

EXTENSIONS OF REMARKS

THE FBI FAIRNESS TO APPEAL IMPROVEMENT ACT (FBI FAIR)

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1998

Mr. WOLF. Mr. Speaker, some Federal Bureau of Investigation [FBI] special agents are accorded Merit System Protection Board [MSPB] appeal rights and others are not. This discriminatory policy offends traditional notions of fairness and should change. It is not fair that some agents receive MSPB appeal rights while others do not.

Because of my concern about this policy, today I will introduce legislation, the FBI Fairness to Appeal Improvement Act, a copy of which appears at the end of my statement. This simple legislation would amend 5 U.S.C. 7511(b)(8) by striking "the Federal Bureau of Investigation," thereby extending certain procedural and appeal rights with respect to certain adverse personnel actions to all employees of the FBI. This legislation corrects the current disparate treatment of nonveteran special agents regarding their ability to appeal adverse personnel actions and ensures the due process rights of all employees of the FBI.

Last Congress I introduced a bill, H.R. 2683, the Due Process for FBI Agents Act, with the same language as the measure I am introducing today. This legislation in the 104th Congress was attached to H.R. 3841, the Omnibus Civil Service Reform Act of 1996 which passed the House on September 27, 1996, but did not become law.

Special agents of the FBI are loyal civil servants dedicated to protecting Americans from the worst kinds of crime. Their jobs are difficult, demanding, and often dangerous. They are often transferred to posts far from home which demands considerable sacrifice by FBI families. FBI agents are on the front line of the fight against crime. The FBI motto—fidelity, bravery, and integrity—accurately characterizes the manner in which agents approach their important work.

These duties are performed by all agents, veteran and nonveteran alike. However, these two categories of agents receive disparate treatment when charged with misconduct. Military veterans are permitted full due process rights including the ability to appeal adverse personnel actions to the MSPB. In other words, veteran agents, who are in the excepted service, receive the same due process rights that employees in the competitive service receive.

Nonveteran agents, also members of the excepted service, do not. This means that a veteran agent will receive an outside, independent, objective review of his/her case while a nonveteran agent will not. Is this fair? I maintain that it is not. Furthermore, female special agents are particularly hit hard by this policy because few have served in the military; thus they are not eligible to receive the MSPB appeal rights that veteran agents, who are

predominantly men, do. Also, FBI agents should have the same MSPB appeal rights as federal law enforcement agents who work for the Bureau of Alcohol, Tobacco and Firearms, Drug Enforcement Administration, Customs Service, and Border Patrol.

As this legislation was considered in the House in the 104th Congress the FBI raised only one objection. The Bureau was concerned about MSPB decisions, in five cases, that a federal agency could not sanction an employee for making false statements to the agency regarding his or her alleged employment-related misconduct. The Court of Appeals for the Federal Circuit affirmed the MSPB policy. But on December 2, 1997, in the case *LaChance v. Erickson*, the Supreme Court overturned the "bad law" established by the Court of Appeals. The high court held that the Fifth Amendment's Due Process Clause and the Civil Service Reform Act do not preclude a federal agency from sanctioning an employee for making false statements to the agency regarding his or her alleged employment-related misconduct. As a result, the one objection previously voiced by the FBI is no longer applicable.

Mr. Speaker, there is no reason to maintain the distinction between preference eligible veteran and nonveteran agents. All agents, whether veterans or not, should be treated in a fair and equitable manner. The FBI has considerable experience with the MSPB process available to veteran agents. I am not aware that there has been any particular abuse of the MSPB process by preference eligible agents. Likewise, I do not anticipate that expansion of MSPB rights to all agents would be burdensome on the FBI. There is no room in the modern FBI for discriminatory personnel policies; therefore, nonveteran agents should receive all the rights and enjoy all the privileges accorded to their preference eligible veteran counterparts.

Mr. Speaker, I urge our colleagues to co-sponsor this important legislation. I also urge Congressman MICA, chairman of the House Civil Service Subcommittee, to move this legislation as expeditiously as possible. Finally, I include a copy of this bill and a letter from former Congressman Ed Bethune who represents the FBI Agents' Association in support of this legislation in the record immediately following my statement.

ED BETHUNE & ASSOCIATES,
Washington, DC, March 31, 1998.

Hon. FRANK WOLF,
U.S. House of Representatives, Washington, DC.

DEAR CONGRESSMAN: The FBI Agents Association, a non-governmental professional association, represents over 8000 active duty FBI Special Agents. The association strongly supports your effort to extend Merit System Protection Board appeal rights to all agents. As General Counsel for the association I can tell you that the support for this reform is virtually unanimous among rank and file agents.

The association will be working to help you pass this much needed reform in this session of Congress. Again, thanks for your tireless efforts on behalf of the men and

women who are on the front line in the battle against crime.

Sincerely,

ED BETHUNE.

H.R. —

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 "FBI Fairness to Appeal Improvement Act".

SEC. 2. EXTENSION OF RIGHTS.

(a) IN GENERAL.—Section 7511(b)(8) of title 5, United States Code, is amended by striking "the Federal Bureau of Investigation,".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to adverse personnel actions taking effect after the end of the 45-day period beginning on the date of enactment of this Act.

PERSONAL EXPLANATION

HON. CHARLES H. TAYLOR

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1998

Mr. TAYLOR of North Carolina. Mr. Speaker, on roll call vote 83, H.R. 2608, to protect individuals from having money involuntarily collected and used for political activities by a corporation or labor organization, I was recorded as voting "no." It was my intention to vote "yes," to require the written and voluntary consent from an employee or union member before using any portion of their dues or fees for the organization's political activity.

CONGRATULATIONS TO MAYOR J. PETER KENDALL

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 31, 1998

Mrs. ROUKEMA. Mr. Speaker, I rise to congratulate J. Peter Kendall, mayor of Oakland, New Jersey, on being named 1998 Mayor of the Year by the New Jersey Conference of Mayors in recognition of his many years of exemplary public service. Mayor Kendall is one of the finest municipal officials in the State of New Jersey and this honor is certainly well deserved. From serving as the town Santa Clause each Christmas to using his business expertise to stabilize taxes, he is the very essence of a public servant who finds no job too large or too small to receive his complete attention.

Mayor Kendall and I have worked together on many local projects over the years and he has always provided me with good counsel and authoritative information. One of the most prominent projects in recent years has been the Ramapo River at Oakland Flood Control Project. Oakland has been plagued by devastating floods 15 times in the past 24 years.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

From the beginning, I was deeply impressed at how hard Mayor Kendall fought to spare his municipality's residents from enduring this hardship again. With his guidance, we have this year secured the first \$2.5 million of the total \$7 million in federal funds necessary for this much-needed project.

Mayor Kendall has brought a strong, successful business experience to benefit Oakland and the whole of Bergen County. Born in Seattle, he is a graduate of Long Island University's CW Post College. He spent 35 years as a manufacturing executive, as director of business systems and planning at Smiths Industries and vice president of manufacturing at Phillips Electronic Instruments. He owns Creative Systems Consulting Co., which helps design and install computerized manufacturing systems, and is executive director of the Bergen County Workforce Investment Board. As executive director, he supervises all workforce-training activities in the county.

Kendall's career in elected office began in 1985, when he was elected to the Oakland Borough Council. He served seven years as a councilman, during which time he was elected Council President four times. He was elected mayor in 1992 and is currently in his second four-year term.

As Mayor, Kendall has held borough property tax increases to less than 1 percent per year. He has reduced the borough staff by six positions and directed an \$8 million improvement in the town's water supply system without increasing water usage fees. Open space was increased to 20 percent of the borough's land area using a \$3 million grant-loan package he arranged with the State. He has worked to improve roads and recreation facilities and to upgrade equipment and facilities for both the Fire Department and the first-aid organization. In 1995, he organized the First Night Oakland New Year's Eve celebration to mark the town's 300th anniversary, beginning a new annual tradition.

One of Mayor Kendall's most-appreciated accomplishments was the construction of the new Oakland Senior Citizens Center, which opened in 1991. Widely regarded as one of the finest seniors' facilities in Bergen County, the project began in 1988 when Mayor Kendall obtained a \$150,000 grant from a local developer. He then led a \$1 million fund-raising drive that resulted in the opening of the new center. This facility has served countless individuals and is a center of community life for older residents of Oakland. It is a source of civic pride for all Oakland families.

In every way, Mayor Kendall has brought the people of Oakland together as a community and as a family.

Mayor Kendall is an active member of the Northwest Bergen Mayors Association, the New Jersey Conference of Mayors, the Bergen County League of Municipalities and the New Jersey League of Municipalities. He has also served with the Lions Club, Knights of Columbus and the Rotary Club. He is also an assistant scoutmaster. He and his wife, Frances, will have been married 36 years this July and have three sons—John, Mark and Sean, John and his wife, Carla, have two sons, Christopher and Peter, while Mark and his wife, Rose, have three children, Bianca, Dalton and Madisyn.

Peter Kendall is a hard-working, dedicated public servant. His efforts to improve the quality of life in the community that has been his

home are exemplary. I wish to add the recognition of the United States House of Representatives to that which he has received from the New Jersey Conference of Mayors.

THEATER MISSILE DEFENSE IMPROVEMENT ACT OF 1998

SPEECH OF

HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 30, 1998

Mr. BENTSEN. Mr. Speaker, I rise today in support of this legislation, the Theater Missile Defense Improvement Act (TMD), H.R. 2786.

I strongly support this legislation to provide additional funding to rapidly improve U.S. theater missile defense programs. The need for this legislation is clear. Last year, U.S. and Israel intelligence reports revealed that Russia engaged in a transfer of missile technology to Iran. An unclassified CIA report to Congress released in June, 1997 confirmed that Russia supplied a variety of ballistic missile goods to foreign countries including Iran. These missiles have an expected range of 1,300 to 2,000 kilometers within the range of Israel, Turkey, Saudi Arabia and 200,000 American military and civilian personnel.

In response to this threat, last year the House passed legislation, H.R. 2709, to deter Russian assistance to Iran's missile program by imposing sanctions on foreign companies that assist its missile development. However, in the six months since the passage of H.R. 2709, Iran has successfully tested a medium range missile engine, and North Korea and Iraq have continued to expand their missile capabilities. In addition, in the six years since 28 soldiers lost their lives in a SCUD attack in Dharan, Saudi Arabia, the U.S. still has not developed the ability to readily deploy defenses against sophisticated missile threats. The existing TMD systems were designed to repel older threats and have only limited capabilities against the newest generation of more capable missile systems.

While I fully respect the goals of the Nunn Lugar Cooperative Threat Reduction Program, which has provided assistance to Russia and other republics in dismantling and limiting the proliferation of nuclear weapons in the former Soviet Union, I am concerned that the third goal of this important program has been compromised. The third goal was to prevent the diversion of nuclear technology from the former Soviet republics to rogue states. The Israeli and U.S. intelligence reports confirm that Russia has violated the terms of the Nunn Lugar agreement, and I believe the rapid development of a deployable TMD system is needed to secure the interests of the United States and its allies, especially Israel, in the Middle East.

The bill authorizes the Secretary of Defense to identify actions the Defense Department could take to counter the threats enhanced missile programs pose to the United States, establish cooperative measures between Israel and the United States to protect Israel against such threats, and develop a program to counter such threats within the next one or two years. In addition, it would provide funding to ensure that the capabilities of U.S. TMD systems keep pace with missile development

programs being undertaken by Iran, North Korea and other regional threats.

I believe that passage of this bill is vital to U.S. security and interests in the Middle East, and I urge my colleague to support its passage.

CAMPAIGN REFORM AND ELECTION INTEGRITY ACT OF 1998

SPEECH OF

HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 30, 1998

Mr. KOLBE. Mr. Speaker, the American people must think this debate is quite disingenuous. They recognize that all our discussion about campaign reform is to take the debate away from the real problems—that some people broke the campaign laws. They took money from foreign interests; that is illegal under current law. They solicited money in government offices; that is illegal under current law. They sold access and privileges to high government officials; that is illegal under current law. Apparently, those people think if they talk ever more loudly about reforming the system, the American people will forget that they broke the laws we already have.

But no matter what brings us to this debate today, I think this bill—and the other three bills which make narrower reforms—does make some needed reforms. And I don't apologize that I am voting for partial reform because we can't get agreement on everything. If I have a toothache and a backache, I don't mind fixing the toothache even if that doesn't cure the backache.

Much has been said about illegal foreign money. Accepting money from foreign interests has always been illegal. But I agree with taking this further step to say that only those who are American citizens can give to the political candidates that only they can vote to elect. And if we are concerned that non citizens are voting, let's give our local election officials the ability to confirm that those who register are indeed citizens. Let the registrant check a box affirming that he or she is a citizen. That's neither discriminatory nor onerous.

My campaign committee tells me the new reporting requirements will be more difficult to comply with, but I support them. One of my contentions all along has been that more disclosure is good for open honest campaigns. The very best campaign finance reform is that which focuses on letting more sunshine into the process.

I strongly support the provision that requires unions or corporations to get permission from their employees before they use their workers' dues to support candidates. According to polling data, so do about three-fourths of the union members. Asking a union member for written permission to spend their hard earned dues dollars to support candidates cannot possibly be construed as denying workers their rights. They can agree with letting the union leadership make decisions about whom they support or they can keep it to spend as they wish. It gives them power over their own earnings; it does not deny them any right.

The underlying reform bill allows middle class candidates to run for office against millionaires by removing party and individuals