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(Original Signature of Member)

112TH CONGRESS
1ST SESSION

H. R. _____

To strengthen and clarify the commercial, cultural, and other relations between the people of the United States and the people of Taiwan, as codified in the Taiwan Relations Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Ms. ROS-LEHTINEN introduced the following bill; which was referred to the Committee on _____

A BILL

To strengthen and clarify the commercial, cultural, and other relations between the people of the United States and the people of Taiwan, as codified in the Taiwan Relations Act, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Taiwan Policy Act of
5 2011”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) The Taiwan Relations Act (Public Law 96–
2 8; 22 U.S.C. 3301 et seq.), enacted in 1979, here-
3 after referred to as “the Act,” has continued for 32
4 years to be the cornerstone of United States-Taiwan
5 relations and has served as an anchor for peace and
6 security in the Western Pacific region.

7 (2) The Taiwan Relations Act, in furthering the
8 national interests of the United States in the West-
9 ern Pacific region, has mandated that the United
10 States will make available to Taiwan such defense
11 articles and defense services in such quantity as may
12 be necessary to enable Taiwan to maintain a suffi-
13 cient self-defense capability, thus allowing the people
14 of Taiwan to preserve a peaceful, democratic, and
15 prosperous way of life.

16 (3) The future of Taiwan must be determined
17 in a peaceful manner and with the assent of the peo-
18 ple of Taiwan.

19 (4) The Taiwan Relations Act declares that—

20 (A) peace and stability in the Western Pa-
21 cific area are in the political, security, and eco-
22 nomic interests of the United States, and are
23 matters of international concern;

24 (B) the United States decision to establish
25 diplomatic relations with the People’s Republic

1 of China rests upon the expectation that the fu-
2 ture of Taiwan will be determined by peaceful
3 means;

4 (C) the United States considers any effort
5 to determine the future of Taiwan by other
6 than peaceful means, including by boycotts or
7 embargoes, a threat to the peace and security
8 of the Western Pacific area and of grave con-
9 cern to the United States;

10 (D) the United States will maintain the ca-
11 pacity to resist any resort to force or other
12 forms of coercion that would jeopardize the se-
13 curity, or the social or economic system, of the
14 people on Taiwan; and

15 (E) the preservation and enhancement of
16 the human rights of all the people on Taiwan
17 are reaffirmed as objectives of the United
18 States.

19 (5) In recent years United States–Taiwan rela-
20 tions have suffered from inattention and lack of
21 strategic vision, thereby requiring the Congress to
22 both clarify United States policy toward Taiwan and
23 enhance its oversight role in the implementation of
24 the Taiwan Relations Act.

1 (6) In October 2010, Taiwan’s National Secu-
2 rity Bureau (NSB) Director estimated that China
3 had 1,410 missiles across from Taiwan, mostly in
4 the southeast, which constitute a threat to regional
5 security, and other experts suggest that this number
6 could increase to 1,800 in the near future.

7 (7) The anti-secession law, passed by the Na-
8 tional People’s Congress of the People’s Republic of
9 China, was found by House Concurrent Resolution
10 98, passed in the House of Representatives on
11 March 16, 2005, by a vote of 424-4, “to create a
12 legal framework for possible use of force against
13 Taiwan” and “to provide a legal justification for the
14 use of force against Taiwan, altering the status quo
15 in the region, and thus is of grave concern to the
16 United States.”.

17 (8) The legislative requirement to make avail-
18 able defensive articles and services should include
19 the provision of new F-16 C/D aircraft and up-
20 grades of the existing F-16 A/B fleet essential to
21 Taiwan’s security.

22 (9) The 2011 Department of Defense’s Annual
23 Report to Congress on “Military and Security Devel-
24 opments Involving the People’s Republic of China”
25 noted that the People’s Liberation Army “seeks the

1 capability to deter Taiwan independence and influ-
2 ence Taiwan to settle the dispute on Beijing’s
3 terms” while “developing capabilities intended to
4 deter, delay, or deny possible U.S. support for the
5 island in the event of conflict. The balance of cross-
6 Strait military forces and capabilities continues to
7 shift in the mainland’s favor.”.

8 (10) The language contained in the Joint
9 Communiqué of the United States of America and
10 the People’s Republic of China, dated August 17,
11 1982, which states in part that “arms sales to Tai-
12 wan will not exceed, either in qualitative or in quan-
13 titative terms, the level of those supplied in recent
14 years” shall not, to any degree, diminish the respon-
15 sibility of the United States, as legislatively man-
16 dated in the Taiwan Relations Act, to “ make avail-
17 able to Taiwan such defense articles and defense
18 services in such quantity as may be necessary to en-
19 able Taiwan to maintain a sufficient self-defense ca-
20 pability.”.

21 (11) The United States has sought diplomati-
22 cally to preserve Taiwan’s international space, de-
23 spite outside pressure and coercion, and has sought
24 to secure Taiwan’s meaningful participation in such

1 international organizations as the World Health Or-
2 ganization (WHO).

3 (12) Given the critical importance of airport se-
4 curity in a post-September 11th international envi-
5 ronment, the United States recognizes it is crucial
6 for Taiwan to be admitted to meaningful participa-
7 tion in the International Civil Aviation Organization
8 (ICAO) so that Taiwan may contribute to the suc-
9 cess of a global strategy to address aviation security
10 threats based on effective international cooperation.

11 (13) Given that the Taiwan Relations Act
12 states that it is the policy of the United States to
13 “preserve and promote extensive, close, and friendly
14 commercial, cultural, and other relations between
15 the people of the United States and the people on
16 Taiwan,” the Department of Homeland Security
17 should therefore make it a priority to ascertain what
18 requirements must be met for Taiwan’s inclusion, at
19 an early date, in the visa waiver program (VWP) in
20 order to further enhance those commercial, cultural
21 and other relations addressed in the Act.

22 (14) The conclusion of the Economic Coopera-
23 tion Framework Agreement (ECFA) between Tai-
24 wan and the People’s Republic of China in June
25 2010 or the adoption of any other cross-Strait eco-

1 nomic measures shall not diminish in any degree the
2 requirement contained in the Act to “maintain the
3 capacity of the United States to resist any resort to
4 force or other forms of coercion that would jeop-
5 ardize the security, or the social or economic system,
6 of the people on Taiwan.”.

7 (15) The theory recently put forward in certain
8 academic circles that the United States should ac-
9 quiesce to China’s ascendancy in Asia and put aside
10 the commitments made in the Taiwan Relations Act
11 is based upon a false premise that ignores the exam-
12 ple of a democratic Taiwan, the historic ties of
13 friendship of the peoples of the United States and
14 Taiwan, and the determination of the United States
15 to remain as a Pacific power.

16 (16) Total United States–Taiwan trade was ap-
17 proximately \$57,000,000,000 in 2010, and Taiwan
18 currently ranks as the ninth largest trading partner
19 of the United States.

20 (17) It is in the economic interests of the
21 United States and the national security interests of
22 Taiwan for our two peoples to further strengthen
23 and revitalize their trade and investment ties, in-
24 cluding through an expanded Trans Pacific Partner-
25 ship (TPP) Agreement or similar mechanism.

1 **SEC. 3. RULE OF CONSTRUCTION.**

2 Nothing in this Act shall be construed to amend or
3 supersede the Taiwan Relations Act.

4 **TITLE I—POLITICAL RELATIONS**

5 **SEC. 101. RELATIONS WITH THE PEOPLE OF TAIWAN.**

6 The following shall be the policies of the United
7 States:

8 (1) Supporting Taiwan, Taiwan's democracy,
9 and the human rights of its people.

10 (2) As noted in the Taiwan Relations Act, "the
11 absence of diplomatic relations or recognition shall
12 not affect the application of the laws of the United
13 States with respect to Taiwan, and the laws of the
14 United States shall apply with respect to Taiwan in
15 the manner that the laws of the United States ap-
16 plied with respect to Taiwan prior to January 1,
17 1979."

18 (3) The United States Government shall respect
19 the right of the Taipei Economic and Cultural Rep-
20 resentative Office (TECRO) to display its flag on its
21 premises and the American Institute in Taiwan
22 (AIT) and the residence of its Director in Taipei
23 shall, correspondingly, publicly display the United
24 States flag in the same manner as United States
25 embassies, consulates, and official residences
26 throughout the world.

1 (4) The Taipei Economic and Cultural Rep-
2 resentative Office and all other instrumentalities es-
3 tablished by Taiwan, including the Twin Oaks Es-
4 tate, may conduct official business activities, includ-
5 ing activities which involve participation by Members
6 of the United States Congress and other representa-
7 tives of the Federal, State, and local governments,
8 without any impediment from the United States
9 Government or any foreign power.

10 **SEC. 102. VISITS BY CABINET LEVEL OFFICIALS.**

11 (a) FINDINGS.—Congress finds the following:

12 (1) Visits by United States cabinet officials and
13 other high-ranking visitors are an indicator of the
14 breadth and depth of ties between the United States
15 and Taiwan.

16 (2) In December 1992, U.S. Trade Representa-
17 tive Carla Hills visited Taiwan, marking the first
18 cabinet-level visit since 1979.

19 (3) Over the next 8 years the administrator of
20 the U.S. Small Business Administration, the Sec-
21 retary of Energy, and 2 Secretaries of Transpor-
22 tation visited Taiwan.

23 (4) No United States cabinet secretary has vis-
24 ited Taiwan since July 2000.

1 (5) In March 2008, candidate Barack Obama
2 wrote in a message congratulating Ma Ying-jeou on
3 his election victory that “[t]he U.S. should reopen
4 blocked channels of communication with Taiwan of-
5 ficials”, yet no Cabinet-level visits to Taiwan have
6 yet taken place.

7 (b) **POLICY OF THE UNITED STATES.**—It shall be the
8 policy of the United States to encourage visits by cabinet-
9 level officials between the United States and Taiwan to
10 foster commercial, technological, and people-to-people ex-
11 changes.

12 **SEC. 103. REVISION OF GUIDELINES FOR CONTACTS WITH**
13 **TAIWAN.**

14 Notwithstanding the 1994 Taiwan policy review and
15 current mandatory guidance from the Department of
16 State regarding contacts with Taiwan, it shall be the pol-
17 icy of the United States to—

18 (1) permit senior leaders of Taiwan to enter the
19 United States under conditions which demonstrate
20 appropriate courtesy and respect for the dignity of
21 such leaders;

22 (2) permit meetings between high level Tai-
23 wanese and United States officials in all United
24 States executive departments;

1 (3) allow official travel to Taiwan for Depart-
2 ment of State and Department of Defense personnel
3 above the rank of office director or, for uniformed
4 military personnel, above the level of 06 (Colonel,
5 Navy Captain); and

6 (4) support a decision by Taiwan to change the
7 name of the Taipei Economic and Cultural Rep-
8 resentative Office to that of the Taiwan Representa-
9 tive Office.

10 **SEC. 104. REQUIREMENT FOR SENATE CONFIRMATION OF**
11 **AN INDIVIDUAL APPOINTED TO SERVE AS**
12 **THE DIRECTOR OF THE AMERICAN INSTI-**
13 **TUTE IN TAIWAN.**

14 (a) IN GENERAL.—Notwithstanding any other provi-
15 sion of law, the President shall appoint, by and with the
16 advice and consent of the Senate, an individual to serve
17 as the Director of the American Institute in Taiwan.

18 (b) TRANSITION.—The individual serving as the Di-
19 rector of the American Institute in Taiwan as of the date
20 of the enactment of this Act may continue to serve in such
21 capacity until such time as an individual is appointed and
22 confirmed in accordance with subsection (a).

23 **SEC. 105. EXTRADITION AGREEMENT.**

24 (a) IN GENERAL.—It shall be the policy of the United
25 States to enhance judicial cooperation with Taiwan, cur-

1 rently conducted on the basis of the 2002 Agreement on
2 Mutual Legal Assistance in Criminal Matters, by signing
3 a comprehensive extradition agreement.

4 (b) REPORT.—Not later than 180 days after the date
5 of enactment of this Act, the President shall transmit to
6 Congress a report that assesses whether a comprehensive
7 extradition agreement between the United States and Tai-
8 wan may be submitted to the Senate for advice and con-
9 sent as a treaty or whether, because of Taiwan's unique
10 status, such agreement must be submitted to both the
11 House of Representatives and Senate for legislative ap-
12 proval.

13 **SEC. 106. CONTINUATION OF THE SIX ASSURANCES AS**
14 **GUIDELINES IN CONDUCTING UNITED**
15 **STATES-TAIWAN RELATIONS.**

16 Notwithstanding any communiqués entered into be-
17 tween the United States and the People's Republic of
18 China, the United States continues to assent to the six
19 assurances provided to Taiwan in July, 1982, including
20 that the United States—

21 (1) has not agreed to set a date for ending
22 arms sales to Taiwan;

23 (2) has not agreed to hold prior consultations
24 with the People's Republic of China on arms sales
25 to Taiwan;

1 (3) will not play any mediation role between
2 Taipei and Beijing;

3 (4) has not agreed to revise the Taiwan Rela-
4 tions Act;

5 (5) has not altered its position regarding sov-
6 ereignty over Taiwan; and

7 (6) will not exert pressure on Taiwan to nego-
8 tiate with the People's Republic of China.

9 **SEC. 107. INTERNATIONAL ORGANIZATIONS.**

10 To provide Taiwan with the international space it re-
11 quires to function effectively in the world community, the
12 Secretary of State shall direct the Department of State
13 to continue its annual program to ensure meaningful par-
14 ticipation by Taiwan in the World Health Assembly in Ge-
15 neva, Switzerland, as well as meaningful participation for
16 Taiwan in other relevant international organizations, such
17 as the International Civil Aviation Organization (ICAO).

18 **SEC. 108. REPORT ON TAIWAN'S PARTICIPATION IN ICAO.**

19 (a) IN GENERAL.—The Secretary of State shall ini-
20 tiate a United States plan to endorse and obtain meaning-
21 ful participation for Taiwan at the periodic Assemblies
22 held by the International Civil Aviation Organization
23 (ICAO) in Montreal, Canada, and in the meetings and ac-
24 tivities of the ICAO and shall instruct the United States
25 delegation to Montreal to implement such plan.

1 (b) REPORT.—Not later than 180 days after the date
2 of the enactment of this Act and annually thereafter, the
3 Secretary of State shall submit to Congress a report con-
4 taining the plan required under subsection (a).

5 (c) FORM.—The report required under subsection (b)
6 shall be submitted in unclassified form, but may contain
7 a classified annex if necessary.

8 (d) ANNUAL BRIEFING.—The Secretary of State
9 should provide an annual briefing to or consult with Con-
10 gress on any efforts conducted by the United States Gov-
11 ernment in support of Taiwan’s progress toward meaning-
12 ful participation in the ICAO.

13 **TITLE II—SECURITY RELATIONS**

14 **SEC. 201. STRENGTHENING THE DEFENSE OF TAIWAN.**

15 (a) MAINTENANCE OF SUFFICIENT SELF-DEFENSE
16 CAPABILITIES OF TAIWAN.—Congress finds that any de-
17 termination of the nature and quantity of defense articles
18 or defense services to be made available to Taiwan that
19 is made on any basis other than the defense needs of Tai-
20 wan, whether pursuant to the August 17, 1982,
21 Communiqué signed with the People’s Republic of China,
22 or any similar executive agreement, order, or policy would
23 violate the intent of Congress specified in section 3(b) of
24 the Taiwan Relations Act (22 U.S.C. 3302(b)).

1 (b) FOREIGN MILITARY SALES AND LICENSED DE-
2 FENSE EXPORTS UNDER THE ARMS EXPORT CONTROL
3 ACT.—Congress finds that, in accordance with the Taiwan
4 Relations Act, the core purpose of foreign military sales
5 and licensed commercial exports under the Arms Export
6 Control Act should be to assist Taiwan in its ability to—

- 7 (1) deter coercion;
- 8 (2) defend against a strategy of coercive diplo-
9 maey employing threats or limited force;
- 10 (3) repel an invasion; and
- 11 (4) partner with civil responders and friendly
12 foreign militaries.

13 (c) DEFENSE TRANSFERS.—In order to accomplish
14 the purposes of this section, the President is authorized
15 to make available to Taiwan defense items or defense serv-
16 ices, including the following:

- 17 (1) Air and air defense capabilities, including—
- 18 (A) low-cost, survivable sensors;
- 19 (B) command and control systems;
- 20 (C) modern surface to air missiles;
- 21 (D) upgrades to existing modern combat
22 aircraft as well as new combat aircraft, includ-
23 ing Vertical and Short Take-Off and Landing
24 Aircraft (V/STOL);

1 (E) radar, electronic warfare, and jamming
2 capabilities;

3 (F) passive defense measures (such as re-
4 dundancy, dispersal, camouflage/deception,
5 hardening, and rapid repair capabilities); and

6 (G) access to satellites for remote sensing
7 and communication.

8 (2) maritime capabilities, including—

9 (A) additional sensor capacity for com-
10 prehensive maritime domain awareness;

11 (B) cost-effective submarines for anti-sur-
12 face, anti-submarine warfare, and other mis-
13 sions;

14 (C) mines and mine countermeasure ves-
15 sels; and

16 (D) anti-ship cruise missiles.

17 (3) ground capabilities, including—

18 (A) layers, short-range air defense;

19 (B) critical infrastructure protection to en-
20 sure continuity of government;

21 (C) air mobility;

22 (D) unmanned air vehicles; and

23 (E) accurate, GPS-guided short-range
24 rockets.

1 (4) Capacity for partnership with friendly for-
2 eign militaries, including—

3 (A) command, control, communications,
4 computers, intelligence, surveillance, and recon-
5 naissance situational awareness systems;

6 (B) enhanced doctrine exchange; and

7 (C) enhanced senior-level training.

8 (d) **RULE OF CONSTRUCTION RELATING TO ARMS**
9 **EXPORT CONTROL ACT.**—Nothing in this section shall be
10 construed to supersede or modify section 36 of the Arms
11 Export Control Act (22 U.S.C. 2776).

12 **SEC. 202. ADVANCED COMBAT AIRCRAFT FOR TAIWAN.**

13 Pursuant to the foreign military sales program au-
14 thorized by the Arms Export Control Act, it shall be the
15 policy of the United States to accept a letter of request
16 from Taiwan for price and availability data or for a formal
17 sales offer with respect to the F-16C/D Fighting Falcon
18 multirole fighter aircraft.

19 **SEC. 203. CONSULTATIONS ON TAIWAN ARMS SALES.**

20 (a) **BRIEFINGS.**—Not later than 90 days after the
21 date of the enactment of this Act and at least annually
22 thereafter, the Secretary of State, in consultation with the
23 Secretary of Defense, shall provide detailed briefings to
24 Congress on—

1 (1) any discussions conducted between any ex-
2 ecutive branch agency and the Government of Tai-
3 wan during a covered period; and

4 (2) any potential transfer to the Government of
5 Taiwan of defense articles or defense services.

6 (b) DEFINITIONS.—In this section and section 201:

7 (1) COVERED PERIOD.—The term “covered pe-
8 riod” means, with respect to—

9 (A) the initial briefing required under sub-
10 section (a), the period beginning on the date of
11 the enactment of this Act and ending on the
12 date of such initial briefing; and

13 (B) subsequent briefings required under
14 such subsection, the period beginning on the
15 day after the date of the most recent briefing
16 and ending on the date of any such subsequent
17 briefing.

18 (2) EXECUTIVE BRANCH AGENCY.—The term
19 “executive branch agency” has the meaning given
20 the term “agency” in section 551(1) of title 5,
21 United States Code.

22 (3) DEFENSE ARTICLE.—The term “defense ar-
23 ticle” has the meaning given such term in section 47
24 of the Arms Export Control Act (22 U.S.C. 2794).

1 (B) for each request, the elapse of time be-
2 tween the submission of such request and the
3 completion of the interagency review process by
4 the United States; and

5 (4) detailing those defense articles and defense
6 services listed in the Arms Sale Proposal described
7 in section 25 of the Arms Export Control Act (22
8 U.S.C. 2765), including a description of the ration-
9 ale for including or not including in such Proposal,
10 as the case may be, all sales and licensed exports to
11 Taiwan under such Act of major weapons or weap-
12 ons-related defense equipment for \$7,000,000 or
13 more, and the extent to which a decision to not in-
14 clude in such Proposal such sales to Taiwan is con-
15 sistent with such section.

16 (b) FORM.—The report required under subsection (a)
17 shall be submitted in unclassified form, but may contain
18 a classified annex if necessary.

19 **SEC. 205. REPORT ON IMPLEMENTATION OF TAIWAN RELA-**
20 **TIONS ACT.**

21 (a) IN GENERAL.—Not later than 180 days after the
22 date of the enactment of this Act, the President shall sub-
23 mit to Congress a report on implementation of United
24 States security policy under the Taiwan Relations Act.

1 (b) MATTERS TO BE INCLUDED.—The report re-
2 quired under subsection (a) shall include, at a minimum,
3 the following issues:

4 (1) A review of the operational planning, policy
5 reviews, and other preparations of the United States
6 since 2000 to implement section 2(b)(6) and sub-
7 sections (a), (b), and (c) of section 3 of the Taiwan
8 Relations Act, including the extent to which the
9 United States retains the capacity to resist any re-
10 sort to force or other forms of coercion that would
11 jeopardize the security, or the social or economic
12 system, of the people of Taiwan. Such review shall
13 take into account whether Taiwan’s air and air de-
14 fense forces retain the ability to effectively defend
15 Taiwan against China’s ballistic missile and air
16 threats, and the extent to which the absence of cred-
17 ible Taiwanese air defense forces may complicate the
18 ability of the United States to resist any resort to
19 force that jeopardizes the security of Taiwan.

20 (2) An evaluation of all gaps in relevant knowl-
21 edge about the People’s Republic of China’s capabili-
22 ties and intentions as such might affect the current
23 and future military balance between Taiwan and
24 China, such as anti-access and area denial capabili-
25 ties as well as anti-satellite and space warfare devel-

1 opments, including both classified United States in-
2 telligence information and Chinese open source writ-
3 ing.

4 (c) FORM.—The report required under subsection (a)
5 shall be submitted in unclassified form, but may contain
6 a classified annex if necessary.

7 **TITLE III—ECONOMIC AND** 8 **TRADE RELATIONS**

9 **SEC. 301. VISA WAIVER TREATMENT FOR TAIWANESE TRAV-** 10 **ELERS TO THE UNITED STATES.**

11 (a) STATEMENT OF POLICY.—It shall be the policy
12 of the United States to include Taiwan in the list of coun-
13 tries that participate in the visa waiver program under
14 section 217 of the Immigration and Nationality Act (8
15 U.S.C. 1187) when Taiwan satisfies the requirements for
16 inclusion in such program specified in such section.

17 (b) REPORT.—Not later than 180 days after the date
18 of enactment of this Act, the Secretary of State shall sub-
19 mit to the Committee on Foreign Affairs and the Com-
20 mittee on Homeland Security of the House of Representa-
21 tives and the Committee on Foreign Relations and the
22 Committee on Homeland Security and Governmental Af-
23 fairs of the Senate a report on the extent to which Taiwan
24 satisfies the requirements specified in section 217 of the
25 Immigration and Nationality Act for inclusion in the visa

1 waiver program under such section and what additional
2 steps, if any, are required in order for Taiwan to qualify
3 for inclusion in such program.

4 **SEC. 302. TRADE AND INVESTMENT FRAMEWORK AGREE-**
5 **MENT.**

6 It is the sense of Congress that, at the earliest oppor-
7 tunity, the United States Trade Representative should
8 seek to resume and successfully conclude negotiations of
9 economic issues in the Trade and Investment Framework
10 Agreement (TIFA) talks with Taiwan.

11 **SEC. 303. FREE TRADE AGREEMENT.**

12 (a) IN GENERAL.—It is the sense of Congress that
13 the ultimate goal of trade negotiations with Taiwan should
14 be the negotiation of a free trade agreement with Taiwan.
15 As building blocks toward that goal, the United States
16 should study the feasibility of negotiating with Taiwan a
17 bilateral—

18 (1) investment agreement; and

19 (2) tax agreement.

20 (b) REPORT.—Not later than 180 days after the date
21 of enactment of this Act, the President shall transmit to
22 Congress a report that assesses whether economic and
23 trade agreements between the United States and Taiwan
24 may be submitted to the Senate for advice and consent
25 as a treaty or whether, because of Taiwan's unique status,

- 1 such agreements must be submitted to both the House of
- 2 Representatives and Senate for legislative approval.