

Likewise, there is a dire need for air defense that could be rectified by the sale of American-made AIM 120 missiles, long-range radar and satellite warning data.

Enhanced military exchanges would forge a cohesive defense plan between our nations.

But, acquiescing to pressure from Beijing, the Clinton Administration refuses to sell these systems and take these steps despite a massive Chinese military buildup.

The Defense Intelligence Agency reports that the People's Liberation Army is currently deploying approximately 650 new short-range missile systems directly across the straits. There are 150 such missiles aimed at Taiwan already in addition to fevered construction of new fighter planes, warships and subs.

Under the Taiwan Relations Act, the United States committed to providing a defense capability to Taiwan based upon their defense needs. The need is pressing—the time to act on this promise is now.

Appealing to the chivalrous instincts of Americans, the Clinton Administration plants troops all over the world under the guise of defending the proverbial little guy from aggressive bully nations.

Supposedly, that is what we are doing in the Balkans—but bombs flying on Belgrade do not erase American responsibility elsewhere. The Taiwan Security Enhancement Act honors our commitment to stability in Taiwan by increasing cooperation between U.S. and Taiwanese militaries, and increasing sales of defensive technology and weaponry while prohibiting reductions in arms sales.

Mr. Speaker, American prestige is not only on the line in the Balkans. We must honor our commitments in the Taiwan Strait. I urge all of my colleagues to support the Taiwan Security Enhancement Act.

THANKS TO WILLIAM "BILL"
KENNOY

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 1999

Mr. DUNCAN. Mr. Speaker, today, the Tennessee Valley Authority is losing a great leader. After a successful eight-year term on the TVA Board, William "Bill" Kennoy is stepping down.

Bill Kennoy was appointed to the TVA Board by President George Bush and was sworn in on May 31, 1991. Over the past eight years, William Kennoy has contributed a great deal to the citizens of the Tennessee Valley. His competent leadership helped to secure the refinancing of TVA's \$3.2 billion debt. Additionally, he was instrumental in preserving the Land Between the Lakes Recreational Area.

All who know Bill Kennoy agree that he is a compassionate leader who has served the public well over his term as a TVA Director. He is the longest-serving member of TVA's current Board of Directors. Bill Kennoy even led TVA during transition period between the previous and current Boards.

Before coming to TVA, Bill Kennoy led Kennoy Engineers, Inc., an environmental firm in Lexington, Kentucky. He brought over 25 years of experience to the Board as a professional engineer and business executive. In fact, he will now return to private life and again be involved in the engineering business.

Mr. Speaker, Bill Kennoy has contributed a great deal to this Nation, but I would like to highlight one of his accomplishments that I am especially proud of. William Kennoy founded the "Weekend Academy" for inner-city youth in Knoxville, Chattanooga, Memphis, and Nashville, Tennessee. The Weekend Academy is a mentoring program that encourages youth to pursue careers in business districts near their homes. I believe this says a tremendous amount about Bill Kennoy.

Mr. Speaker, I know that I join with all Americans in thanking William Kennoy for his service to our Nation over the past eight years. I have included a copy of an editorial written in the Knoxville News-Sentinel honoring William Kennoy that I would like to call to the attention of my fellow members and other readers of the RECORD.

[From the Knoxville News-Sentinel, May 18, 1999]

SERVICE RENDERED

The Tennessee Valley Authority will say good-bye to one of its three board members today, and all in the valley should pause for a salute to William Kennoy.

A Republican nominated to the TVA board by President Bush, Kennoy ends his eight-year term and will return to private life and his chosen profession of engineering.

His departure will leave the board with only one member until two replacements are appointed. That was a situation in which Kennoy found himself in 1993, the year current chairman Craven Crowell and recently departed member Johnny Hayes were appointed to the board.

Kennoy's relationship with the federal utility he later would help manage began long before his appointment to the board. Kennoy's father was a TVA engineer working on the Guntersville Dam in north Alabama. Kennoy said his appointment was "an opportunity to pay TVA back for what it has done for me."

It speaks well for Kennoy that he regards as his signal accomplishment at TVA the launching of "Weekend Academy," a mentoring program for children living near downtown in Knoxville, Chattanooga, Nashville and Memphis. The program attempts to help inner-city children achieve success and encourage them to pursue careers in business districts near their homes.

Kennoy also cites among his accomplishments the refinancing of TVA's \$3.2 billion debt, improving agency contracts and preserving the Land Between the Lakes Recreation Area.

Kennoy's deliberate, calm style that led him to work out disagreements behind the scenes instead of allowing meetings to degenerate into unnecessary bickering might well be another accomplishment. This trait drew praise from a former board member, U.S. Rep. Bob Clement, a Nashville Democrat: "You don't see him raise his voice. Bill is very smart, deliberate and compassionate."

Clearly TVA is better for Kennoy's leadership. As Kennoy steps down today, we thank him for his service on TVA's board and wish him the best for the future.

TECHNOLOGY TRANSFER COMMERCIALIZATION ACT WOULD ELIMINATE PUBLIC INTEREST PROTECTIONS ON LICENSING OF INVENTIONS RESULTING FROM TAXPAYER-FUNDED RESEARCH

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 1999

Mr. KUCINICH. Mr. Speaker, on May 11, 1999, the House of Representatives approved H.R. 209, the Technology Transfer Commercialization Act, by a voice vote after it was placed on the Suspension Calendar. Further analysis of this measure indicates that its fundamental thrust is to water down or eliminate a range of public interest protections that currently are in effect. If enacted in its current form, H.R. 209—and its companion bill, S. 804, currently being considered by the other body—would allow the government to act behind the scenes, with little public oversight, to grant exclusive licenses to firms that wish to commercialize products that have been developed through taxpayer-funded research. These provisions do not serve the public interest. Congress needs to take a closer look at the implications of H.R. 209 and S. 804. The following analysis explains the problems with the bill in detail.

ANALYSIS OF TECHNOLOGY TRANSFER COMMERCIALIZATION ACT (H.R. 209) BY CONSUMER PROJECT ON TECHNOLOGY

(By James Love)

1. THE LEGISLATION REDUCES COMPETITION.

Both H.R. 209 and S. 804 eliminate the statutory requirements in 35 U.S.C. 209(c)(1)(b) that before using an exclusive license, an agency make a finding that: "the desired practical application has not been achieved, or is not likely expeditiously to be achieved, under any nonexclusive license which has been granted, or which may be granted, on the invention;"

This is an important change in existing law. It is currently illegal to use an exclusive license if development is likely to be expeditiously achieved with a non-exclusive license. However, under the new bills, this will change, and it will be possible to use an exclusive license merely by meeting the much lesser requirement that "granting the license is a reasonable and necessary incentive to . . . promote the invention's utilization by the public." The consequence of this change will be fewer non-exclusive licenses, less competition, and more monopolies on taxpayer owned inventions.

2. THE PUBLIC'S RIGHTS TO NOTICE AND COMMENT ON EXCLUSIVE LICENSING OF GOVERNMENT INVENTIONS IS VASTLY REDUCED

H.R. 209 and S. 804 both gut public notice provisions for exclusive license agreements from government owned inventions. Under existing law, agencies are normally expected to provide 90 days notice that the invention is available to the public for licensing, followed by 60 days notice with an opportunity to file objections for proposals to provide an exclusive license to a particular party. [See: 37CFR404.7(a)(1)]

S. 804 and H.R. 209 reduce notice requirements to "in an appropriate manner at least 15 days before the license is granted." According to the House Report on H.R. 209, this eliminates also the need to provide notice in the Federal Register. S. 804 and H.R. 209 exempt even this modest requirement for "licensing of inventions made under a cooperative research and development agreement

(CRADA) entered into under section 12 of the Stevenson-Wylder Technology Innovation Act of 1980 (15 U.S.C. 3710a)."

The change virtually eliminates the practical rights of the public to raise objections to the use of an exclusive license or to even question the terms of the license (including the scope of the exclusivity).

3. THE INCREASED SECRECY ON LICENSES UNDERMINES THE PUBLIC'S RIGHTS AND REDUCES ACCOUNTABILITY

There are a number of current cases where the public is seeking information about government licenses, including such items as the royalties or other considerations paid for the license, the revenues from the invention, information about the availability of the invention to the public, or justification for prices charged consumers.

H.R. 209 modifies existing statutory language to require that such information be secret from the public. Language in 35 U.S.C. section 209 that says that information "may be treated by a federal agency as . . . privileged and confidential and not subject to disclosure under" the freedom of information act, is changed to say that such information "shall be treated as privileged and confidential. . . ." NIH licensing officials claim the change from "may" to "shall" will make a much broader amount of information secret, including even basic information such as the amount of money received by the government as payment for use of a patent. Indeed, in section 10 of H.R. 209, federal agencies are not even permitted to report statistical information on royalties received for licenses, if "such information would reveal the amount of royalty income associated with an individual license or licensee."

This is truly adding insult to injury. Not only will the public be denied a practical opportunity to stop an agency from giving an exclusive license on a government owned patent or to effectively challenge the terms of the patent—taxpayers will not even be permitted to know what the terms are!

4. PROBLEMS IN LICENSING OF FEDERALLY FUNDED INVENTIONS.

There are currently significant disputes regarding the use of exclusive licenses for a wide range of government funded inventions, including inventions in the areas of software, computing equipment, biotechnology and medicines.

Regarding the areas of licensing of government funded medical inventions. The existence of public notice permits consumers or potential competitors to object to the use or scope of exclusive licensing. For example, when Bristol-Myers (Squibb) sought an extension of its exclusive license to cis-platin, a cancer drug developed at taxpayer expense, Adria Laboratories, Stuart Pharmaceuticals, American Cyanamide, Elkins-Sinn and Andrulis Research objected to the proposed extension, arguing that the public interest would be served by non-exclusive licensing. Andrulis suggested non-exclusive licensing be coupled with higher royalties to fund cancer research. As a result of the public comments, Bristol-Myers offered to lower the price of cis-platin by 30 percent and fund \$35 million in extramural cancer research, in return for the extension of the license.

More recently there has been considerable controversy over Bristol-Myers Squibb's licensing of government data and patents relating to the cancer drug Taxol and the HIV drug ddI, as well as Bristol-Myers policies regarding pricing of d4T, another government funded HIV drug. Also, public health groups who are interested in malaria are concerned about efforts by SmithKline Beecham to obtain exclusive rights to new malaria drugs invented by the US Army and Navy. In many of these controversies, public health groups

are seeking to obtain basic economic information, such as the royalty rates paid on the licenses, the amount of sales of the products, or the amount of money the company will spend on subsequent development of the government invention. These are not trivial disputes. Bristol-Myers Squibb claimed to have spent \$114 million to develop Taxol, but subsequent data placed the BMS contributions at less than \$10 million prior to FDA approval of the drug. The decision by the NIH to grant BMS exclusive rights to two "treatment regime" patents on doses of Taxol extended the Taxol monopoly at least 30 months, costing consumers and taxpayers \$1.27 billion, according to one study (Richard P. Rozek, Costs to the U.S. Health Care System of Extending Marketing Exclusivity for Taxol, N.E.R.A., Washington, DC, March 1997).

The current controversy with ddI, a US government patented AIDS drug, illustrates some of these problems. The Bush Administration granted Bristol-Myers 10 years of exclusivity on ddI, beginning 1989. Patient groups are trying to determine when or if Bristol-Myers will seek to extend the exclusivity on the patent. The pricing of ddI is considered highly suspect by AIDS patients. Patient advocates would like to find out when such a patent extension is proposed, and to insist on public disclosures of revenues and development costs, to determine if the exclusivity should be continued. Like all AIDS drugs, ddI is expensive, both for consumers and for taxpayers who fund care for many AIDS patients. Competition is expected to lead to significant decreases in prices. Under HR 209, the extension of the patent exclusivity could easily be done before patients could even find out about the proposed extension. Indeed, this may have already happened, due to the difficulty in monitoring such license extensions, and the unwillingness of the NIH to make it easier to monitor these issues or even answer questions about the licenses. But by reducing the notice requirements to 15 days, the public will have no rights.

In some cases, NIH funded inventions are priced at more than \$100,000 per year. It won't be long before we see prices higher than \$1 million per year per patient for some drugs. How can the US government justify issuing exclusive licenses for life and death therapies, without giving the public the right to speak, or to even find out what the terms of the license are? And why do policy makers permit drug companies to make ludicrous and clearly false public statements regarding the costs of bringing US government pharmaceutical inventions to market, and then make all data on the real costs a state secret?

If the purpose of HR 209 or S. 804 is to make it easier to get exclusive rights on government property, the legislation succeeds. If the purpose is to protect the public's rights in taxpayer property, the legislation fails. We think the second issue is the one that needs greater attention by our elected members of Congress.

HONORING THE STUDENTS OF LAKESHORE ELEMENTARY SCHOOL

HON. RON KIND

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 1999

Mr. KIND. Mr. Speaker, I rise today to pay tribute to the students of Lakeshore Elementary School in Eau Claire, Wisconsin. I want to

recognize their true concern and compassion for the innocent children in Kosovo.

The story of Sadako and the Thousand Paper Cranes, by Eleanor Coerr, is a story of strength and courage of one young child diagnosed with leukemia after being exposed to radiation from the atomic bomb dropped on Hiroshima, Japan on August 6, 1945. Sadako tried to make 1,000 paper cranes, which according to legend, would bring her long life. The students of Lakeshore Elementary School gathered together on May 10, 1999, after watching a movie about Sadako and successfully made 1,000 paper cranes in honor of the children in Kosovo. Through their dedication in making these 1,000 paper cranes, the students in my district have become active participants in the international community. They have become messengers of peace and have shown the importance of supporting the children of Kosovo during this time of difficulty.

I hope to visit the Balkan region in the near future and personally deliver some of these special paper cranes and inform some of the children of Kosovo that there are children in the United States who are concerned about their fate. On behalf of the students of Lakeshore Elementary School, I will be able to offer the children of Kosovo these paper cranes as symbols of courage and long life. I salute the Lakeshore Elementary School students, faculty and staff including Dr. Mary Seitz, and Lucianne Boardman for inspiring peace and understanding throughout the world.

TRIBUTE TO KARL F. BAUMANN

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 18, 1999

Mr. RADANOVICH. Mr. Speaker, I rise today to recognize Mr. Karl F. Baumann for his outstanding dedication to the growth of Mariposa County. Karl was a "strong and commanding" man who had a vision to develop the barren acres of Cathey's Valley into a town successful in both business and community.

Karl ventured into Cathey's Valley from Southern California 16 years ago when he purchased an 800-acre ranch. It was then that Karl had a vision to develop this ranch into something more. To fulfill his vision of a sound and safe community, Karl subdivided his ranch and built The Whispering Oaks Estates, currently home to many Mariposans. The next project that Karl embarked upon led to the creation of the Cathey's Valley business park. Since then, the business park has contributed greatly to the economy of Cathey's Valley and Mariposa County.

Karl's leadership was also noted by his membership in the #98 Masonic Lodge in Hornitos, the Mariposa County Board of Realtors, and as owner of the Cathey's Valley Realty and Development. Karl has been credited for the amazing growth of Cathey's Valley by many of his colleagues and friends.

Mr. Speaker, it is with great honor that I rise today to recognize Mr. Karl F. Baumann for his leadership and strength in paving the way for a successful community to grow and flourish. His contribution to the San Joaquin Valley is incomparable. I urge my colleagues to join