular project, which contained any of the requirements or prohibitions set forth in subsection (a)(1); and

(B) that one or more construction contracts subject to such requirements or prohibitions had been awarded as of the date of the enactment of this Act.

(e) FEDERAL ACQUISITION REGULATORY COUNCIL.—With respect to Federal contracts to which this section applies, not later than 60 days after the date of enactment of this Act, the Federal Acquisition Regulatory Council shall take appropriate action to amend the Federal Acquisition Regulation to implement the provisions of this section.

(f) DEFINITIONS.—In this section:

(1) CONSTRUCTION CONTRACT.—The term "construction contract" means any contract for the construction, rehabilitation, alteration, conversion, extension, or repair of buildings, highways, or other improvements to real property.

(2) EXECUTIVE AGENCY.—The term "executive agency" has the meaning given such term in section 105 of title 5, United States Code, except that such term shall not include the General Accounting Office.

(3) LABOR ORGANIZATION.—The term "labor organization" has the meaning given such term in section 701(d) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(d)).

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE RESOLUTION 94—EXPRESSING THE SENSE OF THE SENATE TO DESIGNATE MAY 28, 2001, AS A SPECIAL DAY FOR RECOGNIZING THE MEMBERS OF THE ARMED FORCES WHO HAVE BEEN KILLED IN HOSTILE ACTION SINCE THE END OF THE VIETNAM WAR

Mr. CLELAND (for himself, Mr. MCCAIN, Mr. LEVIN, Mrs. HUTCHISON, Mr. BIDEN, Mr. JEFFORDS, Ms. LANDRIEU, Mr. BENNETT, Mr. MILLER, Mrs. MURRAY, Mr. JOHNSON, Mrs. CARNAHAN, Mr. DAYTON, Mr. CONRAD, Mr. KENNEDY, Mr. DURBIN, Mr. HATCH, Mrs. CLINTON, Mr. SESSIONS, Mr. ALLEN, and Mr. NELSON of Nebraska) submitted the following resolution; which was considered and agree to:

S. RES. 94

Whereas the House and Senate have passed measures that will expedite the long-overdue memorial commemorating the sacrifices of those who fought and died in World War II;

Whereas with the completion of the World War II Memorial, there will be memorials in the capital of our Nation for each of the major conflicts of the last century;

Whereas approximately 650 members of the Armed Services have been killed in hostile action since the end of the Vietnam War;

Whereas the circumstances surrounding these deaths have been characterized both by large scale conflicts and a number of smaller incidents and actions which have received little attention;

Whereas the sacrifice of these men and women is held as dearly by their fellow citizens as the sacrifice of those claimed by earlier struggles; and

Whereas the loss of these men and women stands in testament to the risks undertaken by all members of the Armed Services each day as they carry out their duty to support and defend the Constitution: Now, therefore, be it

*Resolved*, That it is the sense of the Senate—

(1) to designate May 28, 2001, as a special day for recognizing the sacrifice of the members of the Armed Forces killed in hostile action since the end of the Vietnam War, and the sacrifices of the families of the members;

(2) to make the designation under paragraph (1) on May 28, 2001, in light of the traditional Memorial Day recognition of the veterans of the United States who have given their lives in defense of our Nation;

(3) to recognize that we live in a time of international unrest and that military service in such a time is inherently dangerous and requires the willingness to face the most extreme hazards at unexpected times and places; and

(4) to acknowledge that the people of the United States owe a debt of gratitude to all members of the Armed Services who place themselves in harm's way each day, and to their families.

SENATE CONCURRENT RESOLUTION 43—EXPRESSING THE SENSE OF THE SENATE REGARDING THE REPUBLIC OF KOREA'S ONGOING PRACTICE OF LIMITING UNITED STATES MOTOR VEHICLES ACCESS TO ITS DOMESTIC MARKET

Mr. LEVIN (for himself and Mr. VOINOVICH) submitted the following concurrent resolution; which was referred to the Committee on Finance:

S. CON. RES. 43

Whereas the Government of the Republic of Korea over many years has provided aid to the Korean automotive industry enabling that industry to develop into the fourth largest automotive industry in the world, after the United States, Japan, and the European Union;

Whereas the domestic automotive market of the Republic of Korea was completely closed to all international automotive manufacturers until 1990, and not completely open to all automotive manufacturers until 1999;

Whereas in response to complaints by the United States that the Government of the Republic of Korea was practicing unfair trade in the automotive sector, and that there was continuing anti-import bias and increasing disparity in market access for foreign motor vehicles, the Government of Korea signed two Memorandums of Understanding (MOU) with the United States in 1995 and 1998 in an effort to help increase foreign motor vehicle access to the Korean automotive market;

Whereas in the 1998 MOU, the Government of the Republic of Korea pledged specifically to simplify its tax regime in a manner that enhanced market access for foreign motor vehicles, improve the perception of foreign motor vehicles in Korea, simplify and streamline Korea's type-approval system procedures for foreign motor vehicles and other standards issues, and establish a mortgage system for motor vehicles;

Whereas 3 years after signing the 1998 MOU, the Government of the Republic of Korea has not substantially increased market access for foreign motor vehicles and its

motor vehicle market still does not operate according to market principles, as evidenced by the fact that the share of the market held by foreign motor vehicles was lower in 2000 than it was in 1998, and remains the lowest of any industrialized nation;

Whereas 3 years after signing the 1998 MOU, the Government of the Republic of Korea has not made sufficient advances in simplifying its tax regime for motor vehicles or improving the perception of foreign motor vehicles in Korea;

Whereas 3 years after signing the 1998 MOU, the Government of the Republic of Korea has not taken the necessary steps to implement the MOU fully and effectively, as evidenced by the extraordinarily low foreign motor vehicle presence in Korea;

Whereas Korea is a major exporter of motor vehicles and automotive parts to the United States, reaching over a total value of \$5,910,000,000 last year, compared to a total value of \$480,000,000 in United States motor vehicles and automotive parts exported to Korea last year, resulting in a total automotive trade deficit of \$5,300,000,000;

Whereas the extremely low level of United States vehicle sales in the Republic of Korea means that there is great difficulty in selling United States made automotive components, systems, and parts in Korea;

Whereas 1,057,620 motor vehicles were sold in the Republic of Korea in 2000, only 4,414 (or 0.42 percent) were imported and only 1,268 of those vehicles (or 0.12 percent) were made in the United States;

Whereas one Korean auto maker maintains monopolistic control of over 75 percent of Korea's domestic market; and

Whereas some Korean organizations and institutions continue to support anti-competitive activities that perpetuate entrenched commercial interests at the expense of free trade, Korean consumers, and the overall Korean economy: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring)*, That Congress—

(1) believes strongly that an economically stable Republic of Korea is in the best overall foreign policy and economic interests of the United States;

(2) notes that past practices, such as protection from international competition, preferential access to credit, low interest loans, and the policy of providing assistance to chaebols in general, and the automotive sector specifically, contributed to the 1997-1998 Asian financial crisis, threatened the economic stability of the Republic of Korea and undermined the relationship between the United States and the Republic of Korea;

(3) believes that economic policies and practices effectively limiting United States manufacturers' access to the Korean automotive sector are inconsistent with the general trend toward a market-oriented approach, and that the relationship between the United States and the Republic of Korea has been, and will continue to be, significantly harmed by unfair treatment of imports of United States motor vehicles;

(4) calls on the Republic of Korea to immediately end the practices that have led to the disparity in market access, as well as to take proactive steps to repair the damage done by past policies and practices;

(5) calls on the Republic of Korea to meet the letter and spirit of the commitments contained in the 1998 Memorandum of Understanding it signed with the United States; and

(6) calls on the United States Trade Representative, the Secretary of Commerce, and

the Secretary of State to monitor and report to Congress on the steps that have been taken to end the disparity in market access for imported motor vehicles in the Republic of Korea.

Mr. LEVIN. Mr. President, today, as co-chairman of the Senate Auto Caucus, I am submitting with my colleague and Auto Caucus co-chairman, Senator VOINOVICH, a Concurrent Resolution urging Korea to remove its automotive trade barriers to U.S. automotive exports.

Our resolutions urges the Republic of Korea to immediately end practices that have restricted market access for U.S. made automobiles and auto parts and meet the letter and spirit of the commitments it made in the 1998 Memorandum of Understanding in Automotive Trade. An identical Resolution is being submitted in the House by the co-chairmen of the House Auto Caucus. I call on both chambers to act swiftly to pass this important measure and send a strong signal to the Government of Korea that it's time to remove these trade barriers.

The Senate and House Auto Caucuses have worked hard to bring attention to the rapidly increasing automotive trade deficit between the United States and South Korea. We have urged our Government to make it a priority to remove barriers to competitive U.S. automotive exports to Korea. It is a matter of simple fairness and American jobs.

When it comes to automotive trade between the United States and Korea, the numbers speak for themselves. Korea has the most closed market for imported motor vehicles in the developed world with foreign vehicles making up less than one half of one percent of its total vehicle market. At the same time, Korea is dependent on open markets to absorb its automotive exports and has become one of the world's major auto exporting countries. The relationship is so blatantly unfair that Korea cannot deny their market is closed. Last year, Korea imported only 1,000 vehicles from the United States and exported nearly 500,000 to the United States.

This grossly unfair automotive trade relationship is due to the continuation in Korea of discriminatory practices such as labeling foreign vehicles as "luxury goods"; ignoring harassment by the media and others of foreign vehicles owners; and an automotive tax system which discriminates against imported vehicles, making them prohibitively expensive.

It's not fair and our message to Korea is that we don't accept it.

That is why we submit this Concurrent Resolution on the even of the next round of trade negotiations between the United States and Korea which start in mid-June. The message we wish to send is clear and simple: we expect to see some significant market