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ONE HUNDRED SEVENTH CONGRESS

U.S. House of Representatives
Committee on Energy and Commerce
Washington, DC 20515-6115

W.J. "BILLY" TAUZIN, LOUISIANA,
CHAIRMAN

December 11, 2001

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The Honorable C.W. "Bill" Young
Chairman
Committee on Appropriations
H 218 The Capitol
Washington, DC 20515

The Honorable David R. Obey
Ranking Member
Committee on Appropriations
1016 Longworth House Office Building
Washington, DC 20515

Dear Chairman Young and Ranking Member Obey:

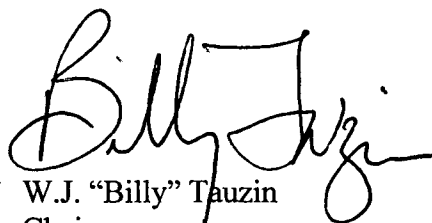
We are writing to express our strong opposition to the inclusion of a bioterrorism-related legislative rider in the Senate's version of H.R. 3338, the Department of Defense (DOD) appropriations bill for Fiscal Year 2002. Specifically, section 8133 of the Senate bill directs the Secretary of Health and Human Services to regulate the possession of certain deadly biological agents and toxins, known as "select agents."

The language clearly violates clause 2 of Rule XXI of the Rules of the House by legislating on a general appropriations bill. Moreover, as you may know, the House Leadership has tasked the Committee on Energy and Commerce with crafting a comprehensive, bipartisan bioterrorism package that the House can consider prior to adjournment. We have completed that effort and the House plans to take up our bill today on the suspension calendar. That legislative package will include an improved version of H.R. 3160, which was reported out of the Committee on Energy and Commerce and approved by the full House unanimously on October 23, 2001. It will further enhance controls on deadly agents -- such as anthrax -- and our ability to track them for law enforcement purposes. Given that we are moving with all deliberate speed, it is clearly unnecessary to resort to the extraordinary step of legislating in this area on an appropriations bill.

You should know, too, that we have strong reservations about the substance of the Senate's language. In particular, the Senate provisions create numerous exemptions of questionable merit and unclear scope, including limiting security requirements to only those persons who transfer such agents, rather than to all those in possession of such agents. These exemptions undermine the basic goal of our legislative effort -- to ensure that all such deadly agents and toxins are handled safely, stored securely, and accessed only for legitimate purposes by approved persons. The Senate's version also has weaker criminal penalties for those who transfer such agents to unregistered persons, and would unduly delay the requirement that possessors of such agents notify the Federal government of such possession -- continuing to leave the United States without a complete national registry of such agents for an additional eight months following enactment.

For these procedural and substantive reasons, we urge you to strongly oppose the inclusion of select agent regulatory controls in the final conference agreement on the Fiscal Year 2002 DOD appropriations bill, as proposed by the Senate. Please contact us or have your staff contact Tom DiLenge of the majority staff or Edith Holleman of the minority staff if you have any questions or desire additional information.

Sincerely,



W.J. "Billy" Tauzin
Chairman



John D. Dingell
Ranking Member

cc: The Honorable J. Dennis Hastert
The Honorable Richard A. Gephardt