

The United States must put the brakes on trade restrictions, not fuel them.

I am aware there is a sizable block of public opinion that believes we should close our borders to everybody and everything, that somehow Mexican trucks are unacceptable, that legal immigration is something we ought to do away with. I understand all those arguments. But I also urge those who say that trade with Mexico is not important to understand the facts: They are our third largest trading partner; we have a trade surplus; it is important to have our relationship good as we help them battle the drug cartels; and, most importantly, protectionism and high tariffs led to the Great Depression.

Congress passed NAFTA in 1993 and President Clinton signed it into law in 1994, which mandated the opening of our southern border to Mexican trucking operations to allow the free flow of goods and services between the two countries. Last year, language was slipped into a fiscal year 2008 spending bill that sought to strip funding for a pilot program with Mexico that would allow a limited number of Mexican trucks to enter the United States. Now the administration says it will try to create "a new trucking project that will meet the legitimate concerns" of Congress. I don't understand how the administration can create a new trucking project to comply with NAFTA, when Congress explicitly barred any money from being spent toward such activities. The President should not seek to create a new project to circumvent the terms of the legislative language. Rather, he should have vetoed it in the first place.

The administration's eliminating the Mexican cross-border trucking program will harm millions of American consumers who could benefit from lower prices on many goods manufactured in Mexico and then distributed in the United States.

According to the U.S. Department of Transportation, refusing entry into our country of Mexican trucks carrying Mexican-made goods adds \$400 million to the price of Mexican imports which is, of course, passed on to the American consumer. Mr. Kirk has made some statements broadly supportive of international trade, but he has also made comments suggesting protectionism might not be so bad after all. During his confirmation hearing, Mr. Kirk stated:

Not all Americans are winning from [trade] and our trading partners are not always playing by the rules.

He suggested the administration may abandon the free-trade agreement we have concluded with South Korea, one projected to increase the United States GDP by \$10 to \$12 billion. He said the pact "simply isn't fair." He emphasized he does not have "deal fever" when it comes to trade agreements. Again, it is up in the air as to what the fate of the Colombia Free Trade Agreement would be, sending a clear signal that we would be punishing the Colombian Gov-

ernment for their assistance in trying to combat drug cartels.

Our trading partners, including Canada and Mexico, don't seem interested in strengthening agreements that have served them and us well for years. Rather, they would like to see the United States fulfill its own trade obligations and look for further ways to open markets to the free flow of commerce. The free flow of commerce has been a founding principle of U.S. economic policy for many decades and a key factor in our rise to prosperity and greatness. It is for this reason I hope Mr. Kirk and his colleagues in the administration will reconsider their stance and help build, not damage, the consensus behind free trade. After all, we have seen a terribly destructive pattern unfold before.

In 1930, as the United States and the world were entering what would be known in history as the Great Depression, two men, Mr. Smoot and Mr. Hawley, led the effort to enact protectionist legislation in the face of economic crisis. Their bill, the Smoot-Hawley Tariff Act, raised duties on thousands of imported goods in a futile attempt to keep jobs at home. In the face of this legislation, 1,028 economists issued a statement to President Herbert Hoover, wherein they wrote:

America is now facing the problem of unemployment.

The proponents of higher tariffs would claim that an increase in rates will give work to the idle. This is not true. We cannot increase employment by restricting trade.

Mr. Smoot, Mr. Hawley, and their colleagues paid no attention to this wise admonishment, and the Congress went ahead with protectionist legislation. In doing so, they sparked an international trade war as countries around the world retaliated, raising their own duties and restricting trade, and they helped turn a severe recession into the greatest depression in modern history.

I do not intend to oppose the President's nominee for U.S. Trade Representative. I remain very concerned about the direction of our trade policies at a time of economic peril. I urge my colleagues and the administration to heed the lessons of economics and heed the lessons of history.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Mr. President, I ask unanimous consent that the vote on confirmation of the nomination of Ron Kirk occur at 2 p.m. today, with the remaining provisions of the previous order governing the consideration of this nomination in effect; that upon resuming legislative session, the Senate then proceed to vote in relation to the following amendments in the order listed; further, with respect to H.R. 146 and the provisions of the order governing vote sequences remaining in effect: Coburn amendment No. 680, Coburn amendment No. 679, Coburn amendment No. 675.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that I be allowed to speak for up to 8 minutes as in morning business and that the time not count against debate time on the Kirk nomination.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

ENDING STEALTH BONUSES

Mr. FEINGOLD. Mr. President, I come to the floor to discuss taxpayer-funded bonuses. These bonuses are paid every year, often without any public discussion or a recorded vote by those with the authority to approve or stop them. The people giving themselves these bonuses have made sure they get them regardless of their performance.

I am referring to the annual bonuses given to Members of Congress.

There is some good news to report on this issue today. Thanks to the leadership of majority leader HARRY REID, we took an important step yesterday. Senator REID moved legislation through the Senate that will end these annual stealth bonuses. I have introduced legislation similar to Senator REID's bill for the past six Congresses, and I am delighted, because of Senator REID's leadership, this proposal has finally passed the Senate.

Congress has the power to raise its own pay. While some corporate executives apparently have this power as well, it is something most of our constituents cannot do. Because this is such a singular power, I think Congress ought to exercise it openly and subject to regular procedures, including debate, amendment, and, of course, a vote on the record.

But current law allows Congress to avoid that public debate and vote. All that is necessary for Congress to get a pay raise is that they do nothing, that nothing be done to stop it. The annual bonus takes effect unless Congress acts.

As I noted in a statement yesterday, that stealth bonus mechanism began with a change Congress enacted in the Ethics Reform Act of 1989. In section 704 of that act, Members of Congress voted to make themselves entitled—entitled—to an annual raise equal to half a percentage point less than the employment cost index, which is one measure of inflation.

On occasion, Congress has actually voted to deny itself a bonus, and the traditional vehicle for the pay raise vote is the Treasury appropriations bill. But that vehicle is not always made available to those who want a public debate and vote on the matter. As I have noted in the past, getting a vote on the annual congressional pay raise is a haphazard affair, at best, and it should not be that way. The burden should not be on those who seek a public debate and a recorded vote on the Member pay raise. On the contrary,

Congress should have to act if it decides to award itself a hike in pay. This process of congressional bonuses without accountability must end.

I joined with the junior Senator from Louisiana in offering an amendment to the Omnibus appropriations bill recently. That amendment received strong support—support which was all the more remarkable because many of the amendment's potential supporters felt constrained to oppose it in order to keep the underlying legislation free of amendments. Now, thanks to our majority leader, we have a real chance to end this system in fact.

This issue is not a new question. It was something our Founders considered from the beginning of our Nation. In August of 1789, as part of the package of 12 amendments advocated by James Madison that included what has become our Bill of Rights, the House of Representatives passed an amendment to the Constitution providing that Congress could not raise its pay without an intervening election. On September 9, 1789, the Senate passed that amendment. In late September of 1789, Congress submitted the amendments to the States.

Although the amendment on pay raises languished for two centuries, in the 1980s, a campaign began to ratify it. While I was a member of the Wisconsin State Senate, I was pleased to help add Wisconsin to the States ratifying the amendment. Then its approval by the Michigan legislature on May 7, 1992, gave it the needed approval by three-fourths of the States.

So the 27th amendment to the Constitution now states:

No law, varying the compensation for the services of the senators and representatives, shall take effect, until an election of representatives shall have intervened.

I honor that limitation. Throughout my 6-year term, I accept only the rate of pay Senators receive on the date on which I was sworn in as a Senator. I return to the Treasury any cost-of-living adjustments or bonuses during my term. I do not take a raise until my bosses, the people of Wisconsin, give me one at the ballot box. That is the spirit of the 27th amendment, and, at the very least, the stealth pay raises permitted under the current system certainly violate that spirit.

This practice must end. I am so delighted to express my thanks to Majority Leader REID. Because of him, we have a real chance of ending it.

Today I am sending a letter to Speaker PELOSI asking that the other body take up and pass the Reid legislation to end the automatic congressional bonuses. Doing so would assure the American people that we are not only serious about going after the abusive bonuses paid to the executives of firms bailed out with taxpayer dollars, but we are also serious about ending a system that was devised to provide Members of Congress with bonuses without any accountability.

Mr. President, I yield back whatever time I have remaining.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I might ask, what is the pending business?

The PRESIDING OFFICER. The Kirk nomination is before the Senate.

Mr. BAUCUS. I thank the Chair.

I would like to speak on the Kirk nomination.

Mr. President, Ralph Waldo Emerson said:

[The most advanced nations are always those who navigate the most.]

Today, the Senate considers the nomination of Mayor Ron Kirk to be U.S. Trade Representative. As we consider the nomination, America is navigating a shifting economic landscape. And so are our trading partners.

As financial systems weaken, protectionist sentiments strengthen. As markets crumble, import barriers rise. And as jobs disappear, trade violations emerge.

Ron Kirk has been asked to navigate U.S. trade policy through these difficult waters. To ensure that America keeps moving forward, he must navigate the right course.

Many feel our trade policy has veered off course. They argue the Government has not safeguarded our workers. They argue the Government has not enforced our trade agreements. They argue the Government has not dismantled barriers to our exports.

I believe Mayor Kirk will chart the right course. He understands he must steady the tilting ship of public opinion. He will do so by rebuilding America's faith in the benefits of international trade. He will remain constantly on the lookout for America's workers. He will shine a spotlight on trade violations. He will vigilantly enforce our international agreements. He will speed our economic recovery by opening markets for American exports.

Let us chart the right course on international trade. Let us rebuild America's faith in our trade policy. Let us confirm Ron Kirk to be the U.S. Trade Representative.

Mr. President, I yield the floor.

Mr. GRASSLEY. Mr. President, the nomination before the Senate is critically important in this time of economic upheaval.

We need a U.S. Trade Representative to assert our rights, defend our interests, and negotiate new market opportunities for our exporters.

Trade can and should play an important role in our economic recovery. President Obama recently acknowledged this in his trade policy agenda.

If Mayor Kirk is confirmed today, I look forward to working with him to advance a progrowth trade agenda for the benefit of U.S. consumers and producers.

We have a lot of work to do, some of which is left over from the last Congress. By that I am referring to our three pending trade agreements with Colombia, Panama, and South Korea.

We also need to find a way to reinvigorate the Doha Development Round negotiations in the World Trade Organization.

I appreciate Mayor Kirk's engagement and enthusiasm to assume the responsibilities of the U.S. Trade Representative.

Based on his responses to my questions during the vetting process in the Finance Committee, there appear to be some policy areas in which our views converge.

There are some other areas in which I continue to have concerns, particularly where his responses provided insufficient detail to determine whether we can have a convergence of views.

But that said, if Mayor Kirk is confirmed, I believe that we will be able to work together on a positive trade agenda.

During the committee vetting process, several issues arose with respect to the nominee's tax returns.

I am grateful for Mayor Kirk's cooperation with me, Chairman BAUCUS, and the Finance Committee staff.

In the true spirit of transparency and cooperation, he responded to all questions about his taxes directly and honestly.

He also agreed in communications with the staff to release information about his tax issues, and that information was put into the record of the committee proceedings.

I believe that all nominees should be held to the same standard when it comes to compliance with the tax laws.

Mayor Kirk was required to amend his returns and pay additional tax as a result of the vetting process.

Each of the issues for which he amended his returns was considered by him and his preparer at the time the returns were prepared. However, upon further review of some of the calculations, he agreed that some of them needed to be changed. Those issues are now resolved.

In closing, Mayor Kirk is a strong nominee for the position of U.S. Trade Representative.

He brings enthusiasm and energy to the table, as well as first-hand experience and understanding of the benefits of liberalized trade.

I urge my colleagues to support his nomination.

Mrs. HUTCHISON. Mr. President, I rise today to speak about Ron Kirk, the nominee for whom we will vote in the next few minutes for U.S. Trade Representative. I wish to speak in strong support of Ron Kirk to serve as U.S. Trade Representative. I would have been here sooner, but as ranking member of the Committee on Commerce, I was holding a hearing with the chairman, JAY ROCKEFELLER, on Governor Locke to be Secretary of Commerce, and that was my responsibility that I certainly had to meet.

I will say that Governor Locke did a very good job before our Commerce Committee. We just, within the last hour, concluded that hearing. But I wanted to make sure that I am able to speak about Ron Kirk because, certainly, I know him. I have known him for many years. We both live in Dallas, and he and I enjoy a great relationship. I was in the Senate when Ron Kirk was the mayor of Dallas, and he did a wonderful job as mayor of our city. I worked with him as a Senator. I know he can get things done. He is very bright, very affable, really funny. He is the kind of person you want to sit next to in a very dull speech because he can make you laugh no matter how bad the summit or the speech or whatever the business of the day. He is a very rare, wonderful person.

During his time in office, Mayor Kirk expanded Dallas's reach to the world through a range of trade missions, trying to show that Dallas was open for business, and he traveled on trade missions to assure that would happen. While he was mayor he sponsored a competition every year for small businesses to highlight those competing in foreign markets and invited the winner to go on his trade mission trips. I think it is important as a former small business owner myself that we show how you can export to foreign countries, no matter how small your business is, if you just know how to pursue it. Mayor Kirk tried to ensure that small businesses in Dallas, as well as our big businesses, were able to have a place at the table when he was on trade missions, showing what could be done with trade.

Before becoming mayor of Dallas, Ron Kirk was secretary of state of Texas. He was an appointee of Gov. Ann Richards. He attended Austin College, graduating with a degree in political science and sociology in 1976 and then went to the University of Texas Law School, which is also my alma mater. Upon receiving his J.D. in 1979, he practiced law until 1981 when he went to work in the office of then Texas Senator Lloyd Bentsen who was my immediate predecessor in this Senate seat.

On a personal note, Ron is married to Matrice Ellis Kirk. She, in her own right, is a professional woman, a leader in Dallas, another very bright, affable person who has made her own impression in Dallas as well. They have two daughters, Elizabeth Alexandria and Catherine Victoria.

I know that Mayor Kirk's leadership and experience will make him a strong ambassador for U.S. trade policy. Last week in his testimony before the Senate Finance Committee, Mayor Kirk pledged that as U.S. Trade Representative, "I will work to increase opportunities for American entrepreneurs in the global marketplace."

These economic opportunities are critical to America's prosperity. In 2007, exports accounted for 40 percent of our economic growth.

The next U.S. Trade Representative will face a series of challenges, including revitalizing the stalled WTO talks and managing the Doha Round, which is preoccupied with topics such as export subsidies, tariffs, copyright issues, and keeping markets open to U.S. goods. Equally important, the next U.S. Trade Representative will face the worst economic downturn in decades in America and in the world.

As we face economic hardships, trade presents a tremendous opportunity to sustain and create jobs, expand economies, and stimulate growth. We must resist the temptation to close our borders and engage in protectionism, which always ends up harming our economy.

History is not kind to those who raise trade barriers during a recession. In 1930, President Hoover made the mistake of signing the Smoot-Hawley tariff, which dramatically increased the cost of imports and turned a serious recession into the Great Depression. We can't allow that to happen again. My heavens, if we know anything, it is that we should learn from history. The past is prologue.

I believe trade policy can play a leading role in getting the U.S. economy and the global economy back on track.

Currently, the United States has free-trade agreements in effect with 14 countries: Canada, Mexico, Israel, Jordan, Chile, Singapore, Australia, Morocco, the Dominican Republic, El Salvador, Guatemala, Honduras, Nicaragua, and Bahrain. However, we still have free-trade agreements with Colombia, Panama, and South Korea that await congressional approval.

The next U.S. Trade Representative must work with Congress to implement those trade agreements and ensure that American exports enter the global market on a level playing field. I am pleased that in his testimony before the Senate Finance Committee, Mayor Kirk committed to work with Congress to develop "benchmarks" that will allow these accords to move forward.

The Colombian Free Trade Agreement in particular will be tremendously beneficial to the United States, both economically and diplomatically. This accord would remove tariffs on the \$8.6 billion of U.S. agricultural exports to Colombia every year.

While America's economic growth is a primary objective of free-trade agreements, they also serve the broader purpose of bolstering our foreign policy.

At a time when Venezuelan dictator Hugo Chavez is trying to undermine U.S. security interests in Latin America, we must seek trade partnerships with allies such as Colombia.

As the Washington Post said in an editorial: "A vote for the Colombia deal would show Latin America that a staunch U.S. ally will be rewarded for improving its human rights record and resisting the anti-American populism of Venezuela's Hugo Chavez."

By helping Colombia and other countries thrive under the free market, we

will help them become less vulnerable to Chavez's petrodollars.

I am hopeful that Mayor Kirk will take the necessary steps to ensure that the Colombian Free Trade Agreement is approved.

Let me say that I think probably the first issue the U.S. Trade Representative will have to focus on and solve is with Mexico. This week Mexico threw up tariffs on 90 products that are imported to Mexico from the United States. Most of these are agricultural products. It will hurt our agriculture businesses if we have a trade war with Mexico; if we have tariffs that increase the price of American goods into Mexico. We all know this must be solved.

I will say that the person who understands this best is Ron Kirk. Ron Kirk, obviously, lives in Texas. He knows how important free trade is with Mexico. Mexico is Texas's largest trading partner. We export to Mexico, and he has been there. So he understands that this is a high priority for all of our States exporting into Mexico and that we must solve the trucking issue so that Mexico understands that there will be parity across the border and that Mexican trucks, like American trucks, will have the same safety standards and that they will have an ability to be inspected. He can solve this if we will confirm him today and let him start on this very important problem.

Throughout his career, Mayor Kirk has shown the character and leadership skills to bring people together on behalf of a good cause. For that reason, I am very confident he will make a great U.S. Trade Representative. He will seek exports of American goods all over the world. He will seek free and fair trade. That is very important—we don't want other countries to throw up barriers to our entry into their country—and he will do the right thing. I know he is a good negotiator. I know he will be a good representative of the United States in this very important position.

I urge my colleagues to support his nomination. I am pleased we are voting on him soon so that he can hit the ground running on the Doha Round and the many issues that are facing our country in this time of economic stress—when the last thing we should be doing is throwing up barriers to trade and exports from our country into other countries, where good trade makes good neighbors and partners.

Mr. FEINGOLD. Mr. President, I support the nomination of Ron Kirk to be our trade representative, despite my concerns with his position on trade policy. The tax matters that came to light during Mr. Kirk's vetting are not disqualifying, and because I am inclined to defer to any President on the choice of his closest advisers, I decided to support this nomination.

Having said that, I very much hope the President and his new trade representative will carefully review our current trade policies, and the impact

they have had on the lives of millions of Americans. The trade policies handed over to this administration are as fundamentally flawed and damaging to our economy as the fiscal disaster and financial market crisis they inherited.

The trade policies of the last two decades, under both Republican and Democratic administrations, and supported by both Republican and Democratic controlled Congresses, have undermined environmental protections, food safety and public health protections, subverted our democratic institutions, and helped ship millions of family-supporting decent paying jobs overseas. They have greatly disadvantaged thousands of small businesses in my home State of Wisconsin, exposed consumers to health risks, and decimated communities. They have accelerated the very worst aspects of globalization, and have not done nearly enough to advance its potential benefits.

Mr. President, I wish Mr. Kirk all the best in his new position, and hope he and the President will take a fresh look at our trade policy. As I noted earlier, the mess they have inherited is as big a problem as any presented to the new administration, and it deserves our full attention.

Mr. CORNYN. Mr. President, I rise today to congratulate Mayor Ron Kirk on his nomination to serve as President Obama's U.S. trade representative. I am proud to support the confirmation of my fellow Texan.

Following World War II, the United States recognized a need to engage foreign nations and harmonize global economic trade. President Kennedy recognized the value in placing a single chief U.S. trade negotiator in charge of these responsibilities. Later, President Ford elevated this important position to Cabinet rank. Since then, Congress has worked with many administrations to strengthen the ability of the U.S. trade representative to enforce existing trade agreements and open new markets for American workers, farmers, and consumers.

Mayor Kirk would lead the office of U.S. trade representative during the most challenging global financial crisis in history. The World Bank predicts that the global economy will shrink this year for the first time in more than six decades. People in many nations are suffering, and calls for new trade barriers grow louder. However, the U.S. trade representative must speak clearly and calmly against protectionism. He must show how open markets can renew global prosperity and lift millions in the developing world out of poverty.

I believe President Obama chose the right man for this job. As mayor of Dallas, Ron Kirk saw how open markets create new opportunities for our people. His trade missions to other nations encouraged new export growth. He engaged and recruited foreign investors thereby attracting new jobs into the city. And he recognized that the North American Free Trade Agreement

would bring additional export-related jobs to the region. While many roundly criticized that accord, Mayor Kirk put it to work for the residents of Dallas. His leadership in the late 1990s helped reenergize the local economy. By 2007, the Dallas-Fort Worth area was exporting more than \$22 billion of goods and services to foreign markets.

Mayor Kirk's confirmation will fill an important void in President Obama's Cabinet. Mayor Kirk has demonstrated that he will warn against protectionism. This voice is needed in the Cabinet.

Congress recently voted to suspend the cross-border transportation pilot program occurring at the southern border of my State of Texas. This short-sighted cancellation was met immediately with news that the government of Mexico will retaliate by levying new tariffs on U.S. made products.

This unfortunate situation was avoidable had my colleagues heeded warnings of the retaliation that this policy change would incur upon our economy. These tariffs amount to a \$2.4 billion tax increase on American made products, and one economist estimates a loss of approximately 40,000 jobs.

At a time when Congress should be working to expand markets for our goods and create jobs in the United States, Congress is instead provoking the ire of the customers who buy American products and services. Our workers and our consumers deserve a trade ambassador that will ensure economic policy is rooted in the best interest of the economy rather than political payback.

The President has three economic remedies available immediately. The pending trade agreements with Colombia, Panama, and Korea will create jobs in the United States. Consumers in these countries have a voracious appetite for American goods and services. My State of Texas is the top exporter to both Colombia and Panama and the second leading exporter to Korea. These destinations represented a \$9.5 billion market for Texas-made goods and services in 2008.

The hard work is over; these agreements have been negotiated and signed. I urge the administration to work with Congress and pass these beneficial accords.

Mayor Kirk is not the first choice of those who fail to recognize the benefits of free trade, but he's the first choice of the President—and a good choice for American exporters and consumers. The continuing global financial crisis demands a strong leader at USTR—and Mayor Kirk will fill this role well.

Mr. LEVIN. Mr. President, I will vote today to confirm Ronald Kirk to be U.S. Trade Representative. Although I have had serious concerns about our trade policies in the past, I am hopeful this administration will deal differently with trade.

I am reassured by some of the things that Mr. Kirk said at his confirmation

hearing. For instance, Mr. Kirk said he will put an emphasis on workers and the environment, something that his predecessors failed to do. He also has acknowledged that the pending U.S.-South Korea trade deal negotiated by the Bush administration "... just simply isn't fair." This acknowledgment is important because the U.S.-South Korea trade agreement as currently written is harmful to the U.S. auto industry and its workers and should not be pursued in its present form.

When it comes to automotive trade between the United States and Korea, the numbers speak for themselves. While Americans buy more than 770,000 Korean vehicles each year, fewer than 6,300 American autos are sold in Korea. Despite two bilateral memoranda of understanding in 1995 and 1998, Korea continues to use ever-changing standards to restrict auto imports. There is nothing in the pending agreement that guarantees Korea will open its market to U.S. automobiles even though it commits the U.S. to further opening its already open market to Korean vehicles. We should open our auto market further only after U.S. autos have gained measurable access to the Korean market but that is not how the agreement is currently written.

At his confirmation hearing Mr. Kirk agreed the U.S.-South Korea free trade agreement wasn't fair and said, "if we don't get that right we'll be prepared to step away from that." He also said, "I do not come to this job with 'deal fever.' We will not do trade deals just for the sake of doing deals."

I am pleased to hear these remarks because frankly some of the trade agreements the U.S. has entered into have not been in the best interests of the United States. The North American Free Trade Agreement, NAFTA, is a good example. NAFTA contained a number of unfair provisions that are discriminatory to Michigan workers and companies. For example, it restricted U.S.-made auto parts from entering Mexico for a decade and American used car exports for 25 years. Furthermore, the U.S. maintained small but stable trade deficits with Canada and Mexico in the 1980s and early 1990s. After NAFTA took effect in 1994, the U.S. developed large and rapidly growing deficits with Canada and Mexico. Since jobs are created by exports but displaced by imports, job losses occurred. The Economic Policy Institute found that total U.S. job displacement from NAFTA over 12 years was 1 million jobs.

Our trade policy should focus on opening markets in nations such as China, Japan, the European Union, and South Korea, where the most egregious trade barriers block the sale of U.S. goods and services and where we have the potential to export a larger quantity of goods and services. Mr. Kirk has promised to pry open foreign markets and enforce existing trade rules. I support his confirmation in the hope that he will.

I have not been satisfied with America's trade policy over the past 30 years. I believe in free trade, but I believe that with free trade we must have fair trade. The U.S. market is the most open in the world, but our policy has failed to insist that foreign markets be equally open to American products. We sorely need a new and just approach to trade.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CASEY). Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged equally against both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. FEINSTEIN. I ask unanimous consent that the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. FEINSTEIN. Thank you, Mr. President. I understand that we are on the Kirk nomination; however, I ask unanimous consent to speak on the lands bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

COBURN AMENDMENTS

Mrs. FEINSTEIN. Mr. President, the Senate will have before it a series of amendments to the lands bill made by Senator COBURN. I rise to oppose specifically two of these amendments, amendment No. 683 and amendment No. 675, and I do so on behalf of myself and my friend and colleague from California, Senator BOXER.

These amendments would essentially throw out a legal settlement agreement concerning the restoration of the San Joaquin River. The settlement agreement ends 18 years of costly litigation. It is the product of 4 years of negotiation by the Bush administration, the State of California, dozens of water agencies, the Friant water users—it affects Friant, and Friant is a Division of the Central Valley Project and 15,000 farmers draw their water from this Division; it is big, it is important, it is critical—and by environmental and fishing groups.

This was a suit brought by the Natural Resources Defense Council against the Federal Government saying that what was happening at Friant Dam was not sufficient in the release of water to protect the salmon.

I wish to have printed in the RECORD at the end of my remarks a letter by the Governor of the State of California, Arnold Schwarzenegger, supporting the settlement agreement, and a letter

from the U.S. Department of Justice supporting the settlement agreement. I also commend to my colleagues a Congressional Research Service Memorandum entitled "Institutional and Economic Context of the San Joaquin River Restoration Settlement," spelling out the institutional and economic context of this settlement agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mrs. FEINSTEIN. Thank you very much.

So we have broad and strong support for the settlement agreement. Now, the question is, Why do we have it? The reason we have it is because it is my understanding that the Government has lost the case, and the result is that with or without the settlement, a Federal court will require restoration of the San Joaquin River. According to all of the parties, the court could—and we believe would—order a huge release of water from Friant Dam, negatively impacting the 15,000 farms in the Friant Division of the Central Valley Project.

In contrast, the settlement agreement allows orderly restoration of the river, with minimized impacts to irrigated agricultural and municipal water users. It provides negotiated flood control and other protections for private landowners. It represents a sensible and hard-fought consensus solution. I know, because these parties came to me and asked me if I would sit down with all of the parties and try to put together this settlement agreement, and we did, in fact, do this. It is virtually supported by all of these elements.

Also, the settlement would be far less costly to the taxpayers than returning to court and having the end result of having a Federal judge manage the river. That is what the alternative is. Here is why: The settlement provides almost \$400 million in non-Federal funds, so what would have had to have been funded by the Federal taxpayers will be lowered. Effectively, the costs are lowered to Federal taxpayers. The affected water districts have agreed to help fund the settlement with approximately \$200 million. The State of California will provide another \$200 million. If the Coburn amendment is successful and this is dropped from the bill, the Federal Government will have to pay an additional \$400 million and face the fact that the judge could well order a huge release of water, not staggered to any particular time, in no orderly manner, which could have tremendous adverse impacts on the farming community.

The settlement also minimizes economic costs to the region by providing water supply certainty for users, but without the settlement water users in Friant could face more severe water losses and potentially millions of dollars of lost income and lost jobs. As I say, this is 15,000 separate farming entities, so that is unacceptable.

Critics have argued that this provision is wasteful spending and that it would cost millions of dollars for every fish restored. But the facts prove them wrong. To get the number the critics use, they assume that only 500 fish will ever be restored; that is, salmon, instead of the 30,000 salmon that will eventually return to the river each year as a self-sustaining fishery. They ignore all the other benefits of the settlement.

According to the Congressional Research Service analysis I have referenced, it is "misleading" to disregard the "full array of likely project costs and benefits," including "the values that Californians and U.S. citizens place on improvements in environmental quality and restored runs of salmon."

The bottom line: The settlement offers the best possible solution to a longstanding water fight in my State. I do not believe there is anything wasteful about it. Remember, this suit has gone on for 18 years. I have talked with every one of the parties. They have all come together asking for a settlement agreement, including the Federal Government, the State of California, and actually the environmental group that sued, the NRDC, because they believe that if left to the judge, the action might be very adverse in terms of large amounts of water, rather than being staggered and done in a more sensible way, would be detrimental to the Friant farmers as well as, quite possibly, to the fish.

The other problematic amendment offered by Senator COBURN is amendment No. 675 which would remove the Government's eminent domain authority for the public lands omnibus bill, including the San Joaquin River settlement title of the lands bill.

Now, to be candid, none of us like the use of eminent domain. In the 9 years I was mayor, I refused to use eminent domain in San Francisco and, in fact, never did. But Senator COBURN's amendment ignores the basic reality that the use of eminent domain is sometimes necessary to carry out western water projects that are vital for an entire region because the water comes from one place, the State is vast, and it has to be moved to other places, and the public benefit of moving that water is enormous in the seventh largest economy on Earth.

These water projects need to have the use of eminent domain as a last resort for building water projects and flood channels on a willing seller-willing buyer basis. Otherwise, the Government clearly is not going to be able to build water conduits, water projects, and flood control elements where they are most needed. That may be different in small States, but in huge States such as California, where the water comes primarily either from the very north of the State, the Sierra Nevada mountain range, or the Colorado River—where we are being weaned off of the Colorado River, and have an