

110TH CONGRESS  
1ST SESSION

# H. R. 4223

To establish the Congressional-Executive Commission on the Socialist  
Republic of Vietnam.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 15, 2007

Mr. FORTENBERRY (for himself, Mr. TOWNS, Mr. SMITH of New Jersey, Mr. ADERHOLT, Mr. FRANKS of Arizona, and Mr. MCCOTTER) introduced the following bill; which was referred to the Committee on Foreign Affairs, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To establish the Congressional-Executive Commission on the  
Socialist Republic of Vietnam.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. FINDINGS.**

4       Congress finds the following:

5               (1) The United States and the Socialist Repub-  
6       lic of Vietnam share a sensitive history and relation-  
7       ship that has evolved significantly since the 1990s.

1           (2) The total trade volume between the United  
2 States and Vietnam neared \$10 billion in 2006, and  
3 the United States is currently Vietnam's largest ex-  
4 port market. United States exports to Vietnam have  
5 risen by over 500 percent from \$172 million in 1994  
6 to \$988 million in 2006.

7           (3) United States foreign assistance to Vietnam  
8 has increased from \$1 million in 1991 to over \$75  
9 million in fiscal year 2006.

10           (4) Pursuant to Vietnamese Prime Minister  
11 Phan Van Khai's visit to the United States in June  
12 2005, the United States and Vietnam signed an  
13 agreement to implement a bilateral International  
14 Military Education Training (IMET) program.

15           (5) On December 20, 2006, President George  
16 W. Bush signed into law H.R. 6111 (Public Law  
17 109-432), extending nondiscriminatory treatment  
18 (normal trade relations treatment) to the products  
19 of Vietnam.

20           (6) In January 2007, Vietnam joined the World  
21 Trade Organization and committed to abide by  
22 international trade rules.

23           (7) In April 2007, the United States modified  
24 the International Traffic in Arms Regulations to

1 allow the issuance of licenses for trade in certain  
2 non-lethal defense items and services with Vietnam.

3 (8) During the visit of Vietnamese President  
4 Nguyen Minh Triet to Washington, DC, in June  
5 2007, which marked the first visit by a Vietnamese  
6 head of state to the United States since the end of  
7 the Vietnam conflict, the United States and Vietnam  
8 signed a trade and investment framework agreement  
9 on June 22, 2007.

10 (9) The people of the United States and the  
11 people of Vietnam share the desire to foster hope,  
12 healing, and mutual prosperity for both countries.

13 (10) Since the enactment of Public Law 109–  
14 432, extending normal trade relations treatment to  
15 the products of Vietnam, several concerns have  
16 drawn the attention of the United States human  
17 rights community and the United States Congress,  
18 prompting renewed focus on human rights issues in  
19 Vietnam which figured prominently in the congress-  
20 sional debate regarding the extension of such normal  
21 trade relations treatment. Such concerns include  
22 concerns about the arrests of political prisoners and  
23 prisoners of conscience, including Father Nguyen  
24 Van Ly, Nguyen Van Dai, and Le Thi Cong Nhan.

1           (11) The potential benefits from enhanced bilat-  
2           eral trade should not supplant legitimate matters of  
3           principle involving human rights, the rule of law,  
4           and religious freedom.

5           (12) Vietnamese-Americans throughout the  
6           United States continue to emphasize the importance  
7           of addressing human rights, the rule of law, and re-  
8           ligious freedom in the United States–Vietnam bilat-  
9           eral relationship.

10          (13) While the Government of Vietnam has  
11          made significant efforts over the past decade to ad-  
12          dress the concerns of the United States Government  
13          regarding United States POW/MIA cases, 2,000  
14          United States service personnel remain unaccounted  
15          for in Indochina.

16          (14) The Government of Vietnam has made ef-  
17          forts to improve human rights and religious free-  
18          doms, including efforts to conclude a bilateral agree-  
19          ment with the United States under which the Gov-  
20          ernment of Vietnam agreed to take steps to improve  
21          religious freedom, grant amnesties to prisoners of  
22          conscience, establish a new Ordinance on Religion  
23          and issue instructions to prohibit forced renunciation  
24          of faith, ease restrictions on the training of clergy,  
25          support fact-finding visits to Vietnam by United

1 States officials and Office of the United Nations  
2 High Commissioner for Refugees (UNHCR) per-  
3 sonnel, improve worker rights, and make progress  
4 toward eliminating human trafficking.

5 (15) While the Department of State rescinded  
6 the Country of Particular Concern designation ap-  
7 plied to Vietnam, human rights concerns remain.

8 (16) While progress on the human rights situa-  
9 tion in Vietnam's Central Highlands has been re-  
10 ported, it remains unclear to what extent such  
11 progress has been made. Also, concerns remain re-  
12 garding the human rights situation prevailing in  
13 Vietnam's Northwest Highlands.

14 (17) Adequate and fair compensation for land  
15 seizures, including such seizures affecting ethnic mi-  
16 norities in Vietnam's Central and Northwest High-  
17 lands remain a concern. While Vietnam has no sys-  
18 tem of private property rights, land use rights can  
19 be purchased but are subject to reclaim at any time  
20 by the government.

21 (18) A specific mechanism to address Vietnam's  
22 progress on human rights, the rule of law, and reli-  
23 gious freedom issues in an in-depth manner, focus-  
24 ing on vulnerabilities and areas of particular concern  
25 identified by the most recent annual Department of

1 State’s Country Reports on Human Rights Practices  
2 for Vietnam, the Trafficking in Persons Report, and  
3 the annual report of the United States Commission  
4 on International Religious Freedom, including  
5 progress in Vietnam’s Central and Northwest High-  
6 lands, would serve as a valuable resource to com-  
7 plement existing United States Government efforts  
8 to address these issues and inform future efforts, re-  
9 inforcing and strengthening the outcome of these ef-  
10 forts.

11 **SEC. 2. ESTABLISHMENT OF CONGRESSIONAL-EXECUTIVE**  
12 **COMMISSION ON THE SOCIALIST REPUBLIC**  
13 **OF VIETNAM.**

14 There is established a Congressional-Executive Com-  
15 mission on the Socialist Republic of Vietnam (in this Act  
16 referred to as the “Commission”).

17 **SEC. 3. FUNCTIONS OF THE COMMISSION.**

18 (a) MONITORING COMPLIANCE WITH HUMAN  
19 RIGHTS.—The Commission shall monitor the acts of the  
20 Socialist Republic of Vietnam, with particular emphasis  
21 on the Montagnard peoples and the Central and North-  
22 west Highlands, which reflect compliance with or violation  
23 of human rights, in particular, those contained in the  
24 International Covenant on Civil and Political Rights and

1 in the Universal Declaration of Human Rights, including,  
2 but not limited to, effectively affording—

3 (1) the right to engage in free expression with-  
4 out fear of any prior restraints;

5 (2) the right to peaceful assembly without re-  
6 strictions, in accordance with international law;

7 (3) religious freedom, including the right to  
8 worship free of involvement of and interference by  
9 the government;

10 (4) the right to liberty of movement, freedom to  
11 choose a residence within Vietnam, freedom from co-  
12 ercion in family planning, and the right to leave  
13 from and return to Vietnam;

14 (5) the right of a criminal defendant—

15 (A) to be tried in his or her presence, and  
16 to defend himself or herself in person or  
17 through legal assistance of his or her own  
18 choosing;

19 (B) to be informed, if he or she does not  
20 have legal assistance, of the right set forth in  
21 subparagraph (A);

22 (C) to have legal assistance assigned to  
23 him or her in any case in which the interests  
24 of justice so require and without payment by

1 him or her in any such case if he or she does  
2 not have sufficient means to pay for it;

3 (D) to a fair and public hearing by a com-  
4 petent, independent, and impartial tribunal es-  
5 tablished by the law;

6 (E) to be presumed innocent until proved  
7 guilty according to law; and

8 (F) to be tried without undue delay;

9 (6) the right to be free from torture and other  
10 forms of cruel or unusual punishment;

11 (7) protection of internationally recognized  
12 worker rights;

13 (8) freedom from incarceration as punishment  
14 for political opposition to the government;

15 (9) freedom from incarceration as punishment  
16 for exercising or advocating human rights (including  
17 those described in this section);

18 (10) freedom from arbitrary arrest, detention,  
19 or exile; and

20 (11) the right to fair and public hearings by an  
21 independent tribunal for the determination of a citi-  
22 zen's rights and obligations.

23 (b) VICTIMS LISTS.—The Commission shall compile  
24 and maintain lists of persons believed to be imprisoned,  
25 detained, or placed under house arrest, tortured, or other-

1 wise persecuted by the Government of the Socialist Repub-  
2 lic of Vietnam due to their pursuit of the rights described  
3 in subsection (a). In compiling such lists, the Commission  
4 shall exercise appropriate discretion, including concerns  
5 regarding the safety and security of, and benefit to, the  
6 persons who may be included on the lists and their fami-  
7 lies.

8 (c) MONITORING DEVELOPMENT OF RULE OF  
9 LAW.—The Commission shall monitor the development of  
10 the rule of law in the Socialist Republic of Vietnam, with  
11 particular emphasis on the Montagnard peoples and the  
12 Central and Northwest Highlands, including, but not lim-  
13 ited to—

14 (1) progress toward the development of institu-  
15 tions of democratic governance;

16 (2) processes by which statutes, regulations,  
17 rules, and other legal acts of the Government of  
18 Vietnam are developed and become binding within  
19 Vietnam;

20 (3) the extent to which statutes, regulations,  
21 rules, administrative and judicial decisions, and  
22 other legal acts of the Government of Vietnam are  
23 published and are made accessible to the public;

24 (4) the extent to which administrative and judi-  
25 cial decisions are supported by statements of reasons

1 that are based upon written statutes, regulations,  
2 rules, and other legal acts of the Government of  
3 Vietnam;

4 (5) the extent to which individuals are treated  
5 equally under the laws of Vietnam without regard to  
6 citizenship;

7 (6) the extent to which administrative and judi-  
8 cial decisions are independent of political pressure or  
9 governmental interference and are reviewed by enti-  
10 ties of appellate jurisdiction; and

11 (7) the extent to which laws in Vietnam are  
12 written and administered in ways that are consistent  
13 with international human rights standards, including  
14 the requirements of the International Covenant on  
15 Civil and Political Rights.

16 (d) BILATERAL COOPERATION.—The Commission  
17 shall monitor and encourage the development of programs  
18 and activities of the United States Government and pri-  
19 vate organizations with a view toward increasing the inter-  
20 change of people and ideas between the United States and  
21 the Socialist Republic of Vietnam and expanding coopera-  
22 tion in areas that include, but are not limited to—

23 (1) increasing enforcement of human rights de-  
24 scribed in subsection (a); and

25 (2) developing the rule of law in Vietnam.

1           (e) CONTACTS WITH NONGOVERNMENTAL ORGANI-  
2 ZATIONS.—In performing the functions described in sub-  
3 sections (a) through (d), the Commission shall, as appro-  
4 priate, seek out and maintain contacts with nongovern-  
5 mental organizations, including receiving reports and up-  
6 dates from such organizations and evaluating such re-  
7 ports.

8           (f) ANNUAL REPORTS.—

9           (1) IN GENERAL.—The Commission shall issue  
10 a report to the President and the Congress not later  
11 than 12 months after the date of the enactment of  
12 this Act, and not later than the end of each 12-  
13 month period thereafter, setting forth the findings of  
14 the Commission during the preceding 12-month pe-  
15 riod, in carrying out subsections (a) through (c).  
16 The Commission’s report may contain recommenda-  
17 tions for legislative or executive action.

18           (2) COORDINATION.—The report required to be  
19 issued under paragraph (1) shall be developed in co-  
20 ordination with the findings of the most recent an-  
21 nual Department of State’s Country Reports on  
22 Human Rights Practices for Vietnam, the Traf-  
23 ficking in Persons Report, and the annual report of  
24 the United States Commission on International Reli-  
25 gious Freedom.

1 (g) SPECIFIC INFORMATION IN ANNUAL REPORTS.—

2 The Commission's report under subsection (f) shall in-  
3 clude specific information as to the nature and implemen-  
4 tation of laws or policies concerning the rights set forth  
5 in paragraphs (1) through (11) of subsection (a), and as  
6 to restrictions applied to or discrimination against persons  
7 exercising any of the rights set forth in such paragraphs.

8 (h) CONGRESSIONAL HEARINGS ON ANNUAL RE-

9 PORTS.—(1) The Committee on Foreign Affairs of the  
10 House of Representatives shall, not later than 30 days  
11 after the receipt by the Congress of the report referred  
12 to in subsection (f), hold hearings on the contents of the  
13 report, including any recommendations contained therein,  
14 for the purpose of receiving testimony from Members of  
15 Congress, and such appropriate representatives of Federal  
16 departments and agencies, and interested persons and  
17 groups, as the committee deems advisable, with a view to  
18 reporting to the House of Representatives any appropriate  
19 legislation in furtherance of such recommendations. If any  
20 such legislation is considered by the Committee on Foreign  
21 Affairs within 45 days after receipt by the Congress of  
22 the report referred to in subsection (f), it shall be reported  
23 by the committee not later than 60 days after receipt by  
24 the Congress of such report.

1       (2) The provisions of paragraph (1) are enacted by  
2 the Congress—

3           (A) as an exercise of the rulemaking power of  
4 the House of Representatives, and as such are  
5 deemed a part of the rules of the House, and they  
6 supersede other rules only to the extent that they  
7 are inconsistent therewith; and

8           (B) with full recognition of the constitutional  
9 right of the House to change the rules (so far as re-  
10 lating to the procedure of the House) at any time,  
11 in the same manner and to the same extent as in  
12 the case of any other rule of the House.

13       (i) SUPPLEMENTAL REPORTS.—The Commission  
14 may submit to the President and the Congress reports  
15 that supplement the reports described in subsection (f),  
16 as appropriate, in carrying out subsections (a) through  
17 (c).

18 **SEC. 4. MEMBERSHIP OF THE COMMISSION.**

19       (a) SELECTION AND APPOINTMENT OF MEMBERS.—  
20 The Commission shall be composed of 7 members as fol-  
21 lows:

22           (1) Two Members of the House of Representa-  
23 tives appointed by the Speaker of the House of Rep-  
24 resentatives. One member shall be selected from the  
25 majority party and one member shall be selected,

1 after consultation with the minority leader of the  
2 House, from the minority party.

3 (2) Two Members of the Senate appointed by  
4 the President of the Senate. One member shall be  
5 selected, after consultation with the majority leader  
6 of the Senate, from the majority party, and one  
7 member shall be selected, after consultation with the  
8 minority leader of the Senate, from the minority  
9 party.

10 (3) One representative of the Department of  
11 State, appointed by the President of the United  
12 States from among officers and employees of that  
13 Department.

14 (4) One representative of the Department of  
15 Commerce, appointed by the President of the United  
16 States from among officers and employees of that  
17 Department.

18 (5) One representative of the Department of  
19 Labor, appointed by the President of the United  
20 States from among officers and employees of that  
21 Department.

22 (b) CHAIRMAN AND COCHAIRMAN.—

23 (1) DESIGNATION OF CHAIRMAN.—At the be-  
24 ginning of each odd-numbered Congress, the Presi-  
25 dent of the Senate, on the recommendation of the

1 majority leader of the Senate, shall designate one of  
2 the members of the Commission from the Senate as  
3 Chairman of the Commission. At the beginning of  
4 each even-numbered Congress, the Speaker of the  
5 House of Representatives shall designate one of the  
6 members of the Commission from the House as  
7 Chairman of the Commission.

8 (2) DESIGNATION OF COCHAIRMAN.—At the be-  
9 ginning of each odd-numbered Congress, the Speak-  
10 er of the House of Representatives shall designate  
11 one of the members of the Commission from the  
12 House as Cochairman of the Commission. At the be-  
13 ginning of each even-numbered Congress, the Presi-  
14 dent of the Senate, on the recommendation of the  
15 majority leader of the Senate, shall designate one of  
16 the members of the Commission from the Senate as  
17 Cochairman of the Commission.

18 **SEC. 5. VOTES OF THE COMMISSION.**

19 Decisions of the Commission, including adoption of  
20 reports and recommendations to the executive branch or  
21 to the Congress, shall be made by a majority vote of the  
22 members of the Commission present and voting. Two-  
23 thirds of the members of the Commission shall constitute  
24 a quorum for purposes of conducting business.

1 **SEC. 6. EXPENDITURE OF APPROPRIATIONS.**

2 For each fiscal year for which an appropriation is  
3 made to the Commission, the Commission shall issue a  
4 report to the Congress on its expenditures under that ap-  
5 propriation.

6 **SEC. 7. TESTIMONY OF WITNESSES, PRODUCTION OF EVI-**  
7 **DENCE; ISSUANCE OF SUBPOENAS; ADMINIS-**  
8 **TRATION OF OATHS.**

9 In carrying out this Act, the Commission may re-  
10 quire, by subpoena or otherwise, the attendance and testi-  
11 mony of such witnesses and the production of such books,  
12 records, correspondence, memoranda, papers, documents,  
13 and electronically recorded data as it considers necessary.  
14 Subpoenas may be issued only pursuant to a two-thirds  
15 vote of members of the Commission present and voting.  
16 Subpoenas may be issued over the signature of the Chair-  
17 man of the Commission or any member designated by the  
18 Chairman, and may be served by any person designated  
19 by the Chairman or such member. The Chairman of the  
20 Commission, or any member designated by the Chairman,  
21 may administer oaths to any witness.

22 **SEC. 8. APPROPRIATIONS FOR THE COMMISSION.**

23 (a) AUTHORIZATION; DISBURSEMENTS.—

24 (1) AUTHORIZATION.—There are authorized to  
25 be appropriated to the Commission for fiscal year  
26 2008, and each fiscal year thereafter, such sums as

1       may be necessary to enable it to carry out its func-  
2       tions. Appropriations to the Commission are author-  
3       ized to remain available until expended.

4               (2) **DISBURSEMENTS.**—Appropriations to the  
5       Commission shall be disbursed on vouchers ap-  
6       proved—

7                       (A) jointly by the Chairman and the Co-  
8                       chairman; or

9                       (B) by a majority of the members of the  
10                      personnel and administration committee estab-  
11                      lished pursuant to section 9.

12       (b) **FOREIGN TRAVEL FOR OFFICIAL PURPOSES.**—  
13       Foreign travel for official purposes by members and staff  
14       of the Commission may be authorized by either the Chair-  
15       man or the Cochairman.

16       **SEC. 9. STAFF OF THE COMMISSION.**

17       (a) **PERSONNEL AND ADMINISTRATION COM-**  
18       **MITTEE.**—The Commission shall have a personnel and ad-  
19       ministration committee composed of the Chairman, the  
20       Cochairman, the member of the Commission from the mi-  
21       nority party of the House of Representatives, and the  
22       member of the Commission from the minority party of the  
23       Senate.

24       (b) **COMMITTEE FUNCTIONS.**—All decisions per-  
25       taining to the appointment, separation, and fixing of pay

1 of personnel of the Commission shall be by a majority vote  
2 of the personnel and administration committee, except  
3 that—

4 (1) the Chairman shall be entitled to appoint  
5 and fix the pay of the staff director; and

6 (2) the Chairman and Cochairman shall each  
7 have the authority to appoint, with the approval of  
8 the personnel and administration committee, at least  
9 two professional staff members who shall be respon-  
10 sible to the Chairman or the Cochairman (as the  
11 case may be) who appointed them. Subject to sub-  
12 section (d), the personnel and administration com-  
13 mittee may appoint and fix the pay of such other  
14 personnel as it considers desirable.

15 (c) STAFF APPOINTMENTS.—All staff appointments  
16 shall be made without regard to the provisions of title 5,  
17 United States Code, governing appointments in the com-  
18 petitive service, and without regard to the provisions of  
19 chapter 51 and subchapter III of chapter 53 of such title  
20 relating to classification and General Schedule pay rates.

21 (d) QUALIFICATIONS OF PROFESSIONAL STAFF.—  
22 The personnel and administration committee shall ensure  
23 that the professional staff of the Commission consists of  
24 persons with expertise in areas including human rights,  
25 internationally recognized worker rights, international eco-

1 nomics, law (including international law), rule of law and  
2 other foreign assistance programming, Vietnamese poli-  
3 ties, economy and culture, and, if possible, a working  
4 knowledge of the Vietnamese language.

5 **SEC. 10. PRINTING AND BINDING COSTS.**

6 For purposes of costs relating to printing and bind-  
7 ing, including the costs of personnel detailed from the  
8 Government Printing Office, the Commission shall be  
9 deemed to be a committee of the Congress.

10 **SEC. 11. TERMINATION.**

11 Section 14(a)(2)(B) of the Federal Advisory Com-  
12 mittee Act (5 U.S.C. App.; relating to the termination of  
13 advisory committees) shall not apply to the Commission.

○