

Ms. FOXX. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

□ 2115

# FEDERAL ADVISORY COMMITTEE ACT AMENDMENTS OF 2008

Mr. CLAY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5687) to amend the Federal Advisory Committee Act to increase the transparency and accountability of Federal advisory committees, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 5687

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

## SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Federal Advisory Committee Act Amendments of 2008".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Ensuring independent advice and expertise.
- Sec. 3. Preventing efforts to circumvent the Federal Advisory Committee Act and public disclosure.
- Sec. 4. Increasing transparency of advisory committees.
- Sec. 5. Comptroller General review and reports.
- Sec. 6. Definitions.
- Sec. 7. Effective date.

## SEC. 2. ENSURING INDEPENDENT ADVICE AND EXPERTISE.

(a) BAR ON POLITICAL LITMUS TESTS.—Section 9 of the Federal Advisory Committee Act (5 U.S.C. App.) is amended—

(1) in the section heading by inserting "MEMBERSHIP;" after "ADVISORY COMMITTEES;"

(2) by redesignating subsections (b) and (c) as subsections (d) and (e), respectively; and

(3) by inserting after subsection (a) the following:

"(b) APPOINTMENTS MADE WITHOUT REGARD TO POLITICAL AFFILIATION OR ACTIVITY.—All appointments to advisory committees shall be made without regard to political affiliation or political activity, unless required by Federal statute."

(b) CONFLICTS OF INTEREST DISCLOSURE.—Section 9 of the Federal Advisory Committee Act (5 U.S.C. App.) is further amended by inserting after subsection (b) (as added by subsection (a)) the following:

"(c) CONFLICTS OF INTEREST DISCLOSURE.—"(1)(A) The head of each agency shall ensure that no individual appointed to serve on an advisory committee that reports to the agency has a conflict of interest that is relevant to the functions to be performed by the advisory committee, unless the head of the agency determines that the need for the individual's services outweighs the potential impacts of the conflict of interest.

"(B) If the head of the agency makes such a determination with respect to an individual, nothing in this subsection is intended

to preclude the head of the agency from requiring the recusal of the individual from particular aspects of the committee's work.

"(C) In the case of an individual appointed as a representative, the fact that an individual is associated with the entity whose views are being represented by the individual shall not itself be considered a conflict of interest by the agency.

"(2) The head of each agency shall require—

"(A) that each individual the agency appoints or intends to appoint to serve on an advisory committee as a representative inform the agency official responsible for appointing the individual in writing of any actual or potential conflict of interest—

"(i) that exists before appointment or that arises while the individual is serving on the Committee; and

"(ii) that is relevant to the functions to be performed; and

"(B) that, for an individual appointed to serve on an advisory committee, the conflict is publicly disclosed as described in section 11.

"(3) Nothing in this subsection is intended to alter any requirement or obligation for a special Government employee under the Ethics in Government Act (5 U.S.C. App.) or other applicable ethics law, including any requirement to file a financial disclosure report. The head of each agency shall require that each individual the agency appoints as a special Government employee inform the agency in writing of any conflict that exists before appointment or that arises while the individual is serving on the committee to the extent any financial disclosure required by the Ethics in Government Act (5 U.S.C. app.) or other applicable law would not uncover the conflict of interest as such term is defined in regulations promulgated by the Office of Government Ethics to carry out this subsection.

"(4) The head of each agency shall ensure that each report of an advisory committee that reports to the agency is the result of the advisory committee's judgment, independent from the agency. Each advisory committee shall include in each report of the committee a statement describing the process used by the advisory committee in formulating the recommendations or conclusions contained in the report."

## (c) REGULATIONS.—

(1) REGULATIONS RELATING TO CONFLICTS OF INTEREST.—Not later than 180 days after the date of the enactment of this Act, the Director of the Office of Government Ethics, in consultation with the Administrator of General Services, shall promulgate—

(A) regulations defining the term "conflict of interest";

(B) regulations identifying the method by which individuals must disclose conflicts and the period of time for which a representative or special Government employee, or a candidate for appointment as a representative or special Government employee, shall look back in time to determine whether an interest is considered a conflict for the purpose of the notification requirement in subsection (c) of section 9 of the Federal Advisory Committee Act, as added by this section; and

(C) such other regulations as the Director finds necessary to carry out and ensure the enforcement of such subsection (c).

(2) REGULATIONS IMPLEMENTING FACA.—Section 7(c) of the Federal Advisory Committee Act (5 U.S.C. App.) is amended by inserting after "(c)" the following: "The Administrator shall promulgate regulations as necessary to implement this Act."

## SEC. 3. PREVENTING EFFORTS TO CIRCUMVENT THE FEDERAL ADVISORY COMMITTEE ACT AND PUBLIC DISCLOSURE.

(a) DE FACTO MEMBERS.—Section 4 of the Federal Advisory Committee Act (5 U.S.C. App.) is amended by adding at the end the following:

"(d) TREATMENT OF INDIVIDUAL AS MEMBER.—An individual who is not a full-time or permanent part-time officer or employee of the Federal Government shall be regarded as a member of a committee if the individual regularly attends and participates in committee meetings as if the individual were a member, even if the individual does not have the right to vote or veto the advice or recommendations of the advisory committee."

(b) INTERAGENCY ADVISORY COMMITTEES.—Section 11 of the Federal Advisory Committee Act (5 U.S.C. App.) is amended by adding at the end the following:

"(f) INTERAGENCY ADVISORY COMMITTEES.—(1) Any communication between—

"(A) an interagency advisory committee established by the President or the Vice President or any member or staff acting on behalf of such an interagency advisory committee, and

"(B) any person who is not an officer or employee of the Federal Government, shall be made available for public inspection and copying. Any portion of a communication that involves a matter described in section 552(b) of title 5, United States Code, or that is subject to a valid constitutionally based privilege against such disclosure, may be withheld from public disclosure.

"(2) In this subsection, the term 'interagency advisory committee' means any committee, board, commission, council, conference, panel, task force, or other similar group, or any subcommittee or other subgroup thereof, established in the interest of obtaining advice or recommendations for the President or the Vice President, that is composed wholly of full-time, or permanent part-time, officers or employees of the Federal Government and includes officers or employees of at least two separate Federal agencies but does not include an advisory committee as defined in section 3(2) of this Act.

"(3) This subsection is not intended to apply to cabinet meetings, the National Security Council, the Council of Economic Advisors, or any other permanent advisory body established by statute."

(c) SUBCOMMITTEES.—Section 4 of the Federal Advisory Committee Act (5 U.S.C. App.) is amended by striking subsection (a) and inserting the following:

"(a) APPLICATION.—The provisions of this Act or of any rule, order, or regulation promulgated under this Act shall apply to each advisory committee, including any subcommittee or subgroup thereof, except to the extent that any Act of Congress establishing any such advisory committee specifically provides otherwise. Any subcommittee or subgroup that reports to a parent committee established under section 9(a) is not required to comply with section 9(e). In this subsection, the term 'subgroup' includes any working group, task force, or other entity formed for the purpose of assisting the committee or any subcommittee of the committee in its work."

(d) COMMITTEES CREATED UNDER CONTRACT.—Section 3(2) of the Federal Advisory Committee Act (5 U.S.C. App.) is amended in the matter following subparagraph (C) by adding at the end the following: "An advisory committee is considered to be established by an agency, agencies, or the President, if it is formed, created, or organized under contract, other transactional authority, cooperative agreement, grant, or otherwise at the request or direction of, an agency, agencies, or the President."

(e) ADVISORY COMMITTEES CONTAINING SPECIAL GOVERNMENT EMPLOYEES.—Section 4 of the Federal Advisory Committee Act (5 U.S.C. App.) is further amended by adding at the end the following new subsection:

“(e) SPECIAL GOVERNMENT EMPLOYEES.—Committee members appointed as special government employees shall not be considered full-time or part-time officers or employees of the Federal Government for purposes of determining the applicability of this Act under section 3(2).”

#### SEC. 4. INCREASING TRANSPARENCY OF ADVISORY COMMITTEES.

(a) INFORMATION REQUIREMENT.—Section 11 of the Federal Advisory Committee Act (5 U.S.C. App.) is amended—

(1) by striking the section designation and heading and inserting the following:

##### “SEC. 11. DISCLOSURE OF INFORMATION.”;

(2) by redesignating subsection (a) as subsection (d) and in that subsection—

(A) by inserting the following subsection heading: “AVAILABILITY OF PAPER COPIES OF TRANSCRIPTS.—”; and

(B) by inserting after “duplication,” the following: “paper”;

(3) by striking “(b)” and inserting “(e) AGENCY PROCEEDING DEFINED.—”; and

(4) by inserting before subsection (d), as redesignated by paragraph (2), the following new subsections:

“(a) IN GENERAL.—With respect to each advisory committee, the head of the agency to which the advisory committee reports shall make publicly available in accordance with subsection (b) the following information:

“(1) The charter of the advisory committee.

“(2) A description of the process used to establish and appoint the members of the advisory committee, including the following:

“(A) The process for identifying prospective members.

“(B) The process of selecting members for balance of viewpoints or expertise.

“(C) A justification of the need for representative members, if any.

“(3) A list of all current members, including, for each member, the following:

“(A) The name of any person or entity that nominated the member.

“(B) The reason the member was appointed to the committee.

“(C) Whether the member is designated as a special government employee or a representative.

“(D) In the case of a representative, the individuals or entity whose viewpoint the member represents.

“(E) Any conflict of interest relevant to the functions to be performed by the committee.

“(4) A list of all members designated as special government employees for whom written certifications were made under section 208(b) of title 18, United States Code, a summary description of the conflict necessitating the certification, and the reason for granting the certification.

“(5) A summary of the process used by the advisory committee for making decisions.

“(6) Transcripts or audio or video recordings of all meetings of the committee.

“(7) Any written determination by the President or the head of the agency to which the advisory committee reports, pursuant to section 10(d), to close a meeting or any portion of a meeting and the reasons for such determination.

“(8) Notices of future meetings of the committee.

“(9) Any additional information considered relevant by the head of the agency to which the advisory committee reports.

“(b) MANNER OF DISCLOSURE.—

“(1) Except as provided in paragraph (2), the head of an agency shall make the infor-

mation required to be disclosed under this section available electronically on the official public internet site of the agency at least 15 calendar days before each meeting of an advisory committee. If the head of the agency determines that such timing is not practicable for any required information, he shall make the information available as soon as practicable but no later than 48 hours before the next meeting of the committee. An agency may withhold from disclosure any information that would be exempt from disclosure under section 552 of title 5, United States Code.

“(2) The head of an agency shall make available electronically, on the official public internet site of the agency, a transcript or audio or video recording of each advisory committee meeting not later than 30 calendar days after the meeting.

“(c) PROVISION OF INFORMATION BY ADMINISTRATOR OF GENERAL SERVICES.—The Administrator of General Services shall provide, on the official public internet site of the General Services Administration, electronic access to the information made available by each agency under this section.”

(b) CHARTER FILING.—Section 9(e) of the Federal Advisory Committee Act (5 U.S.C. App.), as redesignated by section 2, is amended—

(1) by striking “with (1) the Administrator,” and all that follows through “, or” and inserting “(1) with the Administrator and”; and

(2) by striking “and” at the end of subparagraph (I);

(3) by striking the period and inserting a semicolon at the end of subparagraph (J); and

(4) by adding at the end the following new subparagraphs:

“(K) the authority under which the committee is established;

“(L) the estimated number of members and a description of the expertise needed to carry out the objectives of the committee;

“(M) a description of whether the committee will be composed of special government employees, representatives, or members from both categories; and

“(N) whether the committee has the authority to create subcommittees and if so, the agency official authorized to exercise such authority.”

#### SEC. 5. COMPTROLLER GENERAL REVIEW AND REPORTS.

(a) REVIEW.—The Comptroller General of the United States shall review compliance by agencies with the Federal Advisory Committee Act, as amended by this Act, including whether agencies are appropriately appointing advisory committee members as either special government employees or representatives.

(b) REPORT.—The Comptroller General shall submit to the committees described in subsection (c) two reports on the results of the review, as follows:

(1) The first report shall be submitted not later than one year after the date of promulgation of regulations under section 2.

(2) The second report shall be submitted not later than five years after such date of promulgation of regulations.

(c) COMMITTEES.—The committees described in this subsection are the Committee on Oversight and Government Reform of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate.

#### SEC. 6. DEFINITIONS.

Section 3 of the Federal Advisory Committee Act (5 U.S.C. App.) is amended by adding at the end the following new paragraphs:

“(5) The term ‘representative’ means an individual who is not a full-time or part-time

employee of the Federal Government and who is appointed to an advisory committee to represent the views of an entity or entities outside the Federal Government.

“(6) The term ‘special Government employee’ has the same meaning as in section 202(a) of title 18, United States Code.”

#### SEC. 7. EFFECTIVE DATE.

This Act shall take effect 30 days after the date of the enactment of this Act, except as otherwise provided in section 2(c)(1).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Missouri (Mr. CLAY) and the gentlewoman from North Carolina (Ms. FOXX) each will control 20 minutes.

The Chair recognizes the gentleman from Missouri.

#### GENERAL LEAVE

Mr. CLAY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. CLAY. Mr. Speaker, I yield myself such time as I may consume.

I rise today in support of H.R. 5687, the Federal Advisory Committee Act Amendments of 2008.

H.R. 5687, which I introduced along with Chairman WAXMAN on April 3, 2008, was reported out of the Committee on Oversight and Government Reform on May 15 of 2008. The FACA amendments will improve the balance, transparency, and independence of Federal advisory committees.

Congress passed FACA in 1972 to address the rising costs and lack of accountability among Federal advisory committees. However, FACA has been undermined by loopholes that have been created over the years.

H.R. 5687 strengthens FACA by closing those loopholes. For example, the bill clarifies that FACA applies to subcommittees, ensuring that agencies cannot avoid the requirements of FACA by conducting business through subcommittees. The bill also increases the disclosure requirements for advisory committees and requires agencies to obtain conflict of interest disclosures.

As amended, H.R. 5687 takes into account recommendations made by the Office of Government Ethics and other stakeholders. The amendment makes the conflict of interest restrictions on advisory committee members more workable while preserving the bill's requirement of public disclosure. The amendment also clarifies that agencies have the authority to require advisory committee members to recuse themselves when the committee's work will impact their personal interests.

Mr. Speaker, this legislation will improve the advisory committee process. I urge my colleagues to support passage.

Mr. Speaker, I reserve the balance of my time.

Ms. FOXX. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this legislation will make a number of changes to the Federal Advisory Committee Act, legislation enacted in 1972 to govern the operations, expenditures, and report requirements of advisory committees established to help Federal agencies on policy and other issues.

Specifically, this legislation would further increase the disclosure requirements for advisory committees and minimize the use of political affiliations in making appointments to advisory committees.

Today over 1,000 Federal advisory committees are involved in making key decisions that affect everyone's life on vital issues such as health care, civil rights, and national security. Increasing transparency and public involvement are essential to having a free and open process.

In strengthening the disclosure and transparency requirements of Federal advisory committees, however, we must be careful not to hinder the process by which the President and other executive branch agencies receive expert advice from these committees.

I am cautiously optimistic this legislation strikes a balance between these two priorities, but I trust the majority will continue to work with us as H.R. 5687 moves forward to make sure we do not impose any unnecessary burden upon advisory committees or their members.

Mr. Speaker, I reserve the balance of my time.

Mr. CLAY. Mr. Speaker, I certainly look forward to working with the gentlewoman from North Carolina and her colleagues to perfect this bill and to get it to a point where we can all agree on it.

Mr. Speaker, I continue to reserve the balance of my time.

Mr. WAXMAN. Mr. Speaker, H.R. 5687, the Federal Advisory Committee Act Amendments of 2008, makes needed improvements to one of our core open government laws. I want to thank Chairman CLAY for introducing this bill and for his continued leadership in support of open government.

Advisory committees play a critical role in giving the President and agencies advice on complex issues. The Federal Advisory Committee Act, FACA, is intended to make the advisory committee process open and accountable to protect the independence and integrity of these committees. But in recent years, FACA has been undermined by the practices of the Bush administration. This bill is our response to these abuses:

One of my concerns over the last 8 years has been the growth of secrecy. This bill says that White House task forces can no longer operate in total secrecy. They must disclose whom they meet with and what recommendations they receive from special interests.

After President Bush was elected, he put Vice President CHENEY in charge of a task force to develop the administration's energy policy. Vice President CHENEY and his staff met secretly with oil, gas, nuclear, and coal executives. They developed a policy that has enriched the energy companies and their executives at the expense of American con-

sumers, our energy security, and our environment.

This bill says that task forces like the Vice President's energy task force must come out from the shadows.

Another issue the bill addresses is the growing politicization of science. As documented in a Committee staff report in August 2003, the administration manipulated scientific advisory committees by employing political litmus tests and filling advisory committees with members with conflicts of interest. H.R. 5687 says that advisory panels must be independent and requires agencies to obtain conflict of interest disclosures from all prospective committee members. The bill prohibits an agency from appointing an individual with a relevant conflict of interest unless the head of the agency determines that the need for the individual's services outweighs the potential impacts of the conflict. The bill requires agencies to publicly disclose the conflicts of advisory committee members on their Web sites.

H.R. 5687 also prohibits using political loyalty as a basis for making appointments to advisory committees.

H.R. 5687 addresses other loopholes that have emerged in FACA over the years. It says that FACA panels cannot avoid public disclosure by operating through subcommittees. This was the tactic used by the President's Commission to Strengthen Social Security. The legislation also closes the "de facto member" loophole by clarifying that agencies cannot avoid FACA by giving Federal employees the right to vote on an advisory committee but then having private sector individuals participate in the committee as if they were members.

A number of improvements have been made to the bill based on comments from the Office of Government Ethics, OGE, and others. For example, the amendment clarifies that nothing in the bill is intended to weaken existing ethics requirements for special government employees. Under the amendment, a committee member appointed as a special government employee will be required to disclose any conflict of interest, as OGE defines that term, beyond what is disclosed in the member's financial disclosure report. This is intended to prevent special government employees from having to disclose the same conflict twice if they would already be required to disclose it through a financial disclosure report.

The bill leaves it to OGE to determine what disclosures are required beyond what has to be reported in a financial disclosure report. OGE should consider what interests a committee member may have that would not be uncovered in a financial disclosure report but that still may compromise the member's objectivity. For example, a committee member who held a position 2 years ago with an entity that would be affected by a decision of the committee could be considered to have a conflict even though the member's previous position would not be reported in a financial disclosure report.

Last year, we enacted reforms to another important open government law, the Freedom of Information Act. I hope this year we will continue our efforts to improve the transparency and accountability of government by enacting this bill. I urge my colleagues to support H.R. 5687.

I submit the following letters for the RECORD:

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON WAYS AND MEANS,  
Washington, DC, June 24, 2008.

Hon. HENRY WAXMAN,  
Chairman, Committee on Oversight and Government Reform, House of Representatives,  
Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN: The Committee on Ways and Means applauds your efforts to foster greater federal advisory committee transparency and accountability. However, the Committee has concerns about some potential unintended effects that your bill, H.R. 5687, the Federal Advisory Committee Act Amendments of 2008, might have on the advisory committee system established under the Trade Act of 1974, as amended. While the Committee is still reviewing H.R. 5687, of particular serious concern are sections 2 and 4 of the bill.

The Committee will forgo action on this bill and will not oppose its consideration on the suspension calendar based on our understanding that changes will be made to H.R. 5687 as it moves through the legislative process. These changes will ensure that application of the Federal Advisory Committee Act on the trade advisory committees under the Trade Act of 1974, as amended, is consistent with and does not extend beyond requirements set forth in current law.

This request is made with the understanding that it does not in any way prejudice the Committee with respect to the appointment of conferees or the full exercise of its jurisdictional prerogatives on this bill or similar legislation in the future.

The Committee intends to look for opportunities to improve the transparency and accountability of the federal advisory committees established under the Trade Act of 1974, as amended, in ways consistent with their purpose and aim. We look forward to soliciting your suggestions for reform.

Sincerely,

CHARLES B. RANGEL,  
Chairman.

HOUSE OF REPRESENTATIVES, COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,

Washington, DC, June 24, 2008.

Hon. CHARLES B. RANGEL,  
Chairman, Committee on Ways and Means,  
Longworth House Office Building, Washington, DC.

DEAR CHAIRMAN RANGEL: I understand there are special circumstances surrounding the creation and functioning of the advisory committee system established under the Trade Act of 1974, as amended.

As the bill moves through the legislative process, changes to H.R. 5687, the Federal Advisory Committee Amendments Act of 2008, will be made to address fully the concerns raised by the Committee on Ways and Means to your satisfaction.

I look forward to working with the Committee on Ways and Means as this bill moves through the legislative process.

Sincerely,

HENRY A. WAXMAN,  
Chairman.

Ms. FOXX. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. CLAY. Mr. Speaker, I urge my colleagues to vote in favor of this bill.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Missouri (Mr. CLAY) that the House suspend the rules

and pass the bill, H.R. 5687, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

# MOTION TO INSTRUCT CONFEREES ON H.R. 4040, CONSUMER PRODUCT SAFETY MODERNIZATION ACT

Mr. KIRK. Mr. Speaker, pursuant to clause 7 of rule XXII, I offer a motion to instruct conferees.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. Kirk moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 4040 be instructed to insist on the provisions contained in the House bill with regard to the definition of "children's product".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois (Mr. KIRK) and the gentleman from Louisiana (Mr. MELANCON) each will control 30 minutes.

The Chair recognizes the gentleman from Illinois.

Mr. KIRK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in June of 2007, the United States Consumer Product Safety Commission and toy company RC2 announced the recall of 1.5 million various Thomas & Friends wooden railway toys because they contained dangerous amounts of lead.

Lead poisoning causes vomiting, diarrhea, convulsions, anemia, loss of appetite and abdominal pain, irritability, fatigue, constipation, difficulty sleeping, headaches, and coma. Of course, it can even be fatal. The toys on recall were made in China and retailed throughout our country.

Just about every family with young kids in America knows Thomas the Tank Engine well. And that's why I stand here this evening.

In 2004 the Consumer Product Safety Commission reported 121 United States product recalls. By 2007 that number had fallen to 83. Meanwhile, the commission recorded 148 recalls of products from China. But last year Chinese recalls totaled 287.

Now, last July I joined with Congressman RICK LARSEN, the co-Chair with me of the United States China Working Group, in introducing H.R. 3100, the bipartisan Import Safety Act of 2007, to increase penalties for willful violators of Federal regulations on imported goods and increase our commitment to overseas inspections by the FDA and the commission. Our effort brought needed attention to this critical issue, and the legislation that we are discussing today, H.R. 4040, included provisions to increase penalties for violators.

Last August Congressman LARSEN and I led a delegation to China for in-

tense discussions on product safety. We met with the Vice Minister Wei at China's General Administration For Quality Supervision, Inspection and Quarantine. We told him that we would not stop until China allowed the Food and Drug Administration and the Consumer Product Safety Commission to deploy United States product safety officers to China. When we returned, we made good on our promise. After months of work and intense consultations with the State Department, the FDA, the Chinese Foreign Ministry, and the commission, we are pleased to report that we now can announce the FDA will be deploying eight full-time United States product safety officers to China later this year.

Just a few hours ago, Congressman LARSEN and I met with Mr. Christopher Hickey, who will be America's incoming FDA country director for China. We will continue working with our colleagues to ensure that Mr. Hickey has all of the resources he requires to get his work done and keep families safe. We particularly stressed on him the importance of having a letter from the Secretary of Health and Human Services giving him as country director power to stop a dangerous shipment from being unloaded in a U.S. port if, in his view as a country director, he feels that Americans could be at risk. We feel that this letter will give him important powers and negotiating leverage to make sure that he has access where needed on behalf of the FDA and the Department of Health and Human Services to make sure that Americans are safe.

At a hearing of the Appropriations Subcommittee on Financial Services in March of this year, I pressed Chairman Nord to follow FDA's lead and immediately deploy United States product safety officers from the commission to China. After weeks of intense follow-up discussions, we are pleased to have the commission's commitment to send its first full-time American product safety officer to Beijing. As a member of the Appropriations Subcommittee that will fund this effort, our understanding is that the startup costs for this effort will total \$310,000 with reoccurring costs of \$550,000 per year to support the commission's deployment to China.

I want to thank our ambassador to the People's Republic of China, Sandy Randt, for working with us to secure the physical space in Beijing and Shanghai and Guangzhou to accommodate these critical deployments, and staffers from the Kirk and Larsen offices on behalf of the China Working Group did inspect those facilities just a few months ago.

Mr. Speaker, on December 19 of last year, the House passed H.R. 4040, the Consumer Product Safety Commission Reform Act, by a unanimous 407-0 vote. This House came together on a bipartisan basis and defined a children's product as a consumer product designated or intended for children, and here's the key phrase, "up to age 12."

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It would mean that toys for kids up to age 12 would be subject to lead testing. Now our colleagues in the Senate took up a bill and amended this definition and lowered the age requirement to just 7 years.

I take this action tonight on behalf of Americans like Ryan Fischer, age 3, who is now recovering from lead poisoning. Ryan's mother, Beth, came to the Congress to highlight the danger that she faced, among other Americans, including the toys of Ryan's 8-year-old brother that contained lead but would not be covered under the Senate bill. The toy in question in this case was a figure from a Nickelodeon character, Diego, that was among the 17 pounds of toys that had high lead levels in the Fischer home.

Today, I rise to offer what I think is a commonsense motion to instruct conferees on H.R. 4040 to insist on the House definition of a children's product over what the Senate chose.

Now, earlier this evening, I logged onto Etoys.com, a very popular Web site for children's toys. When I clicked on toys for children ages 9 to 12, I found 21 products in the Thomas and Friends line available for sale.

Did our colleagues in the Senate think that dangerous toys coming from China could only harm kids below 8 years of age? If so, the Senate would be out of touch and is not listening to the concerns of many American families.

On May 15, 2008, Linda Ginzel, the co-founder of Kids in Danger, called on conferees to adopt the House definition of a children's product. Linda knows what it's like to lose a child from an unsafe product. In Linda's words, "Kids in Danger especially urges the conferees to include the definition of children's products that go up to age 12. Stopping at age 7 would effectively stop protecting children in the second grade." I agree with Linda, as I think do most Americans. The American Academy of Pediatrics agrees with her as well.

On November 6, 2007, Dr. Dana Best testified before the Congress on behalf of the AAP, issuing the following statement, "The AAP further recommended that children's products be defined as one used by children under the age of 12 years in order to provide a standard that protects most children throughout periods of rapid brain development."

In her later testimony, Dr. Best went on to say, "The AAP further appreciates the fact that this legislation requires lead testing in products designed or intended for use by or with children up to age 12 years. Children's brains develop rapidly throughout childhood, and significant damage would occur from lead exposure at any point during this time. This provision represents a vital protection for child health."

Now, for some reason, our colleagues in the Senate disagreed with Kids in Danger. Our colleagues in the Senate disagreed with the American Academy of Pediatrics and, in my judgment, the