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4 MARKUP OF H.R. 5441, TO AMEND THE FEDERAL CHARTER OF THE  
5 VETERANS OF FOREIGN WARS OF THE UNITED STATES TO REFLECT THE  
6 SERVICE OF WOMEN IN THE ARMED FORCES OF THE UNITED STATES;  
7 H.R. 5683, TO ENSURE APPROPRIATE JUDICIAL REVIEW OF FEDERAL  
8 GOVERNMENT ACTIONS BY AMENDING THE PROHIBITION ON THE  
9 EXERCISE OF JURISDICTION BY THE UNITED STATES COURT OF  
10 FEDERAL CLAIMS OF CERTAIN CLAIMS PENDING IN OTHER COURTS; AND  
11 A VOTE TO CLOSE TO THE PUBLIC A PORTION OF THE FULL COMMITTEE  
12 HEARING ON NOVEMBER 19, 2014, ENTITLED "OVERSIGHT OF THE  
13 UNITED STATES SECRET SERVICE"  
14 Thursday, November 13, 2014  
15 House of Representatives  
16 Committee on the Judiciary  
17 Washington, D.C.

18           The committee met, pursuant to call, at 10:34 a.m., in  
19 Room 2141, Rayburn House Office Building, Hon. Bob Goodlatte  
20 [chairman of the committee] presiding.

21           Present: Representatives Goodlatte, Sensenbrenner,  
22 Coble, Smith of Texas, Chabot, Bachus, Issa, Forbes, King,  
23 Franks, Gohmert, Jordan, Poe, Chaffetz, Marino, Gowdy,  
24 Labrador, Farenthold, Holding, Collins, DeSantis, Smith of  
25 Missouri, Conyers, Nadler, Scott, Lofgren, Jackson Lee,  
26 Cohen, Pierluisi, Chu, Deutch, DelBene, Garcia, and Jeffries.

27           Staff Present: Shelley Husband, Majority Staff  
28 Director; Branden Ritchie, Majority Deputy Staff  
29 Director/Chief Counsel; Allison Halataei, Majority  
30 Parliamentarian and General Counsel; Kelsey Deterding, Clerk;  
31 George Fishman, Majority Counsel; Zachary Somers, Majority  
32 Counsel; Perry Apelbaum, Minority Staff Director; Danielle  
33 Brown, Minority Parliamentarian; Tom Jawetz, Minority  
34 Counsel; and Susan Jensen, Minority Counsel.

35

36 Chairman Goodlatte. The Judiciary Committee will come  
37 to order. And without objection, the chair is authorized to  
38 declare a recess at any time.

39 Pursuant to notice and with a majority of our committee  
40 members present, it is now in order for us to vote to close a  
41 portion of our November 19th full committee hearing, entitled  
42 "Oversight of the United States Secret Service," pursuant to  
43 the requirements of House Rule XI, Clause 2(g).

44 The chair would like to note that a portion of the  
45 hearing will be fully open to the public. However, there are  
46 aspects of this topic that can only be examined in a closed,  
47 classified setting because the matters to be discussed are  
48 either classified or could compromise sensitive law  
49 enforcement information.

50 Pursuant to House Rule XI, Clause 2(g), the motion is on  
51 closing the public -- to the public a portion of the November  
52 19, 2014, full committee hearing, entitled "Oversight of the  
53 United States Secret Service." Because a record vote is  
54 required, the clerk will call the roll.

55 Ms. Deterding. Mr. Goodlatte?

56 Chairman Goodlatte. Aye.

57 Ms. Deterding. Mr. Goodlatte votes aye.

58 Mr. Sensenbrenner?  
59 Mr. Sensenbrenner. Aye.  
60 Ms. Deterding. Mr. Sensenbrenner votes aye.  
61 Mr. Coble?  
62 Mr. Coble. Aye.  
63 Ms. Deterding. Mr. Coble votes aye.  
64 Mr. Smith of Texas?  
65 [No response.]  
66 Ms. Deterding. Mr. Chabot?  
67 [No response.]  
68 Ms. Deterding. Mr. Bachus?  
69 Mr. Bachus. Aye.  
70 Ms. Deterding. Mr. Bachus votes aye.  
71 Mr. Issa?  
72 [No response.]  
73 Ms. Deterding. Mr. Forbes?  
74 [No response.]  
75 Ms. Deterding. Mr. King?  
76 Mr. King. Aye.  
77 Ms. Deterding. Mr. King votes aye.  
78 Mr. Franks?  
79 Mr. Franks. Aye.

80 Ms. Deterding. Mr. Franks votes aye.  
81 Mr. Gohmert?  
82 Mr. Gohmert. Aye.  
83 Ms. Deterding. Mr. Gohmert votes aye.  
84 Mr. Jordan?  
85 Mr. Jordan. Yes.  
86 Ms. Deterding. Mr. Jordan votes aye.  
87 Mr. Poe?  
88 Mr. Poe. Yes.  
89 Ms. Deterding. Mr. Poe votes aye.  
90 Mr. Chaffetz?  
91 Mr. Chaffetz. Aye.  
92 Ms. Deterding. Mr. Chaffetz votes aye.  
93 Mr. Marino?  
94 Mr. Marino. Yes.  
95 Ms. Deterding. Mr. Marino votes aye.  
96 Mr. Gowdy?  
97 [No response.]  
98 Ms. Deterding. Mr. Labrador?  
99 Mr. Labrador. Yes.  
100 Ms. Deterding. Mr. Labrador votes aye.  
101 Mr. Farenthold?

102 Mr. Farenthold. Aye.

103 Ms. Deterding. Mr. Farenthold votes aye.

104 Mr. Holding?

105 Mr. Holding. Aye.

106 Ms. Deterding. Mr. Holding votes aye.

107 Mr. Collins?

108 Mr. Collins. Aye.

109 Ms. Deterding. Mr. Collins votes aye.

110 Mr. DeSantis?

111 Mr. DeSantis. Aye.

112 Ms. Deterding. Mr. DeSantis votes aye.

113 Mr. Smith of Missouri?

114 Mr. Smith of Missouri. Yes.

115 Ms. Deterding. Mr. Smith of Missouri votes aye.

116 Mr. Conyers?

117 Mr. Conyers. Aye.

118 Ms. Deterding. Mr. Conyers votes aye.

119 Mr. Nadler?

120 [No response.]

121 Ms. Deterding. Mr. Scott?

122 Mr. Scott. Aye.

123 Ms. Deterding. Mr. Scott votes aye.

124 Ms. Lofgren?  
125 [No response.]  
126 Ms. Deterding. Ms. Jackson Lee?  
127 [No response.]  
128 Ms. Deterding. Mr. Cohen?  
129 Mr. Cohen. Aye.  
130 Ms. Deterding. Mr. Cohen votes aye.  
131 Mr. Johnson?  
132 [No response.]  
133 Ms. Deterding. Mr. Pierluisi?  
134 Mr. Pierluisi. Aye.  
135 Ms. Deterding. Mr. Pierluisi votes aye.  
136 Ms. Chu?  
137 [No response.]  
138 Ms. Deterding. Mr. Deutch?  
139 Mr. Deutch. Aye.  
140 Ms. Deterding. Mr. Deutch votes aye.  
141 Mr. Gutierrez?  
142 [No response.]  
143 Ms. Deterding. Ms. Bass?  
144 [No response.]  
145 Ms. Deterding. Mr. Richmond?

146 [No response.]

147 Ms. Deterding. Ms. DelBene?

148 Ms. DelBene. Aye.

149 Ms. Deterding. Ms. DelBene votes aye.

150 Mr. Garcia?

151 Mr. Garcia. Aye.

152 Ms. Deterding. Mr. Garcia votes aye.

153 Mr. Jeffries?

154 Mr. Jeffries. Aye.

155 Ms. Deterding. Mr. Jeffries votes aye.

156 Mr. Cicilline?

157 [No response.]

158 Chairman Goodlatte. The gentlewoman from California?

159 Ms. Lofgren. Aye.

160 Ms. Deterding. Ms. Lofgren votes aye.

161 Chairman Goodlatte. The gentleman from South Carolina?

162 Mr. Gowdy. Aye.

163 Ms. Deterding. Mr. Gowdy votes aye.

164 Chairman Goodlatte. Has every Member voted who wishes

165 to vote?

166 [No response.]

167 Chairman Goodlatte. The clerk will report.

168 Ms. Deterding. Mr. Chairman, 27 Members voted aye; 0  
169 Members voted no.

170 Chairman Goodlatte. And the ayes have it, and the  
171 motion is agreed to.

172 Pursuant to notice, I now call up H.R. 5441 for purposes  
173 of markup and move that the committee report the bill  
174 favorably to the House.

175 The clerk will report the bill.

176 Ms. Deterding. H.R. 5441, to amend the Federal charter  
177 of the Veterans of Foreign Wars of the United States to  
178 reflect the service of women in the armed forces of the  
179 United States.

180 Chairman Goodlatte. Without objection, the bill is  
181 considered as read and open for amendment at any point.

182 [The information follows:]

183

184 Chairman Goodlatte. And I will begin by recognizing  
185 myself for an opening statement.

186 The Veterans of Foreign Wars is one of our largest and  
187 most lauded veterans organizations. It has successfully  
188 fought for veterans rights for over a century, and its  
189 members provide millions of hours a year in community  
190 service.

191 Among its goals are to assist worthy comrades and to  
192 perpetuate the memory and history of our dead and to assist  
193 their widows and orphans. Our veterans from the conflicts in  
194 Iraq and Afghanistan are in a better place because of the  
195 activities of the VFW.

196 Membership in the VFW is open to Korean War veterans and  
197 veterans who have served honorably as a member of the armed  
198 forces of the United States in a foreign war, insurrection,  
199 or expedition in service that has been recognized as a  
200 campaign medal service and is governed by the authorization  
201 of the award of a campaign badge by the United States  
202 Government or in an area which entitled the individual to  
203 receive special pay for duty subject to hostile fire or  
204 imminent danger. Membership does not require that a service  
205 member have engaged in actual combat, only that they served

206 in a combat zone.

207 Congress provided the VFW with a Federal charter in  
208 1936. Robert Wallace, executive director of the VFW's  
209 Washington office, has sent a letter to the committee  
210 requesting that its charter be amended to be gender neutral.  
211 This is in recognition of the many female members of the VFW  
212 and their invaluable contributions to our military.

213 Mr. Wallace stated that, "Today, our military consists  
214 of both men and women who honorably put duty and service  
215 before themselves. Consistent with a growing number of  
216 military women who serve at all levels, women are taking  
217 leadership roles throughout our organization.

218 "The VFW strongly believes that combat service, not  
219 gender, determines VFW membership eligibility. That is why  
220 we opened our membership to women over 35 years ago.  
221 However, our congressional charter does not reflect this  
222 reality."

223 As the Congressional Research Service reported last  
224 year, almost 300,000 female service members have been  
225 deployed for contingency operations in Iraq and Afghanistan.  
226 In approximately 12 years of combat operations in those two  
227 countries, over 800 women have been wounded, and over 130

228 have died, women who have been recognized for their heroism  
229 and who have -- and two have earned Silver Star medals.

230 H.R. 5441, introduced by Congressman Jeff Miller, makes  
231 the changes sought by the VFW, and I strongly support it --  
232 and are strongly supported by the organization. I commend  
233 Representative Miller for introducing this bill.

234 The VFW's current charter provides that the VFW is "a  
235 national association of men who, as soldiers, sailors,  
236 Marines, and airmen, served this Nation in wars and campaigns  
237 and expeditions on foreign soil or in hostile waters." H.R.  
238 5441 would replace "men" with "veterans."

239 The current charter provides that one of the purposes of  
240 the organization is "to perpetuate the memory and history of  
241 our dead and to assist their widows and orphans." This bill  
242 would replace "widows" with "surviving spouses."

243 I urge my colleagues to support this meritorious bill  
244 that reflects the valor of the women in our armed forces.

245 I now recognize the gentleman from Michigan, the ranking  
246 member, Mr. Conyers, for his opening statement.

247 Mr. Conyers. Thank you, Mr. Chairman.

248 Members of Judiciary Committee, H.R. 5441 is not a  
249 complex bill to mark up in the Judiciary Committee, but the

250 bill makes an important change to the Federal charter of the  
251 Veterans of Foreign Wars of the United States. The Veterans  
252 of Foreign Wars of the United States have been serving  
253 veterans of our armed forces for over 100 years and traces  
254 its roots to the Spanish American War.

255 The changes that we make and are making today are  
256 important because they recognize the critical role that women  
257 play in the military. Since the charter was established in  
258 1936, the role of women in the military has expanded greatly.

259 Women have made many important sacrifices for our  
260 military and our country and will continue to do so.

261 Unfortunately, the VFW's current charter speaks only about  
262 the sacrifices that men in the military have made.

263 Recognizing the role that women in the military play is one  
264 small way to thank them for their service.

265 And so, I urge support of this measure, and I yield back  
266 the balance of my time.

267 Chairman Goodlatte. The chair thanks the gentleman and  
268 now recognizes the chairman of the Subcommittee on  
269 Immigration and Border Security, the gentleman from South  
270 Carolina, Mr. Gowdy, for his opening statement.

271 Mr. Gowdy. I thank the gentleman from Virginia.

272 Mr. Chairman, we are just 2 days removed from Veterans  
273 Day, and many of us on both sides of the aisle participated  
274 in parades and ceremonies and other events recognizing the  
275 service of our Nation's veterans. And appropriately so,  
276 because, Mr. Chairman, it takes a very unique and special  
277 person to voluntarily risk his or her life for another  
278 person.

279 And today, Mr. Chairman, we have an opportunity to pause  
280 and give our female service members a few minutes of  
281 recognition that they so much deserve and, unfortunately,  
282 sometimes too rarely receive. And Mr. Chairman, we serve,  
283 and any time you start naming names, you run the risk of not  
284 including some, but Tammy Duckworth and Tulsi Gabbard leapt  
285 to my mind among our own number who have served this country  
286 with great distinction.

287 And Mr. Chairman, I thought of Sergeant Leigh Ann  
288 Hester, who won the Silver Star for her heroism in combat;  
289 Admiral Michelle Howard, the first Vice Chief of Naval  
290 Operations, the first female and first African American to  
291 achieve four-star admiral.

292 Or, Mr. Chairman, Captain Kimberly Hampton, who grew up  
293 in South Carolina, and she was a helicopter pilot before she

294 was shot down in 2004. And before her death, she wrote her  
295 mom, saying, "If there is anything I can say to ease your  
296 mind, if anything ever happens to me, you can be certain that  
297 I am doing the things that I love. I am living my dreams,  
298 living life on the edge at times, and pushing the envelope."

299 Mr. Chairman, women make up 14 percent of the active  
300 troops and almost 20 percent of the National Guard, which  
301 means that women will make up an increasingly large portion  
302 of our veteran population in coming years. The VFW, as the  
303 chairman noted and others, has already opened membership to  
304 women 35 years ago.

305 But, Mr. Chairman, we also know that words matter, and  
306 it is important that the founding document of the VFW  
307 acknowledges both the brave women and men who defended our  
308 country overseas. This basic change is one small way we can  
309 recognize the contribution women have made and are continuing  
310 to make to our military.

311 In conclusion, Mr. Chairman, the best thanks that we can  
312 give to the women and the men who are our veterans is to keep  
313 the country that they gave us and to make her better and to  
314 never leave them wondering whether or not their sacrifice was  
315 worth it.

316 With that, I would yield back.

317 Chairman Goodlatte. The chair thanks the gentleman and  
318 recognizes the gentlewoman from California, the ranking  
319 member of the Immigration and Border Security Subcommittee,  
320 Ms. Lofgren, for her opening statement.

321 Ms. Lofgren. Thank you, Mr. Chairman.

322 I am mindful of a Member of Congress many years ago, Mo  
323 Udall, who once said, "Everything has been said, but not  
324 everyone has said it." And with that in mind, I will ask  
325 unanimous consent to put my statement into the record.

326 I agree with all that has been said, but I would just  
327 like to add my thanks to the VFW for initiating this change.  
328 They deserve a lot of credit for doing that, and I thank  
329 them.

330 And I recommend approval of the measure and yield back.

331 [The statement of Ms. Lofgren follows:]

332

333 Chairman Goodlatte. The chair thanks the gentlewoman.

334 Are there any amendments to H.R. 5441?

335 [No response.]

336 Chairman Goodlatte. There being none, a reporting  
337 quorum being present, the question is on the motion to report  
338 the bill, H.R. 5441, favorably to the House.

339 Those in favor will say aye.

340 Those opposed, no.

341 The ayes have it, and the bill is ordered reported  
342 favorably. Members will have 2 days to submit views.

343 Pursuant to notice, I now call up H.R. 5683 for purposes  
344 of markup and move that the committee report the bill  
345 favorably to the House.

346 The clerk will report the bill.

347 Ms. Deterding. H.R. 5683, to ensure appropriate  
348 judicial review of Federal Government actions by amending the  
349 prohibition on the exercise of jurisdiction by the United  
350 States Court of Federal Claims of certain claims pending in  
351 other courts.

352 Chairman Goodlatte. Without objection, the bill is  
353 considered as read and open for amendment at any point.

354 [The information follows:]

355

356 Chairman Goodlatte. And I will begin by recognizing  
357 myself for an opening statement.

358 I want to thank Representative DeSantis and Cicilline  
359 for introducing this important legislation to amend Section  
360 1500 of Title 28. I would also like to thank Senators  
361 Wicker, Tester, and Cornyn for introducing companion  
362 legislation in the Senate.

363 In his first annual message to Congress, Abraham Lincoln  
364 admonished that it is as much the duty of Government to  
365 render prompt justice against itself in favor of citizens as  
366 it is to administer the same between private individuals.  
367 This legislation responds to that duty. It does so by  
368 removing unnecessary procedural obstacles that Congress has  
369 placed in the way of the ability of Americans to receive  
370 redress from actions taken by the Federal Government that  
371 infringe upon their constitutional, statutory, and  
372 contractual rights.

373 H.R. 5683 will clear the path to justice for a wide  
374 variety of claimants with many different kinds of claims,  
375 including Federal employees, members of the military,  
376 veterans, property owners, businesses, local governments, and  
377 Indian tribes. H.R. 5683 does this by amending 28 U.S.C.

378 Section 1500, one of several statutes that govern the  
379 jurisdiction of the U.S. Court of Federal Claims, a Federal  
380 court that adjudicates cases seeking monetary relief from the  
381 United States for actions taken by the Federal Government.

382 Section 1500 is an antiquated statute that was first  
383 enacted by Congress in the aftermath of the Civil War to  
384 address a problem that no longer exists. As Justice  
385 Sotomayor has noted, judges and commentators have long called  
386 for congressional attention to this statute.

387 In many cases, Section 1500 forces plaintiffs to pick  
388 and choose between remedies that would otherwise be available  
389 to them in litigation against the United States. This is  
390 because under the complex jurisdictional scheme Congress has  
391 put in place for lawsuits against the Federal Government, not  
392 all legal theories and legal remedies may be brought in the  
393 same lawsuit in the same Federal court in cases arising from  
394 a single incident.

395 For example, if the Federal Government released water  
396 from a dam, flooding private property, the property owner may  
397 be the victim of a common law tort for which suit must be  
398 brought in Federal District Court, or alternatively, the  
399 property owner may be the victim of a taking for which suit

400 must be brought in Federal Claims Court.

401       This jurisdictional scheme would be understandable --  
402 different Federal courts have different specialties and  
403 expertise -- but for the fact that Section 1500 precludes a  
404 plaintiff from maintaining lawsuits against the United States  
405 arising out of a single incident in both the Federal Court of  
406 Claims and District Court, even if the lawsuits seek  
407 different relief.

408       Rather, Section 1500 forces plaintiffs to either file  
409 suit in Federal Claims Court, foregoing relief in District  
410 Court, or to file in District Court and risk the statute of  
411 limitations expiring before the District Court litigation is  
412 over and they are able to file in the Court of Federal  
413 Claims.

414       In short, Section 1500 creates a catch-22 that makes  
415 plaintiffs pick and choose between meritorious claims against  
416 the Federal Government. This is not good policy in a  
417 democratic society.

418       As the Federal Circuit Court of Appeals has observed,  
419 because this Nation relies in significant degree on  
420 litigation to control the excesses to which Government may  
421 from time to time be prone, it would not be sound policy to

422 force plaintiffs to forego monetary claims in order to  
423 challenge the validity of Government action or to preclude  
424 challenges to the validity of Government action in order to  
425 protect a constitutional claim for compensation.

426 Although Section 1500 was designed to prevent the United  
427 States from being forced to engage in wasteful, duplicative  
428 litigation, there are much less drastic ways to avoid this  
429 concern. H.R. 5683, through the use of a presumptive stay,  
430 provides a method that both prevents the Federal Government  
431 from facing duplicative litigation and preserves plaintiff's  
432 rights to seek complete redress against the Government.

433 A legislative fix to Section 1500 is long overdue, and I  
434 urge my colleagues to support this legislation.

435 And I now recognize the ranking member, Mr. Conyers, for  
436 his opening statement.

437 Mr. Conyers. Thank you, Chairman Goodlatte.

438 Members of the Judiciary Committee, H.R. 5683, Ensuring  
439 Access to Justice for Claims Against the United States Act,  
440 addresses a longstanding flaw in current law that has already  
441 been indicated by the chairman. Section 1500 of Title 28 of  
442 the United States Code prohibits the United States Court of  
443 Federal Claims from hearing an action against the United

444 States if the plaintiff has pending in another Federal court  
445 a claim against the United States arising from substantively  
446 the same operative facts.

447 Although this jurisdictional bar was intended to prevent  
448 duplicative lawsuits, it can also effectively deny access to  
449 justice, especially in instances where a plaintiff makes the  
450 unfortunate choice of filing suit in the Federal -- the Court  
451 of Federal Claims after filing in another Federal court.

452 In lieu of dismissal, as required by Section 1500, H.R.  
453 5683 would impose a temporary stay on the later-filed action  
454 until the first action is no longer pending, subject to  
455 certain exceptions.

456 And so, I support the bill for several reasons. Most  
457 importantly, this measure will ensure access to justice for  
458 plaintiffs, particularly those who lack the resources to  
459 recognize and avoid a procedural trap embedded in the current  
460 Section 1500.

461 Current law gives exclusive jurisdiction to the Court of  
462 Federal Claims for certain claims against the United States,  
463 such as contract claims. Other types of claims against the  
464 United States, such as tort claims, cannot be heard by the  
465 Court of Federal Claims and, thereby, must be determined by

466 another court. Thus, a plaintiff seeking complete relief is  
467 sometimes forced to file actions in both of the court -- both  
468 the Court of Federal Claims and another court, such as the  
469 Federal District Court, even though the actions are based on  
470 substantially the same facts.

471 To help ameliorate the harsh consequences of Section  
472 1500, many Federal courts developed an informal workaround,  
473 as they call it, allowing the Court of Federal Claims to  
474 retain jurisdiction if the relief sought by the plaintiff in  
475 the other court was different than the relief requested from  
476 the Court of Federal claims. In 2011, however, the Supreme  
477 Court foreclosed this workaround. It held that Section  
478 1500's plain language required dismissal of the Court of  
479 Federal Claims action if the plaintiff had a claim pending in  
480 another court based on the same operative facts, regardless  
481 of the differences in relief being sought.

482 The problem thus presented by Section 1500 is that it  
483 can deny a plaintiff his or her day in court on what might be  
484 a meritorious claim because the provision forces a plaintiff  
485 to choose their remedy when he or she decides where to file  
486 the suit.

487 In response to this problem, the Administrative

488 Conference of the United States, a nonpartisan body of  
489 experts on administrative law established by Congress, issued  
490 a recommendation ensuring access to judicial remedy. This  
491 recommendation in turn was adopted by the American Bar  
492 Association last year, and it forms the substance of the  
493 measure before us, H.R. 5683.

494       Rather than repealing Section 1500 outright, the bill  
495 effectuates a balanced approach that simply stays the later-  
496 filed action while the first-filed action remains pending.  
497 H.R. 5683 strikes a proper balance between a plaintiff's  
498 interest in having the opportunity to pursue all claims that  
499 he or she is entitled to pursue while not facilitating  
500 duplicative lawsuits that would strain judicial resources, as  
501 well as cause the Justice Department to simultaneously  
502 litigate identical issues in multiple court venues.

503       Finally, although I support this bill for purposes of  
504 today's markup, there may be a need to further clarify one of  
505 the exceptions to the legislation's stay provisions based on  
506 concerns raised by the Department of Justice. In  
507 deliberating the recommendations that this bill memorialized,  
508 the Administrative Conference received constructive comments  
509 from the Justice Department.

510 In sum, the department's fears that the bill's interests  
511 of justice exception to the presumptive stay may not  
512 adequately protect the Government's interest in avoiding  
513 duplicative legislation and strains on the Government's  
514 resources. To that end, the department suggests adding  
515 language providing greater guidance to the courts as to when  
516 a later-filed action should be stayed in the interests of  
517 justice, such as where such stay could result in spoliation  
518 of evidence of irreparable prejudice.

519 I understand that the bill's sponsor, as well as the  
520 American Bar Association, may be open to discussing such  
521 refinements to the bill. Based on that understanding, I  
522 support and encourage my colleagues to support this measure,  
523 H.R. 5683.

524 And Mr. Chairman, I yield back the balance of my time.

525 Chairman Goodlatte. The chair thanks the gentleman for  
526 his very supportive remarks and now recognizes the chief  
527 sponsor of the legislation, the gentleman from Florida, Mr.  
528 DeSantis, for his statement.

529 Mr. DeSantis. Thank you, Mr. Chairman.

530 Under current law, military, Federal and civilian  
531 employees, private property owners, U.S. taxpayers, Indian

532 tribes, and others face unnecessary procedural hurdles when  
533 attempting to defend their rights against the United States  
534 Government in court. Many cases, Federal law requires a  
535 plaintiff with a monetary and a nonmonetary claim against the  
536 United States arising out of a single incident to file two  
537 separate cases, one in Federal District Court and a second in  
538 Federal Claims Court.

539       However, Federal law also prevents a plaintiff from  
540 simultaneously filing a lawsuit in both District Court and  
541 Federal Claims Court arising from the same incident. This  
542 represents a procedural catch-22, which prevents many  
543 plaintiffs from obtaining complete or even partial redress  
544 for their injuries.

545       For example, when the Federal Government infringes on an  
546 individual's private property rights, the property owner is  
547 currently forced to select between two potentially valid  
548 claims -- to seek monetary compensation or to challenge the  
549 validity of the Government's action.

550       Because there is a 6-year statute of limitations on  
551 pursuing claims in these kinds of cases and because these  
552 types of cases often move very slowly, a bar against filing  
553 monetary and nonmonetary claims at the same time can often

554 close one legal avenue or the other to a plaintiff simply  
555 because there isn't time within that 6-year window to pursue  
556 both cases back-to-back. Plaintiffs are forced into choices  
557 they shouldn't have to make.

558 As one Federal court has observed, the statute  
559 essentially says to plaintiffs if you want your job back, you  
560 must forego your back pay. And conversely, if you want your  
561 back pay, you cannot have your job back. This has the effect  
562 of insulating Government from the type of accountability  
563 that, as the chairman remarked, Abraham Lincoln thought  
564 essential.

565 28 U.S.C. Section 1500 is a relic from the 19th century  
566 designed to handle issues of no bearing or relevance in  
567 today's age. And although Federal courts have sought to  
568 place a judicial gloss on Section 1500 that would lower the  
569 hurdles faced by plaintiffs, the U.S. Supreme Court rejected  
570 this approach, insisting that the statute be applied as  
571 written.

572 And I believe the Supreme Court correctly applied the  
573 statute as written. It is the job of Congress, not the  
574 courts, to fix provisions of law that do not serve the public  
575 interest.

576 My bill, Ensuring Access to Justice for Claims Against  
577 the United States Act, will do just that by allowing  
578 plaintiffs to simultaneously pursue both monetary and  
579 nonmonetary relief when the Government infringes on their  
580 constitutional, statutory, or contractual rights, and will  
581 level the playing field between plaintiffs and the Federal  
582 Government. I hope this bill will receive the support of the  
583 committee.

584 Thank you, Mr. Chairman. I yield back.

585 Chairman Goodlatte. The chair thanks the gentleman.

586 Are there any amendments to H.R. 5683?

587 [No response.]

588 Chairman Goodlatte. There being none, a reporting  
589 quorum being present, the question is on the motion to report  
590 the bill, H.R. 5683, favorably to the House.

591 Those in favor will respond by saying aye.

592 Those opposed, no.

593 The ayes have it, and the bill is ordered reported  
594 favorably. Members will have 2 days to submit views.

595 Before we adjourn, the ranking member and I would like  
596 to take a moment to note some members of the committee who  
597 are going to be departing from the committee. There may be

598 more, depending on how committee assignments go and so on.  
599 So this is going to be an ongoing celebration of our  
600 departing members, but I do want to take note of three that  
601 we know of today.

602 First of all, when you all get a copy, the committee and  
603 the staff, of the photograph of the committee, one member  
604 will stand out, and that is our chairman of the Courts, the  
605 Internet, and Intellectual Property Subcommittee, because of  
606 his distinctive madras sports coat that he has worn and is  
607 well noted for. And I noted when we celebrated him on the  
608 floor last night, some of his colleagues from North Carolina  
609 wore their madras sports coats as well.

610 I am not sure every member of this committee has a  
611 madras sports coat. I know I don't. So I didn't ask members  
612 to all join in. But, Howard, we appreciate you greatly, and  
613 we are going to miss you.

614 On a personal note, let me say that I have been on the  
615 tennis court with Howard Coble a few hundred times over the  
616 last 22 years, as we played tennis together on Wednesday  
617 mornings very early at a public park here in Washington and  
618 sometimes at the Washington Navy Yard. And I already miss  
619 that and will miss your great friendship, your collegiality,

620 your knowledge of the mascot of every high school and college  
621 football team in my congressional district just about, so it  
622 seems, and your great work protecting the private property  
623 rights of intellectual property holders in our country by  
624 your leadership on a number of occasions as chairman of the  
625 subcommittee that you serve on.

626       Also distinctive and clearly preparing to depart for  
627 other things is the newly bearded gentleman from Alabama, who  
628 is looking forward, I think, to his retirement as well.  
629 Spencer Bachus has served not only this committee, but the  
630 whole Congress, with great distinction and has served as  
631 chairman of the Financial Services Committee and done a great  
632 job as chairman of our Regulatory Reform Subcommittee here  
633 for this Congress.

634       And he was elected to Congress the same year that I was,  
635 and we have served together in many roles and worked together  
636 on many things. So I will miss him as well.

637       A newer member of the committee, but one who has served  
638 this committee well and with distinction is the congressman  
639 from Florida, Mr. Garcia. We thank you for representing  
640 South Florida here on this committee and for the many  
641 contributions that you have made to the Judiciary Committee

642 in the debate and amendments and the work on many bills, some  
643 of them hard-fought and contentious, some of them very  
644 bipartisan like the ones we have just passed today. But I  
645 also want to thank you for your service on this committee.

646 And I would like to recognize the gentleman from  
647 Michigan for his remarks.

648 Mr. Conyers. Thank you for yielding.

649 And I am sure we are all going to remember these three  
650 members of the Judiciary Committee, each who have been very  
651 distinctive and very supportive of moving the committee  
652 forward in their own ways. I appreciate that.

653 Especially so with Howard Coble. He has been a longtime  
654 leader on the committee and works well across the aisle. And  
655 I think in terms of intellectual property issues, he has been  
656 especially invaluable.

657 He served as the longtime chair and occasionally ranking  
658 member of the subcommittee. And among other things, he  
659 played a critical role in updating the country's copyright  
660 and patent laws through the Digital Millennium Copyright Act,  
661 the Sonny Bono Copyright Extension Act, the American  
662 Inventors Protection Act, the Satellite Home Viewers Act, and  
663 the Madrid Protocol Implementation Act.

664           Howard, you were there for all of those and for many  
665 more, but there is no doubt that our Nation's creators and  
666 innovators are far better off as a result of the leadership  
667 and contributions that you have made in this area. We will  
668 miss you, and we have enjoyed a good working relationship  
669 across the years.

670           Now for Spencer Bachus, who is another longtime Member  
671 who has been active in areas of administrative law and  
672 bankruptcy over the years as well as immigration and criminal  
673 justice, I have found him to be a gentleman of high principle  
674 and who has worked on many bipartisan initiatives.

675           I understand Representative Bachus' father often used  
676 the adage, "If you can't say anything nice about a person,  
677 don't say anything at all." Mr. Bachus certainly adhered to  
678 that advice as he was a consummate gentleman who wielded the  
679 gavel with fairness at all times.

680           We have appreciated working with you, exchanging views,  
681 making compromises that got legislation through this  
682 committee, through the House, and onto the President's desk.  
683 And so, we will miss your presence here in future meetings of  
684 this very important committee.

685           Representative Garcia has been an important member of

686 the committee, contributing to the debate on many vital  
687 issues. He has been an outspoken advocate for the rights of  
688 immigrants. And after participating in Chairman Goodlatte's  
689 delegation to the southwest border this summer,  
690 Representative Garcia also played a critical role in  
691 defending the rights of vulnerable children to apply for  
692 protection in the United States.

693 He is a man of high principle and has been an important  
694 contributor to the legislation that has come out of this  
695 committee. We will miss you.

696 We will miss all three of you, and I want to say to you  
697 all, thanks for your service.

698 [Applause.]

699 Chairman Goodlatte. Thank you very much.

700 And that concludes the committee's business for today.  
701 Stay tuned. There may be more. We certainly have a number  
702 of hearings.

703 The gentleman from North Carolina? Without objection,  
704 the gentleman is certainly recognized.

705 Mr. Coble. I want to thank you and the ranking member  
706 from Michigan for the generous comments. I am not sure I am  
707 deserving, but I am appreciative.

708 This is the best committee on the Hill. I will miss all  
709 of you, and I thank you very much for your kind words.

710 Chairman Goodlatte. I thank the gentleman.

711 The gentleman from Alabama?

712 [Applause.]

713 Mr. Bachus. Well, I consider most members of this  
714 committee as friends, good friends, and I will miss the  
715 committee. It is doing a lot of important work. And I thank  
716 you for your thoughtfulness this morning and appreciate the  
717 kind words.

718 Thank you.

719 Chairman Goodlatte. Thank the gentleman.

720 The gentleman from Florida?

721 Mr. Garcia. Well, just thanking you, Mr. Chairman and  
722 the ranking member from the minority, for your help in  
723 participating in this committee. It has been one of the high  
724 points of my life.

725 So thank you very much.

726 Chairman Goodlatte. The chair thanks the gentleman.

727 The chair thanks all of the members for their help today  
728 and for their work throughout this Congress. There is still  
729 more to be done. So, for now, the committee will stand

730 adjourned.

731 [Whereupon, at 11:11 a.m., the committee was adjourned.]