HOUSE OF REPRESENTATIVES—*Monday, July 27, 1992*

The House met at 12 noon, and was called to order by the Speaker pro tempore (Mr. MONTGOMERY).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
July 24, 1992.

I hereby designate the Honorable G.V. (SONNY) MONTGOMERY to act as Speaker pro tempore on Monday, July 27, 1992.

THOMAS S. FOLEY,
Speaker of the House of Representatives.

PRAYER

The SPEAKER pro tempore. The prayer will be offered by the Chaplain.

Welcome back, Chaplain Ford.

Chaplain FORD. Thank you, Mr. Speaker.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

As we gather each day to do the work of this assembly and to serve the needs of our Nation and all the people, may we not forget to reflect on the demands of justice, to meditate on the unity that is our desire, and to give thanks for the gifts of life. May our tasks not be so overwhelming that we do not take the opportunity to remember You, O God, our Creator and Redeemer, and each day to seek Your blessing and with faithfulness and integrity, serve the people committed to our care. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The Chair will ask the gentleman from Iowa [Mr. GRANDY] if he would kindly come forward and lead the membership in the Pledge of Allegiance.

Mr. GRANDY led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

THE INDEPENDENT COUNSEL LAW: TIME FOR REFORM

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, the time has come for the House to comprehensively reform the law setting up the Office of Independent Counsel.

The law expires December 15.

But we are told that Democrats do not want to reform it because "things have gotten so political and so angry this year."

Where was all this Democrat sensitivity about politics when they recently demanded that Attorney General Barr make a decision on an independent counsel for "Iraqgate," just before the Republican Convention?

Could there possibly be a tinge, a smattering, a barely discernible trace of hard-ball politics to that Democratic Party demand?

Furthermore, the General Accounting Office has been violating the independent counsel law for years by not carrying out specific oversight functions the law calls for.

Why have not the Democrats, who control the Congress, done anything about this open violation of the law?

We do not have the customary appropriations process to reform the law because independent counsels are funded by a permanent appropriation not subject to congressional review.

Mr. Speaker, let us reauthorize that law now. Let's build in safeguards that will eliminate endless costly witch hunts—now. Let's have regular appropriations—now.

And if Democrats like the law so much, let's make Congress subject to the independent counsel law—now.

If Congress comes under the law, who can then complain about politics any more?

Either reform this law now or stop using it as a partisan political club with which to beat up on Republicans.

WE NEED FUNDAMENTAL ECONOMIC CHANGE

(Mr. THOMAS of Wyoming asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMAS of Wyoming. Mr. Speaker, once again I have returned from Wyoming, talking to people there and the concerns that they have, and the most often mentioned concerns are overspending, the deficit, big government, and overregulation.

Mr. Speaker, I have never seen an issue that is more important, of more interest to more people, and one that gets less attention in this place.

We will have appropriations bills before us this week that have increases of 10 to 11 percent over last year's level of spending. Get real, you cannot change the results of things like the deficit by continuing to do what we have been doing and what has been going on in this place for 30 years, more spending and more deficits.

The Democrat pep rally last week in New York talked about fixing all kinds of things, everyone's problems in the country, but not a word about doing something about the deficit, not a word of balancing the budget.

There are only two ways to balance the budget. One is clearly to increase taxation, increase revenues. The other is to reduce spending or some combination of the two.

The fact is you have to change fundamentally the things we have been doing. My folks want less government, not more; want more interest in the private sector, not less; less regulation, not more; more personal freedom, not less.

We need fundamental change, and it is time to begin right here this week.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on Tuesday, July 28, 1992.

RELATING TO CHARITABLE REMAINDER BENEFICIARIES

Mr. GIBBONS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5636) to amend the Internal Revenue Code of 1986 to ensure that charitable beneficiaries of charitable remainder trusts are aware of their interests in such trusts.

The Clerk read as follows:

H.R. 5636

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

SECTION 1. REQUIRED NOTICES TO CHARITABLE BENEFICIARIES OF CHARITABLE REMAINDER TRUSTS.

(a) GENERAL RULE.—

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

(1) Section 6036 of the Internal Revenue Code of 1986 is amended—

(A) by striking "Every receiver" and inserting "(a) GENERAL RULE.—Every receiver", and

(B) by adding at the end thereof the following new subsection:

"(b) SPECIAL RULE FOR TRANSFERS OF REMAINDER INTERESTS DESCRIBED IN SECTION 2055(e)(2)(A).—In the case of an estate claiming a charitable contribution deduction for the value of a transfer of a remainder interest in property described in section 2055(e)(2)(A), the executor or other fiduciary shall provide written notices to each organization described in section 2055(a) which has such an interest in the time and manner set forth in the following paragraphs:

"(1) QUALIFICATION NOTICE.—Within 60 days of the date of the executor's qualification, the charitable beneficiary shall be notified of such qualification and such notice shall include—

"(A) the name, address, and date of death of the decedent;

"(B) the name, address, and identification number of each fiduciary of the estate;

"(C) the name and address of each charitable beneficiary;

"(D) a copy of the governing instrument relating to the transfer in trust; and

"(E) a description of the interest to which such charitable organization may be entitled, and any preliminary statements (if required by law) on the financial condition of the estate.

"(2) TAX RETURN FILING NOTICE.—On or before the due date for the filing of a Federal estate tax return on which a charitable deduction is claimed, the charitable beneficiary shall be notified of such filing and such notice shall include—

"(A) a copy of the pertinent parts of the Federal estate tax return, and

"(B) such other information as may be required by form or regulation.

If any notice is provided to a charitable beneficiary under paragraph (1), no notice shall be required to be provided to such beneficiary under paragraph (2) unless such beneficiary agrees to reimburse the executor or other fiduciary for the reasonable costs of providing such notice."

(2) Section 6034A of such Code is amended by adding at the end thereof the following new subsection:

"(c) ANNUAL NOTICE TO CHARITABLE REMAINDER BENEFICIARY.—

"(1) IN GENERAL.—The fiduciary of any charitable remainder trust required to file any return under chapter 61 for any taxable year shall, on or before the date on which such return is required to be filed, furnish each charitable beneficiary—

"(A) a copy of such return (including all schedules), and

"(B) such other information (or deletions) for purposes of carrying out the internal revenue laws as the Secretary may require.

If a fiduciary furnishes the information required under the preceding sentence to any charitable beneficiary with respect to any trust taxable year, such fiduciary shall not be required to furnish information under the preceding sentence to such beneficiary with respect to any subsequent trust taxable year unless such beneficiary agrees to reimburse such fiduciary for the reasonable costs of furnishing such information.

"(2) PENALTIES.—

"For provisions relating to the failure to furnish on a timely or complete basis the information required under paragraph (1), see section 6652(c)."

(b) PENALTIES.—

(1) Paragraph (2) of section 6652(c) of such Code is amended to read as follows:

"(2) RETURNS UNDER SECTION 6304 OR 6043(b) AND NOTICES UNDER SECTION 6034A(c) OR 6036(b).—

"(A) PENALTY ON ORGANIZATION, TRUST, OR FIDUCIARY.—In the case of—

"(i) a failure to file a return required under section 6034 (relating to returns by certain trusts) or section 6043(b) (relating to terminations, etc., of exempt organizations),

"(ii) a failure to furnish any notice required under section 6034A(c) (relating to annual notice to charitable remainder beneficiary), or

"(iii) a failure to furnish any notice required under section 6036(b) (relating to a qualification notice or tax return filing notice),

on the date and in the manner prescribed therefore (determined with regard to any extension of time for filing), there shall be paid by the organization, trust, or fiduciary failing to file such return (or furnish such notice) $10 for each day during which such failure continues, but the total amount imposed under this subparagraph on any organization, trust, or fiduciary for failure to file any 1 return (or furnish any 1 notice) shall not exceed $5,000.

"(B) MANAGERS.—The Secretary may make written demand on an organization, trust, or fiduciary failing to file any return (or furnish any notice) under subparagraph (A) specifying therein a reasonable future date by which such filing (or furnishing) shall be made for purposes of this subparagraph. If such filing (or furnishing) is not made on or before such date, there shall be paid by the person responsible for failing to so file (or furnish) $10 for each day after the expiration of the time specified in the written demand during which such failure continues, but the total amount imposed under this subparagraph on all persons for failure to file any 1 return (or furnish any 1 notice) shall not exceed $5,000."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act; except that such amendments shall not apply in the case of a trust created before such date of enactment.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. GIBBONS] will be recognized for 20 minutes, and the gentleman from Iowa [Mr. GRANDY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. GIBBONS].

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

Mr. Speaker, before beginning discussion on the merits of H.R. 5636, I would like to make a general statement on behalf of the Committee on Ways and Means and its chairman.

Mr. Speaker, the Committee on Ways and Means has reported to the House of Representatives 29 miscellaneous tax bills. If all of these bills were to be passed by the House, the staff of the Joint Committee on Taxation estimates that the deficit would be reduced by over $300 million through 1997.

However, some of the bills may by themselves lose revenue. The committee has been very careful to schedule these bills in a way to assure that such bills which lose revenue will not be called up until it is preceded by a bill that raises enough revenue to cover the trailing revenue-losing bills. In other words, we are not going to call up any bills that lose revenue until we have passed through the House those that pick up revenue.

It is my understanding that the chairman and the committee anticipate that many of these bills will be combined before they are sent to the President for his signature, and on behalf of the chairman, I want to assure my colleagues that the committee will do everything in its power to assure that the bills comply with all the budget rules prior to presenting them to the President for signature.

□ 1210

Having said that, Mr. Speaker, I want to emphasize that these are 29 bills, some of them are totally noncontroversial. Some of them are of very little interest to anybody except the persons involved in them.

Some of them I think are very good bills that need to be enacted.

There will be some debate and some discussion and some dissension on the others. I am sure that some of the revenue raisers will cause some extended discussion; but we do not intend to call up bills in this series of 29 until all the revenue raising has been done and those that lose revenue will trail those that raise revenue.

Now, Mr. Speaker, I wish to discuss my bill, H.R. 5636. I have presented this on behalf of some charitable remaindermen. Now, what is a charitable remainderman? A charitable remainderman is the person who receives the corpus of an estate after the part of the estate has been distributed to intermediary beneficiaries.

Usually a charitable remainder trust will go something like this:

I leave to my worthless children who I have adequately bestowed plenty of worldly gifts on, the remainder, the interest on my well-earned, hard-earned, honestly earned product of my very productive life, and I leave the remainder at their death to this wonderful charity that is going to help poor children and unfortunate people.

Well, that is a good trust and we need to encourage those kinds of transactions; but in the real world it has been discovered that sometimes the remainderman never knows that he is the beneficiary of a trust. The word just never gets to him. There are thousands of probate areas around the United States.

So this bill simply requires the trustee of these remaindermen trusts when they file for tax exemption or for tax deductions under the estate tax law to send copies of those returns to the beneficiaries, the ultimate beneficiary, the remainderman, so that, first, the remainderman knows that he is a remainderman and that second, if anything comes up during the administra-

tion of the trust, the remainderman will have knowledge of it, knowledge in time to protect his interest if his interest is challenged by any of the decisions of the trustee or any of the administration of the trust.

When this bill was being considered by the committee, we got some protests from some of the trustees. They said, oh, it will be horribly expensive and terrible to administer.

Well, it is not horribly expensive nor terrible to administer. The expense is just copying those tax returns that you send to the government anyway. You are not preparing anything special. You put them in an envelope addressed to the remainderman, put a stamp on it and mail it to him. That is all that we require to be done here.

If the trustee is so penniless and so badly pressed for that, he can charge the remainderman the reasonable cost for mailing him those documents.

Now, I do not mean by reasonable costs any fancy attorney fees or fancy administration fees. I am just talking about the cost of putting a stamp on the envelope and making a copy of the tax return that was filed.

I do not think that most trustees will bother themselves with that insignificant cost.

The remainderman and the charitable trust that receives the remainder will be far better protected than they are now under the current law.

Now, Mr. Speaker, when we get this bill over to the Senate, there may be some other amendment needed to the bill. One is the effective date. I think we ought to look back and pick up all those trusts that are out there where there are remaindermen involved, and second there may be some suggestions on the part of some in the Senate or perhaps on the House side that it would be a good idea if the testator wanted to relieve his trustee of this terribly onerous heavy duty of simply mailing a copy of the tax return to the remainderman, that perhaps he be allowed to do that.

I do not know of any substantial opposition to this bill. This is a good bill. It makes common sense. It just means that the remainderman has an opportunity to be notified that he is a remainderman, to be notified as to the tax claims that the trustee may make.

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

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

Mr. GRANDY. Mr. Speaker, the bill offered by the gentleman from Florida is well-intentioned in its desire to provide notice to charitable remainder beneficiaries of their future interests. The means chosen to accomplish this purpose, however, does raise some concern.

The bill would require executors and trustees to provide ongoing information to charitable beneficiaries in situations where the donor may have decided against such notification. By overriding the interests of charitable donors, the bill may have the unintended effect of discouraging charitable gifts. Some donors may wish to remain anonymous and would hesitate to make a gift if they would be identified. Other donors may fear the potential for interference from remainder charities, especially in situations where the initial beneficiary is a spouse or other family member.

It might be preferable for estate planners and bank trust departments to encourage donors to notify charities of their future interests in all situations where the donor wishes to do so.

At this point, Mr. Speaker, I would say the Republicans on the committee do not intend to oppose this legislation, but we would like to discuss with the gentleman from Florida if he would consider in conference allowing charitable donors to decide if they would be willing to agree to some sort of accommodation to provide the donor to remain anonymous if he or she chooses to do so.

Mr. GIBBONS. Mr. Speaker, will the gentleman yield?

Mr. GRANDY. I am pleased to yield to the gentleman from Florida.

Mr. GIBBONS. Mr. Speaker, I appreciate the gentleman yielding to me, and I will be glad to respond to that question.

I really do not have any objection to including in conference or something a well-thought-out requirement that will allow the donor to exclude the remainderman from any knowledge that he is a remainderman, or the identity of the testator, or the grantor of the trust.

Frankly, I have set up a few of these remaindermen trusts. I never saw a testator who did not want the remainderman to know everything that is going on; but I guess I assume there could be some cases in which the remainderman would wish that his trust would remain anonymous.

I will be glad to consider that.

Mr. GRANDY. Mr. Speaker, I appreciate the chairman's deference on this.

I would just say that we have received some concerns from estate planners and others who are afraid that perhaps without the assurance of some kind of anonymity, or at least the permission to the donor to designate whether or not they wanted notification. Unless we provide some kind of leeway, the testator may discourage the creation of charitable remainder trusts, which I am sure is something we do not want to encourage.

Also, the other concern was that perhaps without some kind of leeway to the testator there might possibly be potential harassment of the life beneficiary. This is probably unlikely, but I appreciate the gentleman's deference on this and the willingness to work in conference on this particular piece of legislation.

Mr. GIBBONS. Mr. Speaker, I thank the gentleman.

Mr. GRADISON. Mr. Speaker, as you and the other Members of the House know, I have consistently opposed bills which have violated the Budget Act or increased the deficit. Furthermore, I generally oppose bringing up spending and tax bills under suspension of the rules. The rules of the Democratic caucus include the guideline that bills involving more than $100 million should not be considered under suspension of the rules. This guideline should be followed.

A number of these bills might also violate the Budget Act were they not considered under suspension of the rules. The miscellaneous tax bills reported out of the Ways and Means Committee July 23, however, fall into a different category. Individually, each bill may gain or lose revenue, but, as a package, they reduce the deficit by $227 million over the next 5 years.

According to the Joint Committee on Taxation, the miscellaneous tax bills have the following aggregate revenue effect (in millions of dollars as of July 24):

1992	−84
1993	−109
1994	+150
1995	+96
1996	+78
1997	+103
Total	+227

While the package loses money in 1992 and 1993, as of July 24 there was sufficient money in the paygo account, $329 million, to avoid a sequester. Pending legislation, however, could quickly erode this balance.

I have been assured that, under the procedure developed by Chairman ROSTENKOWSKI, no bill will be called up unless the preceding bills generated a revenue surplus sufficient to cover the revenue loss associated with the bill under consideration. If a recorded vote is requested on one of the bills containing a revenue surplus, then the trailing revenue losing bills would be pulled, and not be considered by the House until there was sufficient revenue to cover their cost.

Furthermore, I understand that it is the chairman's intention to package these bills before they go to the President for his signature, and that they will fully comply with the Budget Act. I commend the chairman for his consistent desire to reduce the deficit, and for developing a procedure to protect the Treasury. I trust that the same concern for not increasing the deficit will be evident in any other tax bills the Ways and Means Committee brings to the floor throughout the remainder of the year.

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

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

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Florida [Mr. GIBBONS] that the House suspend the rules and pass the bill, H.R. 5636.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

HOME SALE TAX FAIRNESS ACT OF 1992

Mr. GIBBONS. Mr. Speaker, pursuant to the direction of the Committee on Ways and Means, I move to suspend the rules and pass the bill (H.R. 5638) to amend the Internal Revenue Code of 1986 to permit losses on sales of certain prior principal residences to offset gain on a subsequent sale of a principal residence.

The Clerk read as follows:

H.R. 5638

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Home Sale Tax Fairness Act of 1992".

SEC. 2. LOSSES ALLOWED AGAINST GAIN RECOGNIZED ON SALE OF PRINCIPAL RESIDENCE.

Section 1001 of the Internal Revenue Code of 1986 (relating to determination of amount of and recognition of gain or loss) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) LOSSES ALLOWED AGAINST GAIN RECOGNIZED ON SALE OF PRINCIPAL RESIDENCE.—In the case of an individual, the amount of gain which would (but for this subsection) be recognized on the sale or exchange after December 31, 1993, of a principal residence of such individual shall be reduced (but not below zero) by the aggregate of the losses (if any) sustained by such individual on the sale or exchange after the date of the enactment of this subsection of prior principal residences of such individual which were not allowed as a deduction and which were not previously taken into account under this subsection. For purposes of the preceding sentence, the term 'principal residence' has the same meaning as when used in section 1034."

SEC. 3. REPORTING REQUIREMENTS WITH RESPECT TO CERTAIN APPORTIONED REAL ESTATE TAXES.

(a) GENERAL RULE.—Paragraph (4) of section 6045(e) of the Internal Revenue Code of 1986 is amended to read as follows:

"(4) ADDITIONAL INFORMATION REQUIRED.—In the case of a real estate transaction involving a residence, the real estate reporting person shall include the following information on the return under subsection (a) and on the statement under subsection (b):

"(A) The portion of any real property tax which is treated as a tax imposed on the purchaser by reason of section 164(d)(1)(B).

"(B) Whether or not the financing (if any) of the seller was federally-subsidized indebtedness (as defined in section 143(m)(3))."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to transactions after December 31, 1992.

□ 1220

The SPEAKER pro tempore (Mr. MONTGOMERY). Pursuant to the rule, the gentleman from Florida [Mr. GIBBONS] will be recognized for 20 minutes, and the gentleman from Iowa [Mr. GRANDY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Speaker, the gentleman from Texas [Mr. ARCHER] is the principal sponsor of this legislation. I will defer to the other side and reserve my time.

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

Mr. Speaker, I am the designee of the gentleman from Texas [Mr. ARCHER] on this legislation.

Mr. Speaker, I rise in support of H.R. 5638 which was introduced by the distinguished gentleman from Texas [Mr. ARCHER]. The bill would provide fairness in the tax treatment of home sales.

Under current law, if a taxpayer sells his or her principal residence at a loss, that loss may not ever be used to offset the taxpayer's income. On the other hand, if the taxpayer sells the same residence at a gain, that gain may be subject to tax. The bill would eliminate this unfair difference in treatment.

The bill would allow gain recognized on the sale of a principal residence to be reduced by the aggregate losses which were not allowed on prior sales of principal residences.

The bill is paid for without any tax increase. Instead, it provides sufficient revenue by improving on current information reporting with respect to home sales. The bill would require real estate settlement agents to include in the form 1099–S that they already file information concerning the real estate taxes paid by the buyer at settlement.

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

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. GIBBONS] that the House suspend the rules and pass the bill, H.R. 5638.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

RELATING TO VETERANS' FLIGHT TRAINING EXPENSES

Mr. GIBBONS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1168) to provide that for taxable years beginning before 1980 the Federal income tax deductibility of flight training expenses shall be determined without regard to whether such expenses were reimbursed through certain veterans educational assistance allowances.

The Clerk read as follows:

H.R. 1168

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

SECTION 1. TREATMENT OF CERTAIN REIMBURSED FLIGHT TRAINING EXPENSES.

(a) IN GENERAL.—In the case of a taxable year beginning before January 1, 1980, the determination of whether a deduction is allowable under section 162(a) of the Internal Revenue Code of 1954 for flight training expenses shall be made without regard to whether the taxpayer was reimbursed for any portion of such expenses under section 1677(b) of title 38, United States Code (as in effect before its repeal by Public Law 97–35).

(b) STATUTE OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the application of subsection (a) is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), refund or credit of such overpayment (to the extent attributable to the application of subsection (a)) may, nevertheless, be made or allowed if claim therefor is filed before the close of such 1-year period.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. GIBBONS] will be recognized for 20 minutes, and the gentleman from Iowa [Mr. GRANDY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Speaker, this bill is sponsored by the gentleman from Tennessee [Mr. SUNDQUIST].

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

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

Mr. Speaker, I rise in strong support of H.R. 1168. H.R. 1168 would provide consistent tax treatment to all veterans who deducted certain flight training expenses. Currently, some veterans have been permitted to deduct the expenses, and others have been prohibited from deducting them. This bill would allow the deduction of the expenses, with a special 1-year window in which veterans could file for refunds. It would cost less than $500,000 over 6 years.

IRS inconsistency is responsible for this problem. First, in an IRS publication, the IRS told veterans that they could deduct the expenses. Then, it changed its mind and began auditing veterans who deducted the expenses. Finally, after losing in court, it told veterans that they could deduct the expenses. Unfortunately, the statute of limitations had closed for many veterans by the time that the IRS reached its final decision. H.R. 1168 would correct that injustice. All taxpayers would be treated equally under the tax law.

Mr. CLEMENT. Mr. Speaker, as a cosponsor of H.R. 1168, I am pleased to join my colleagues in urging passage of this bill, which would provide much-needed relief to approximately 200 veteran pilots throughout the country.

The importance of this bill was brought to my attention by several constituents who are currently unable to obtain refunds from the Internal Revenue Service for taxes they paid which the Service later ruled were unnecessary. These constituents, and hundreds of

other pilots, had followed written IRS instructions in reporting expenses incurred with flight training.

As my colleagues know, the IRS issued Revenue Ruling 80–173 in which it retroactively repealed a provision which had been in force since 1962. The service issued this rule against veteran pilots who had previously been allowed to receive educational benefits from the Department of Veterans Affairs and to claim a deduction for tuition expenses. The result of the IRS reversing its own ruling retroactively was that veteran pilots were charged back taxes, interest and penalties.

Nothwithstanding its ruling, in 1986 the Service decided to concede the remaining open cases and issue a refund where a timely claim for a refund remained outstanding. Thus, some veteran pilots have been successful in receiving refunds of the tax, while others have not been as fortunate. This is why this measure is needed.

H.R. 1168, introduced by my Tennessee colleague DON SUNDQUIST, would provide a 1-year grace period for these pilots to file for a refund of the taxes they have paid. I firmly believe this is the most equitable way for the pilots and the Federal Government to resolve this matter.

I urge support for H.R. 1168.

NASHVILLE, TN,
March 31, 1991.

Hon. BOB CLEMENT,
Cannon House Office Building, Washington, DC.

DEAR CONGRESSMAN CLEMENT: Since approximately 1982, I have been trying to correct, along with a group of fellow veterans of the Vietnam War, an injustice done to us by the Internal Revenue Service. This battle has been waged in the courts and in Congress over the past decade. (We call ourselves the ATR Defense Group).

The problem arose during the 1970's when I and many other pilot veterans undertook VA-approved aviation education programs to improve our skills and enhance careers as commercial pilots, using the G.I. Bill. Using the IRS's own Tax Instructions, we claimed tax exemptions which had been allowed for eighteen years by the IRS to hundreds of other veterans. In a 1980 ruling, the IRS reversed their own ruling RETROACTIVELY, and charged us back taxes and interest. After numerous costly court challenges with mixed results, the IRS admitted their mistake and ruled that any taxes not paid at that time were no longer due. However, those of us who had already paid were again discriminated against by not receiving a return of taxes and interest. Additionally, those pilot veterans whose cases were resolved in certain Judicial Districts early on were able to file and get refunds, whereas those of us who received judicial relief later, were told by the IRS that it was simply too late to file. In other words, the IRS is simply going to keep the money.

Two of our group have received help from their Congressional delegation. I attach correspondence copy from the IRS to Senator Paul Sarbanes, from Senator Sarbanes to taxpayer J.E. Bisby, and a copy of the check from the IRS to Mr. Bisby. Also, copies of certain correspondence relating to the successful efforts of Congressman D. French Slaughter of Virginia to help Mr. William Smithdeal get his refund. It can be done.

This has been a long and frustrating fight. I am outraged that the IRS can blithely (A) change its own rules and policies retroactively and (B) arbitrarily and unfairly allow reimbursement to some taxpayers while denying identical claims of others. This is a Federal system and all taxpayers should be given fair and equal consideration regardless of their geographical location in the United States.

In addition to your kind consideration of my case, for which I would be most appreciative, I ask that you please consider becoming a co-sponsor of H.B. 1168, introduced by Congressman Sundquist, referred to the Committee on Ways and Means. This proposal (which was also before the 101st Congress) would grant these Vietnam War pilot veterans a one year grace period to file for refunds of taxes that their government mistakenly compelled them to pay. Passage of this measure would, of course, resolve our problem.

I have reached my wits' end in this matter and have turned to you in hopes that you would be able to help me recover my funds from the IRS. Thanking you in advance for your kind consideration and effort, I remain

Sincerely yours,

_____.

DEPARTMENT OF THE TREASURY,
INTERNAL REVENUE SERVICE,
Washington, DC, September 9, 1991.

Hon. BOB CLEMENT,
Cannon House Office Building, Washington, DC.

DEAR MR. CLEMENT: The Chief Counsel, Abraham N. M. Shashy, Jr., has requested that I reply to your letter forwarding the inquiry of . . . to the Internal Revenue Service.

In his letter of March 31, 1991, Mr. _____ states that he is a veteran of the armed forced and that he took a flight training course under the auspices of the G.I. Bill. Presumably Mr. _____ was reimbursed for the cost of the course by the Veterans Administration, in accord with that agency's procedures. He states he deducted the cost of the courses and that his deduction was disallowed pursuant to Rev. Rul. 80–173, 1980–2 C.B. 60. He indicates that he paid the tax so determined and that he has not received a refund.

Rev. Rul. 80–173, 1980–2 C.B. 60, held that deductions for the cost of flight training courses, when the trainee had been reimbursed for the course by the Veterans Administration, were not allowable. The revenue ruling was applied retroactively to all open tax periods. The retroactivity of this revenue ruling was the subject of much litigation. The position of the Service was affirmed by three circuit courts of appeal, as well as the Tax Court. See *Manocchio* v. *Commissioner*, 710 F.2d 1400 (9th Cir. 1983), *aff'g* 78 T.C. 989 (1982); *Rivers* v. *Commissioner*, T.C. Memo. 1983–567, *aff'd* 727 F.2d 1103 (4th Cir. 1984); *Olszewski* v. *Commissioner*, T.C. Memo. 1983–68 *aff'd* 55 AFTR2d 85–536 (1st Cir. 1983). The Eleventh Circuit, in *Baker* v. *United States*, 748 F.2d 1465 (11th Cir. 1984), ruled in favor of the taxpayer of this issue.

In 1986, the Service decided to dispose of the remaining cases of this issue without further litigation as the issue was not recurring or of sufficient importance to warrant Supreme Court review and the amounts at issue were relatively small. Accordingly, although the Service's position, that Rev. Rul. 80–173 should be applied retroactively, did not change, the Service decided it would concede the remaining open cases. Where a timely claim for refund remained outstanding, the Service issued a refund. This decision, however, does not automatically entitle a taxpayer to a refund at this time. In order to be entitled to a refund, the tax must have been paid and a claim filed within the time limits prescribed in section 6511(a) of the Internal Revenue Code. That section provides generally that a claim for refund of an overpayment of income taxes must be filed within 3 years from the time the tax return was filed or 2 years from the time the tax was paid, whichever of such periods expires later. These requirements are longstanding legal prerequisites which must be satisfied before a refund can be issued. The Service has no discretion to waive the requirements of the law if they have not been complied with.

Mr. _____ states that persons he knows of have received refunds. The disclosure provisions of I.R.C. §6103 prohibit us from releasing information regarding third party taxpayers. If, however, the Service made an error and issued a refund improperly, the mistake would not entitle Mr. _____ to obtain a refund in contravention of legal requirements.

Sincerely yours,

DANIEL J. WILES,
Deputy Assistant Chief Counsel (Tax Litigation).

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

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. GIBBONS] that the House suspend the rules and pass the bill, H.R. 1168.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

CLARIFYING TREATMENT OF THE REHABILITATION CREDIT.

Mr. GIBBONS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5637) to amend the Internal Revenue Code of 1986 to clarify the treatment of certain buildings under the rehabilitation credit, and for other purposes.

The Clerk read as follows:

H.R. 5637

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

SECTION 1. CLARIFICATION OF TREATMENT OF CERTAIN BUILDINGS UNDER REHABILITATION CREDIT

A building shall not be treated as being ineligible for the rehabilitation credit by reason of being relocated if the rehabilitation of such building at the relocated site began before the date of the publication of proposed Treasury Regulation 1.48–12(b)(5).

SEC. 2. INCREASE IN SIZE OF LOANS PERMITTED UNDER CERTAIN BOND-FINANCED PROGRAMS.

(a) IN GENERAL.—Paragraph (2) of section 1316(a) of the Tax Reform Act of 1986 is amended by adding at the end thereof the following new sentence:

"A loan shall not be treated as failing to meet the requirements of subparagraph (B)

by reason of exceeding the maximum amount permitted under such subparagraph if the maximum amount of such loan does not exceed $40,000."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to bonds issued after the date of the enactment of this Act.

SEC. 3. ADDITIONAL SUBSTANTIATION REQUIREMENTS FOR CERTAIN MEALS AND ENTERTAINMENT EXPENSES.

(a) GENERAL RULE.—Subsection (d) of section 274 of the Internal Revenue Code of 1986 (relating to substantiation requirements) is amended by adding at the end thereof the following new sentence: "In the case of an expense for any meal referred to in paragraph (1) or an item referred to in paragraph (2), the taxpayer shall not be treated as meeting the substantiation requirements of this subsection with respect to the amount of such expense or item unless such amount is shown on a receipt which is prepared by the provider of the meal, entertainment, amusement, or recreation (as the case may be) and which is provided at the time of (or within a reasonable period of time after) the furnishing of the meal, entertainment, amusement, or recreation (as the case may be)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to expenses paid or incurred after December 31, 1992.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. GIBBONS] will be recognized for 20 minutes, and the gentleman from Iowa [Mr. GRANDY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Speaker, this is a bill introduced by the gentleman from Texas [Mr. PICKLE], and I yield such time as he may consume to the gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I recommend passage of legislation I have proposed which will make three technical, but important, changes of our Tax Code.

First, H.R. 5637 makes an important clarification to the rehabilitation tax credit, which was enacted in 1981 to encourage the preservation of older and historically important buildings. Our Government provided a credit from between 15 and 25 percent, depending on the age or historical significance of the building. Neither the statute, nor any legislative history, specifically prohibited the movement of the structure in order to qualify for the credit. When the Treasury Department 4 years later issued regulations implementing the tax credit, it retroactively prohibited buildings between 30 and 40 years old from being moved and qualifying for the tax credit. Unfortunately, a few taxpayers, relying on the statute, had already moved and initiated substantial rehabilitation.

H.R. 5637 provides that the Treasury regulations be prospective. That is, the prohibition on allowing the tax credit for 30- and 40-year-old buildings, which have been moved, will apply only after the publication of the 1985 Treasury regulation. Thus, those taxpayers who relied on the 1981 statute, moved 30- to 40-year-old buildings, and who began rehabilitation, will not be treated unfairly, as the Treasury regulations threatened to do. This provision costs $2 million over 5 years. The cost is negligible, hardly measurable.

The second provision has to do with the Texas Veterans' Land Program. Since 1946, my State has had a program under which low cost loans have been made available to veterans to assist in the purchase of land, and, current Federal law allows tax-exempt bonds to finance these loans. The State of Texas sees this program as a good way to reward those who have served their country in the armed services; and recently our legislature increased the amount that can be loaned to individual veterans from $20,000 to $40,000. H.R. 5637 simply conforms the maximum loan amounts to the State-law maximum of $40,000. I would emphasize, however, that the bonds remain under the State volume cap just as they are under current law. The provision costs $7 million over 5 years.

H.R. 5637 pays for both provisions by clarifying current law substantiation requirements of business meals and entertainment. Currently, regulations require that if a taxpayer wishes to deduct a meal or entertainment expense for business purposes, he or she must provide documentary evidence to prove that the expenditure actually took place. For most taxpayers, this means maintaining a receipt of the expense.

Unfortunately, some taxpayers create receipts or obtain blank receipts which they subsequently fill out. Sometimes expense amounts are exaggerated, sometimes meals which never occurred are deducted. When this happens, the Federal Government loses millions of dollars in revenue.

H.R. 5637 improves compliance by requiring that receipts used to justify a business meal or entertainment expense be provided by the provider of the meal or entertainment. Credit card or charge card receipts would meet this requirement. The result is simple. If a taxpayer wants to take a deduction then there must be a legitimate receipt from the provider. I would stress that this is what the overwhelming majority of taxpayers already do.

This provision raises $31 million over 5 years and, I want to emphasize, is supported by the National Restaurant Association.

Mr. Speaker, the bill I present today makes minor changes in tax law, with modest revenue implications, and is paid for. But the bill makes important changes in tax law that will improve the fairness of our Tax Code and the ability for the State of Texas to help its veterans. I urge adoption of the bill.

□ 1230

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

Mr. Speaker, I have heard no objection from Republicans to H.R. 5637. The revenue losing portions of the bill are quite narrow. The bill would modify a Treasury regulation denying the rehabilitation credit to buildings that have been moved.

The regulation had a retroactive effective date, and the bill would make the regulation prospective from the date of its promulgation. The bill also, consistent with State law, raises to $40,000 from $20,000 the amount that may be loaned to an individual under the Texas veteran loan bond program.

The cost of these two provisions would be offset by requiring greater substantiation of business meals and entertainment expenses.

I have concerns about any provision that increases paperwork and recordkeeping. I understand, however, that this provision would not change the current $25 safehabor established under Treasury regulations and would not affect the deductibility of business meals and entertainment expenses generally. I also understand that the gentleman from Texas has worked closely with the restaurant industry in formulating this proposal. With that understanding, I do not object to the provision.

Mr. Speaker, I yield back the balance of my time.

Mr. GIBBONS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Florida [Mr. GIBBONS] that the House suspend the rules and pass the bill, H.R. 5637.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill was passed.

A motion to reconsider was laid on the table.

RELATING TO THE INVOLUNTARY CONVERSION RULES FOR DISASTER-RELATED CONVERSIONS

Mr. GIBBONS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5640) to amend the Internal Revenue Code of 1986 to modify the involuntary conversion rules for certain disaster-related conversions.

The Clerk read as follows:

H.R. 5640

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

SECTION 1. MODIFICATION OF INVOLUNTARY CONVERSION RULES FOR CERTAIN DISASTER-RELATED CONVERSIONS.

(a) IN GENERAL.—Section 1033 of the Internal Revenue Code of 1986 (relating to involuntary conversions) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) SPECIAL RULES FOR PRINCIPAL RESIDENCES DAMAGED BY PRESIDENTIALLY DECLARED DISASTERS.—

"(1) IN GENERAL.—If the taxpayer's principal residence or any of its contents is compulsorily or involuntarily converted as a result of a Presidentially declared disaster—

"(A) TREATMENT OF INSURANCE PROCEEDS.—

"(i) EXCLUSION FOR UNSCHEDULED PERSONAL PROPERTY.—No gain shall be recognized by reason of the receipt of any insurance proceeds for personal property which was part of such contents and which was not scheduled property for purposes of such insurance.

"(ii) OTHER PROCEEDS TREATED AS COMMON FUND.—In the case of any insurance proceeds (not described in clause (i)) for such residence or contents—

"(I) such proceeds shall be treated as received for the conversion of a single item of property, and

"(II) any property which is similar or related in service or use to the residence so converted (or contents thereof) shall be treated for purposes of subsection (a)(2) as property similar or related in service or use to such single item of property.

"(B) EXTENSION OF REPLACEMENT PERIOD.—Subsection (a)(2)(B) shall be applied with respect to any property so converted by substituting '4 years' for '2 years'.

"(2) PRESIDENTIALLY DECLARED DISASTER.—For purposes of this subsection, the term 'Presidentially declared disaster' means any disaster which, with respect to the area in which the residence is located, resulted in a subsequent determination by the President that such area warrants assistance by the Federal Government under the Disaster Relief and Emergency Assistance Act.

"(3) PRINCIPAL RESIDENCE.—For purposes of this subsection, the term "principal residence' has the same meaning as when used in section 1034, except that no ownership requirement shall be imposed."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to property compulsorily or involuntarily converted as a result of disasters for which the determination referred to in section 1033(h)(2) of the Internal Revenue Code of 1986 (as added by this section) is made on or after September 1, 1991, and to taxable years ending on or after such date.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. GIBBONS] will be recognized for 20 minutes, and the gentleman from Iowa [Mr. GRANDY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia [Mr. JENKINS].

Mr. JENKINS. Mr. Speaker, today I rise in support of H.R. 5640, a bill to modify the Internal Revenue Code to the benefit of victims who suffer property loss during presidentially declared national disasters. While this bill is prompted by the Oakland firestorm which killed 25 persons and destroyed more than 3,000 homes, and hundreds of apartments in the disastrous wildfire that swept through the cities of Oakland and Berkeley, the provisions of this bill would be applicable to any disaster after September 1, 1991.

The East Bay blaze was the most destructive urban wildfire in U.S. history and it was particularly difficult because it came before many Californians had received their disaster assistance for the earthquake damage the year before. Yet disasters are not unique to California. South Carolina, the Virgin Islands, and Puerto Rico are still rebuilding from the damage caused by Hurricane Hugo in 1989. What with hurricanes, earthquakes, tornadoes, and floods like the recent one in Chicago, no State is immune from such disasters.

The provisions in H.R. 5640 come from the suggestions of CPA's who have volunteered their services to assist the firestorm victims comply with the tax laws.

H.R. 5640 would make the following changes in the Tax Code:

First, extend the time to rebuild or buy a new home from 2 to 4 years.

Second, exclude gain on any unscheduled personal property. Insurance proceeds rarely if ever reimburse a taxpayer fully for their loss and this provision would minimize the record keeping involved in listing losses of all personal property and replacement cost of normal household personal property.

Third, treat insurance proceeds covering personal property and insurance proceeds covering real property as one common fund which a taxpayer would use to replace their real and personal property. Current law requires real property proceeds to be used only for real property replacement and personal property proceeds to be used only for personal property replacement. The change would provide that there is no gain to the taxpayer as long as all the insurance proceeds are reinvested in replacing their home and furnishings and allows the taxpayer to allocate the insurance proceeds between real and personal property as their needs dictate.

All provisions would apply to losses from federally declared disasters on or after September 1, 1991.

I urge your support of H.R. 5640.

Mr. GIBBONS. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. DELLUMS].

Mr. DELLUMS. Mr. Speaker, I thank the gentleman from Florida [Mr. GIBBONS] for yielding this time to me, and I also thank my distinguished colleague, the gentleman from Florida [Mr. JENKINS] for his very kind and generous remarks and support of the bill, H.R. 5640.

With those remarks, Mr. Speaker and Members of the body, let me first thank the chairman of the full committee, the gentleman from Illinois [Mr. ROSTENKOWSKI], thank my distinguished colleague, the gentleman from Florida [Mr. GIBBONS], the distinguished gentleman from Iowa [Mr. GRANDY] and the members and staff of the staff of the Committee on Ways and Means who assisted us in drafting this legislation. I would specifically like to thank my distinguished colleague, the gentleman from California [Mr. STARK], and his staff for their diligence, their understanding, their caring and compassion in this situation.

Mr. Speaker, H.R. 5640 provides relief in certain tax related aspects in any disaster when the President subsequently determines that the affected area warrants assistance by the Federal Government under the Disaster Relief and Emergency Assistance Act.

The bill that we are considering today provides important relief to victims of the Oakland-Berkeley firestorm that destroyed thousands of homes in those two towns. As if the destruction that each person endured—destruction that consumed all of their worldly possessions—were not enough, people discovered that the tax rules failed to give them enough time to plan their recovery and completely governed the manner in which they could rebuild their shattered lives.

As a result, we have introduced legislation to solve the tax related aspects of this national tragedy. The bill before you today includes three of the elements of that original proposal. While this is not the comprehensive list the legislation does provide real solutions that will meet and solve a widespread and substantial problem, a problem common to disaster victims throughout the Nation.

Specifically, the bill does three things to assist victims in Presidentially declared disasters.

First, it would extend from 2 years to 4 years the period in which individuals have a chance to reinvest insurance proceeds before capital gains calculations will take effect. Several reasons exist for this modification, including the fact that widespread destruction makes the very act of rebuilding proceed far more slowly because of infrastructure devastation, stretched resources and overwhelmed municipal and local government administrative structures. In addition, disaster victims need an extended opportunity to assess their situation and to make their personal choices about how and where to rebuild their shattered lives, a process that is made more complicated by the scale and omnipresence of the disaster that befell them.

Second, the bill would exclude from capital gains consideration any insurance proceeds paid as compensation for losses of unscheduled personal property. Again, numerous reasons exist for enacting such a provision. For those who have lost everything, reconstructing records to show the IRS what they had in order to show how they replaced it, is an almost impossible physical job. This is compounded by the mental and emotional anguish that such a process evokes in people who must remember all that they have lost. Finally and significantly, we should recognize that insurance proceeds never compensate individuals fully for their loss. How can we insist that capital gains is possible for unscheduled items of ordinary use

when we know in our hearts that these victims will never receive proceeds sufficient to replace their losses.

Third, the bill would provide that insurance proceeds for real property and valuable personal property may be combined and spent for the purposes of reestablishing one's home or furnishings or reinvesting in similar items, such as art. This would allow those in changed circumstance or with inadequate insurance coverage either for real property or personal property to chart the appropriate course for their own recovery. For example, an individual who may have lost a valuable art piece that is literally irreplaceable but who has a newly arisen responsibility to care for an aging parent could use proceeds from the lost art to finance reconstruction to care for an aging parent. They could, for example, use proceeds from the lost art to finance reconstruction of their house in a fashion that would create a new living space for the dependent parent. Alternatively, those with grown families who do not need as large a House, may be able to use some of the proceeds from their real estate coverage to buy furniture and other necessary personal items.

My constituents in Oakland and Berkeley, like disaster victims throughout the Nation have experienced horrendous suffering. Let us enact this legislation and relieve them and future victims of the cruel administrative burden that would place a straitjacket on them as they seek to emerge from the disaster. Let them choose the course of their recovery, while preserving the integrity of our Tax Code.

□ 1240

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

Mr. Speaker, I rise in support of H.R. 5640. The bill would provide relief to taxpayers who suffer from disaster losses. Currently, some technical rules involving the taxation of involuntary conversions can create hardships and administrative difficulties for affected taxpayers. This bill would relieve taxpayers from some of these more technical and onerous provisions.

I might say also parenthetically, Mr. Speaker, that last week the House saw fit to pass a similar disaster-related provision as it relates to livestock producers and farmers in this country. I think it is certainly in keeping with the spirit of this House also to pass a provision that affects home owners in federally designated disaster areas.

Mr. Speaker, I have no requests for time. I urge adoption of these provisions, and I yield back the balance of my time.

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

Mr. Speaker, I rise only to pay tribute to the gentleman from California [Mr. DELLUMS] for having originated the thought that is in this bill. He first presented to me and other Members of the committee a fine written letter outlining the problems that his district faced and the people of his district faced. He pushed vigorously ahead to get the appropriate attention of the committee to the problem, and he has worked closely with the committee to try to get this law enacted.

I regret that because of monetary restraints we could not do all the things he asked for in his original proposal, but this is a good proposal and it makes good common sense. I know the gentleman can be very proud of what he started here.

Mr. DELLUMS. Mr. Speaker, will the gentleman yield to me?

Mr. GIBBONS. I am happy to yield to the gentleman from California.

Mr. DELLUMS. Mr. Speaker, I thank my colleague for his very generous remarks, and I appreciate having the opportunity to work with the gentleman.

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

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Florida [Mr. GIBBONS] that the House suspend the rules and pass the bill, H.R. 5640.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

EXCLUDING CERTAIN SPONSORSHIP PAYMENTS FROM UNRELATED BUSINESS INCOME OF TAX-EXEMPT ORGANIZATIONS

Mr. GIBBONS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5645) to amend the Internal Revenue Code of 1986 to exclude certain sponsorship payments from the unrelated business income of tax-exempt organizations, and for other purposes.

The Clerk read as follows:

H.R. 5645

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

SECTION 1. EXCLUSION FROM UNRELATED BUSINESS TAXABLE INCOME FOR CERTAIN SPONSORSHIP PAYMENTS.

(a) IN GENERAL.—Section 513 of the Internal Revenue Code of 1986 (relating to unrelated business taxable income) is amended by adding at the end thereof the following new subsection:

"(i) TREATMENT OF CERTAIN SPONSORSHIP PAYMENTS.—

"(1) IN GENERAL.—The term 'unrelated trade or business' does not include the activity of soliciting and receiving qualified sponsorship payments with respect to any qualified public event.

"(2) QUALIFIED SPONSORSHIP PAYMENTS.—For purposes of this subsection, the term 'qualified sponsorship payment' means any payment by any person engaged in a trade or business with respect to which there is no arrangement or expectation that such person will receive any substantial return benefit other than—

"(A) the use of the name or logo of such person's trade or business in connection with any qualified public event under arrangements (including advertising) in connection with such event which acknowledge such person's sponsorship or promote such person's products or services, or

"(B) the furnishing of facilities, services, or other privileges in connection with such event to individuals designated by such person.

"(3) QUALIFIED PUBLIC EVENT.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'qualified public event' means any event conducted by an organization described in paragraph (3), (4), (5), or (6) of section 501(c) or by an organization described in section 511(a)(2)(B) if such event is—

"(i) a public event (other than a sporting event) the conduct of which is substantially related (aside from the need of the organization for income or funds or the use it makes of the profits derived) to the exempt purposes of the organization conducting such event, or

"(ii) any public event not described in clause (i) but only if such event is the only event of that type conducted by such organization during a calendar year and such event does not exceed 30 consecutive days.

An event shall be treated as a qualified public event with respect to all organizations referred to in the preceding sentence which receive sponsorship payments with respect to such event if such event is a qualified public event with respect to 1 of such organizations; except that a payment shall be treated as not being from an unrelated trade or business by reason of this sentence only to the extent that such payment is used to meet the expenses of such event or for the benefit of the organization with respect to which such event is a qualified public event (determined without regard to this sentence).

(B) EXEMPT PURPOSE.—For purposes of subparagraph (A), the term 'exempt purpose' means any purpose or function constituting the basis for the organization's exemption under section 501 (or, in the case of an organization described in section 511(a)(2)(B), the exercise or performance of an purpose or function described in section 501(c)(3)).

"(4) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to prevent the avoidance of the purposes of this subsection through the use of entities under common control."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to events conducted after the date of the enactment of this Act.

SEC. 2. TREATMENT OF CERTAIN AMOUNTS RECEIVED BY OLYMPIC ORGANIZATIONS

In the case of a qualified amateur sports organization described in section 501(j)(2) of the Internal Revenue Code of 1986 or an organization which would be so described but for the cultural events it organizes in connection with national or international amateur sports competitions—

(1) for purposes of section 512(b) of such Code, the term "royalty" includes any income received (directly or indirectly) by such organization if a substantial part of the consideration for such income is the right to use trademarks, designations, or similar properties indicating a connection with the

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Olympic Games to be conducted in 1996 or related events or the participation of the United States Olympic Team at such Games or events, and

(2) nothing in section 514 or 512(b) of such Code shall be construed as treating any amount treated as royalty under paragraph (1) as an item of income from an unrelated trade or business.

SEC. 3. TREATMENT OF AMOUNTS RECEIVED IN CONNECTION WITH AFFINITY CARDS.

(a) GENERAL RULE.—Subsection (b) of section 512 of the Internal Revenue Code of 1986 (relating to modifications to unrelated business taxable income) is amended by adding at the end thereof the following new paragraph:

"(16)(A) Notwithstanding any other provision of this part, any amount received or accrued in connection with the direct or indirect sale, exchange, lease, rental, or other grant of—

"(i) the right to use the name of the organization, identifying symbol, or similar item on a credit or debit card, or

"(ii) the right to use a list of members, customers, or contributors in connection with the issuance of credit or debit cards,

shall be included as an item of gross income derived from an unrelated trade or business regularly carried on by the organization. There shall be allowed all deductions directly connected with amounts so included under this subparagraph.

"(B) Subparagraph (A) shall not apply to a credit union exempt from tax under section 501(c)(14)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts received or accrued after July 9, 1992.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. GIBBONS] will be recognized for 20 minutes and the gentleman from Iowa [Mr. GRANDY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia [Mr. JENKINS], who is the original sponsor of this legislation.

Mr. JENKINS. Mr. Speaker, a year ago, along with my colleague, the gentleman from Washington [Mr. CHANDLER], I introduced legislation to assure the tax-free treatment—in fact to assure continued tax-free treatment—of corporate sponsorship funding of amateur athletic events. Specifically, my bill was intended to stop the Internal Revenue Service's [IRS] effort to tax, as unrelated business income, the corporate sponsorship funds received by college football bowl organizations.

At the beginning of this year, the IRS proposed audit guidelines for the taxation of corporate contributions to tax-exempt organizations. The tax-exempt community—from the bowl committees to youth athletic programs, from county fairs to museums and performing arts groups, and from the United Way to the smallest of local charities—responded immediately and uniformly in opposition. The guidelines threaten the vitality and viability of practically all tax-exempt entities and their local and national educational and charitable purposes.

More than 100 Members of the House have cosponsored my original bill, including Congressman ROD CHANDLER. We have heard from many charitable organziations from around the country and with their assistance, and the tireless efforts of the Ways and Means Committee staff, both majority and minority, we have worked out a new proposal, H.R. 5645, which satisfies the concerns of nearly all interested parties. Regrettably, the Treasury Department and the IRS, which received more than 350 objections to the proposed guidelines, do not agree with our approach. This is difficult to reconcile with the Bush administration's emphasis on voluntarism and charitable efforts.

H.R. 5645 clarifies that in certain circumstances corporate contributions to tax-exempt entities, whether or not made in furtherance of the entities' exempt purpose and whether made in support of a sporting activity or other public event, will remain tax-free.

Let me explain the conditions required for tax-free treatment. When a corporation helps fund an exhibit at your city's art museum—a program which is directly related to the museum's tax-exempt purpose—the contribution is tax free, however long in duration the exhibit is scheduled.

On the other hand, if that same art museum, or more probably, your local chapter of the American Heart Association or Cancer Society were to conduct a fundraising event for which it receives corporate support—an activity not directly related to the entity's tax-exempt purpose—the contribution would be tax free only as long as the event is undertaken and concluded within a consecutive 30-day period and the event is the only one of its kind conducted during a 1-year period. It is the committee's intent and understanding that fundraising event routinely conducted by organizations like the Heart Association and Cancer Society, such as telethons, bikeathons, and walkathons are each separate and distinct types of events under this proposal.

The 30-day-once-a-year requirement also applies generally to the tax-free treatment of corporate sponsorship of sporting events, whether or not the event is directly related to the tax-exempt purpose of the recipient organization. Under this part of the proposal, corporate sponsorship of college football bowl games, the various NCAA national championship tournaments, PGA and LPGA tour events, as well as of local 10-K road races and other sporting activities conducted by hospitals, neighborhood schools, and countless charitable organizations to raise money for their educational and community programs, would remain tax free. In regard to sporting events, it is the committee's intent and understanding that the national competitions conducted by the NCAA, whether between men's or women's teams, whether in different sports, for example, ice hockey and baseball, or among different divisions in the same sport, for example, divisions 1, 2, and 3 of basketball, each constitute separate and distinct types of events under this proposal.

Finally, this bipartisan proposal clarifies that royalty income received by the local organizing committee for the 1996 Summer Olympic games and the U.S. Olympic Committee will remain tax free. There is reason to be concerned about how the IRS might view royalty income paid to the organizations charged with planning for and conducting the 1996 games because of the direction the IRS is taking in the UBIT area generally. It is projected that the 1996 summer games will cost $1.5 billion to conduct, and no public funds are expected to be allocated. This clarification simply assures the 1996 games and same tax treatment accorded the 1984 Los Angeles games by the IRS itself.

We all appreciate the role played by organizations like the Heart Association and the Cancer Society, particularly as Federal health care research funds continue to shrink. Tax-free corporate contributions to these and so many other like-minded groups mean that more money will be available to fund critical research programs.

Tax-free treatment of corporate contributions will assure the future of cultural programs for all the people, whether in the art museum, on the stage, or at the annual county fair.

Taxing the corporate sponsorship income received by college football bowl organizations could result in the end of some of the smaller bowl games and certainly would result in a significant loss of revenue to university programs. The 1991-92 bowl season resulted in the distribution of more than $64 million to more than 100 colleges and universities, which fund scholarships, academic programs, and women's athletic programs in compliance with title IX. The pre-New Year's Day Peach Bowl, played in Atlanta, attracted 40,000 out-of-town visitors in 1991, who contributed between $35 and $50 million to the local economy. Eighteen cities host annual bowl games, generating significant taxable revenue.

Taxing the corporate sponsorship income received by the NCAA also will result in the loss of revenue to women's intercollegiate athletic programs, and in the probable end of youth athletic programs nationwide funded by the NCAA. Taxing corporate sponsorship of PGA and LPGA tour events would result in fewer dollars to the numerous local charities supported by

those events—estimated last year to be approximately $25 million.

Over the years the Congress has consistently determined that charitable and corporate sponsorship contributions should be tax free. The courts have upheld the circumstances in which the Congress has determined that they should remain so. The IRS disagrees. Where will the millions, the hundreds of millions of dollars that fund the tax-exempt community's objectives come from if we allow corporate sponsorship income to be taxed away? The IRS does not have the answer to this question. We do. Vote yes on H.R. 5645.

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

Mr. Speaker, H.R. 5645 is a collective effort by several members of the Ways and Means Committee, Mr. JENKINS, Mr. CHANDLER, Mr. ANTHONY, and Mr. MCDERMOTT.

The bill is intended to address the tax issues surrounding corporate sponsorship of events conducted by charitable organizations. This legislation has been prompted by the release earlier this year by the Internal Revenue Service of audit guidelines that created more fear than certainty. Charities across the country, from college bowls to local fairs and zoos, have been subjected to audits.

This bill is intended to say that the covered corporate sponsorships, which now provide a significant part of the necessary funding for certain charities, will not be subjected to tax. It also provides special tax rules for the 1996 Olympic games.

The bill contains a revenue offset which taxes receipts from affinity credit cards issued by nonprofit organizations.

The bill's revenue offset codifies the position already being taken by IRS that receipts from affinity credit cards issued by nonprofit organizations are taxable. This provision will bear watching as the bill moves further through the legislative process to see whether opposition to the revenue offset develops.

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

Mr. GIBBONS. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. ANDREWS].

Mr. ANDREWS of Texas. Mr. Speaker, I oppose this legislation, and I do so respectfully. We are here today because the Internal Revenue Service made a decision. The Treasury Department decided that the bowls have gone over whatever ill-defined line there is and should not be entitled to the kind of tax break they have gotten in the past.

Let me be very clear, the Treasury is not saying that county fairs, that fundraising activities for cultural events, that the Olympics in Atlanta, should not be entitled to special tax treatment. What they are saying is that the college bowl system has changed dramatically in the last 10 or 15 years, and in fact it has changed.

The question from a tax policy standpoint is are the bowls given a special advantage in the marketplace that their competition might not be allowed? I think it is a valid question that our committee has had no hearings on and that Treasury intends to have hearings on to try to define for every organization around the country what the appropriate standards should be.

Mr. Speaker, it is clear to anyone with an objective view that what was a college bowl game has changed dramatically, and in fact the bowls have moved to be small superbowls as opposed to the bowl system that we have all grown up to know and care about.

In fact, it is no longer the Sun Bowl in El Paso that features teams from that part of the country; it is now the John Hancock, Inc., Bowl. It is not just the Cotton Bowl anymore; it is the Mobil Cotton Bowl, and Mobil is written across the field and players have Mobil insignias on their uniforms. And in fact other companies have gotten into the business.

Now we have the Poulon Weedeater Bowl and the Blockbuster Video Bowl. These organizations know full well exactly what they are getting for their money.

College athletics in some cases have become too commercialized. In the bowls it has gone way beyond any bounds of what is appropriate for education. This has led, unfortunately, to some very embarrassing situations.

The University of Oregon, the Ducks, played in the Freedom Bowl and earned $600,000 for that participation. The university itself netted $5,000 after the bowl game. That is just wrong. That is not what the bowls should be set up to accomplish.

The Washington Times reported this morning that the John Hancock Insurance Co. bragged that by sponsoring the John Hancock, Inc., Bowl, they got $5.1 million worth of advertising for only a $1.6 million investment. That is not the goal of the college bowl games. That is not what our universities should be all about.

Now, I understand that this bill will likely pass on the floor tomorrow, and I understand that it may become law. Should it not, however, I would hope that the NCAA, that the bowls themselves, that the Congress, and that the Treasury Department, take a second look at what these bowls are about and see if we can define some guidelines that would bring them within the gambit of what their goals should have been and have been in the past. I think that is the only important thing that we can do.

Mr. Speaker, finally, we learned just in the last few days how this provision is paid for. As the gentleman from Georgia [Mr. JENKINS] stated earlier, it is paid for by taxing affinity cards. This is a very important revenue source for many nonprofit organizations across this country, including colleges and universities. The American Heart Association, the Sierra Club, the National Wildlife Federation, and the American Rivers Conservation Council all oppose this bill, and they do so because of the way the bill is paid for.

Mr. Speaker, I think we should defeat this legislation. I think we should go back to the drawing board. We should respectively try to make these bowls the best that they can be, what they ought to be, and let us try to make tax policy that is driven by tax policy considerations, and not by the fact that all of us like golf or all of us like college football, and let us try to make some decisions that make good sense for the tax policy and taxpayers of this country.

Mr. ANTHONY. Mr. Speaker, today, we are considering a proposal that will insure that countless works of charity undertaken by nonprofit organizations in our districts are protected from the long reach of the IRS. As you know, the IRS recently issued audit guidelines that for good reason have sent a panic through the local nonprofit community.

The audit guidelines propose to tax corporate sponsorship payments received by local charities. For instance if a soft drink manufacturer sponsors signage or other promotional material, your local county fair may be subject to the new guidelines. If a charity is subject to tax, 34 percent of the money received from the sponsor will be diverted from community service in your hometown and sent to Washington in the form of taxes. This all from an administration that prides itself with its vision of 1,000 points of light as a way to deal with the mounting social problems facing our already strapped local communities. How can these 1,000 points of light work if 34 percent of their funds are being used to pay Federal income taxes?

I have joined with ED JENKINS, ROD CHANDLER, and JIM MCDERMOTT in seeking a solution that merely codifies a U.S. circuit court case that the IRS has chosen not to follow. Our solution does not change current law, but merely provides more certainty to a gray area of the Internal Revenue Code. Our bill says that an event is not "regularly carried on" if an event is held only once a year by the nonprofit entity and that event does not transpire over a period that exceeds 30 consecutive days. Under current law, if an event is not "regularly carried on", its income is not subject to the unrelated business income tax.

All of us have a festival, a county fair, or other charitable event that benefits the people back home. I have a charitable golf tournament in my district that has generated significant assistance for Opportunities, Inc. over the past 3 years. Opportunities, Inc. is a nonprofit organization in Texarkana, AR, that works with developmentally disabled children and adults. I don't know about you but I would hate to be the one to tell the people in Tex-

arkana, AR, that they have 34 percent less to work with to make the lives of these citizens a little better.

You may have heard from the IRS that it is premature to take legislative action to clarify this area of the law. They may have told you they are conducting hearings so that they can narrow the impact of their guidelines. While some representatives of the IRS are speaking with a voice of reason, other officials continue to take the hard line. As Members of Congress, it is our duty to define the law and determine how it will impact our constituents. Today is the right time to act. For the sake of the charitable organizations throughout the country and those in your district, I ask you to vote for this bill.

Mr. McMILLEN of Maryland. Mr. Speaker, I rise in opposition to H.R. 5645. As many of you know, I am very concerned with the direction which college athletics have been taking, particularly in regard to the commercialization of college sports. The bill before us today exacerbates this tendency, not mitigates it.

The bill is a definite setback toward defining a clear boundary between nonprofit college athletics and for-profit business ventures. By exempting certain organizations from the so-called unrelated business income tax for proceeds from sponsorship of certain events, we are providing preferential tax treatment for the commercialization of college sport. This tax shelter is geared specifically to the sponsorship payments given to college universities in connection with football bowl games. Consequently, this bill will encourage universities to secure the largest sponsorship payments possible.

The legislation will favor large and athletically powerful institutions and conferences, thus widening the gap between funds available for these entities and for other institutions. Such funds are of importance to both athletic programs and other campus activities, which makes it imperative that we promote policies which ensure a fairer distribution of revenues. Allowing college athletics to continue to look like a business, and act like a business, without playing by the rules of a business will only contribute to the continued demise of college athletics. Unfortunately, such demise ultimately comes at the expense of the student-athlete.

As I have stated previously, because the NCAA has proven its inability to clean its own house, a benevolent dictator should step in to assert itself in the governance of college sports. I believe Congress, with the help of the college presidents, should perform this task. The Collegiate Athletic Reform Act, which I introduced last July, proposes fundamental reforms that will restore the emphasis on education at our Nation's universities. The primary concern, to facilitate change, should be in the area of financial reform.

The bill before us today takes us in completely the wrong direction. If schools persist in treating college athletics as a business, it is only fitting that everyone else—the athletes, the IRS—treat them as a business as well. For this fundamental reason, I have serious reservations about the tax exemption for sponsorship proceeds of the Olympics and other events (H.R. 5645), and urge my colleagues to oppose it.

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

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

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Florida [Mr. GIBBONS] that the House suspend the rules and pass the bill, H.R. 5645.

The question was taken.

Mr. ANDREWS of Texas. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

RELATING TO RETIREMENT AND SURVIVOR ANNUITIES FOR CERTAIN EX-SPOUSES OF THE CIA AND TO THE TAX TREATMENT OF CERTAIN DISABILITY BENEFITS

Mr. GIBBONS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5651) to provide for the payment of retirement and survivor annuities to certain ex-spouses of employees of the Central Intelligence Agency and to provide for the tax treatment of certain disability benefits.

The Clerk read as follows:

H.R. 5651

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

TITLE I—ANNUITY BENEFITS FOR CERTAIN EX-SPOUSES OF CENTRAL INTELLIGENCE AGENCY EMPLOYEES

SEC. 101. SURVIVOR ANNUITY FOR CERTAIN EX-SPOUSES OF CIA EMPLOYEES.

(a) SURVIVOR ANNUITY.—

(1) ENTITLEMENT OF FORMER WIFE OR HUSBAND.—Any person who was divorced on or before December 4, 1991, from a participant or retired participant in the Central Intelligence Agency Retirement and Disability System (CIARDS) and who was married to such participant for not less than 10 years during such participant's creditable service, at least five years of which were spent by the participant during the participant's service as an employee of the Central Intelligence Agency outside the United States, or otherwise in a position the duties of which qualified the participant for designation by the Director of Central Intelligence as a participant under section 203 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note), shall be entitled, except to the extent such person is disqualified under subsection (b), to a survivor annuity equal to 55 percent of the greater of—

(A) the unreduced amount of the participant's annuity, as computed under section 221(a) of such Act; or

(B) the unreduced amount of what such annuity as so computed would be if the participant had not elected payment of the lump-sum credit under section 294 of such Act.

(2) REDUCTION IN SURVIVOR ANNUITY.—A survivor annuity payable under this section shall be reduced by an amount equal to any survivor annuity payments made to the former wife or husband under section 226 of such Act.

(b) LIMITATIONS.—A former wife or husband is not entitled to a survivor annuity under this section if—

(1) the former wife or husband remarries before age 55, except that the entitlement of the former wife or husband to such a survivor annuity shall be restored on the date such remarriage is dissolved by death, annulment, or divorce;

(2) the former wife or husband is less than 50 years of age; or

(3) the former wife or husband meets the definition of "former spouse" that was in effect under section 204(b)(4) of such Act before December 4, 1991.

(c) COMMENCEMENT AND TERMINATION OF ANNUITY.—

(1) COMMENCEMENT OF ANNUITY.—The entitlement of a former wife or husband to a survivor annuity under this section shall commence—

(A) in the case of a former wife or husband of a participant or retired participant who is deceased as of October 1, 1992, beginning on the later of—

(i) the 60th day after such date; or

(ii) the date on which the former wife or husband reaches age 50; and

(B) in the case of any other former wife or husband, beginning on the latest of—

(i) the date on which the participant or retired participant to whom the former wife or husband was married dies;

(ii) the 60th day after October 1, 1992; or

(iii) the date on which the former wife or husband attains age 50.

(2) TERMINATION OF ANNUITY.—The entitlement of a former wife or husband to a survivor annuity under this section terminates on the last day of the month before the former wife's or husband's death or remarriage before attaining age 55. The entitlement of a former wife or husband to such a survivor annuity shall be restored on the date such remarriage is dissolved by death, annulment, or divorce.

(d) ELECTION OF BENEFITS.—A former wife or husband of a participant or retired participant shall not become entitled under this section to a survivor annuity or to the restoration of the survivor annuity unless the former wife or husband elects to receive it instead of any other survivor annuity to which the former wife or husband may be entitled under CIARDS or any other retirement system for Government employees on the basis of a marriage to someone other than the participant.

(e) APPLICATION.—

(1) TIME LIMIT; WAIVER.—A survivor annuity under this section shall not be payable unless appropriate written application is provided to the Director, complete with any supporting documentation which the Director may by regulation require. Any such application shall be submitted not later than October 1, 1993. The Director may waive the application deadline under the preceding sentence in any case in which the Director determines that the circumstances warrant such a waiver.

(2) RETROACTIVE BENEFITS.—Upon approval of an application provided under paragraph (1), the appropriate survivor annuity shall be payable to the former wife or husband with respect to all periods before such approval during which the former wife or husband was entitled to such annuity under this section, but in no event shall a survivor annuity be payable under this section with respect to any period before October 1, 1992.

(f) RESTORATION OF ANNUITY.—Notwithstanding subsection (e)(1), the deadline by which an application for a survivor annuity must be submitted shall not apply in cases in which a former spouse's entitlement to such a survivor annuity is restored after October 1, 1992, under subsection (b)(1) or (c)(2).

(g) APPLICABILITY IN CASES OF PARTICIPANTS TRANSFERRED TO FERS.—

(1) ENTITLEMENT.—Except as provided in paragraph (2), this section shall apply to a former wife or husband of a CIARDS participant who has elected to become subject to chapter 84 of title 5, United States Code.

(2) AMOUNT OF ANNUITY.—The survivor annuity of a person covered by paragraph (1) shall be equal to 50 percent of the unreduced amount of the participant's annuity computed in accordance with section 302(a) of the Federal Employees' Retirement System Act of 1986 and shall be reduced by an amount equal to any survivor annuity payments made to the former wife or husband under section 8445 of title 5, United States Code.

SEC. 102. RETIREMENT ANNUITY FOR CERTAIN EX-SPOUSES OF CIA EMPLOYEES.

(a) RETIREMENT ANNUITY.—

(1) ENTITLEMENT OF FORMER WIFE OR HUSBAND.—A person described in section 101(a)(1) shall be entitled, except to the extent such former spouse is disqualified under subsection (b), to an annuity—

(A) if married to the participant throughout the creditable service of the participant, equal to 50 percent of the annuity of the participant; or

(B) if not married to the participant throughout such creditable service, equal to that former wife's or husband's pro rata share of 50 percent of such annuity (determined in accordance with section 222(a)(1)(B) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees).

(2) REDUCTION IN RETIREMENT ANNUITIES.—

(A) AMOUNT OF REDUCTION.—An annuity payable under this section shall be reduced by an amount equal to any apportionment payments payable to the former wife or husband pursuant to the terms of a court order incident to the dissolution of the marriage of such former spouse and the participant, former participant, or retired participant.

(B) DEFINITION OF TERMS.—For purposes of subparagraph (A):

(i) APPORTIONMENT.—The term "apportionment" means a portion of a retired participant's annuity payable to a former wife or husband either by the retired participant or the Government in accordance with the terms of a court order.

(ii) COURT ORDER.—The term "court order" means any decree of divorce or annulment or any court order or court-approved property settlement agreement incident to such decree.

(b) LIMITATIONS.—A former wife or husband is not entitled to an annuity under this section if—

(1) the former wife or husband remarries before age 55, except that the entitlement of the former wife or husband to an annuity under this section shall be restored on the date such remarriage is dissolved by death, annulment, or divorce;

(2) the former wife or husband is less than 50 years of age; or

(3) the former wife or husband meets the definition of "former spouse" that was in effect under section 204(b)(4) of such Act before December 4, 1991.

(c) COMMENCEMENT AND TERMINATION.—

(1) RETIREMENT ANNUITIES.—The entitlement of a former wife or husband to an annuity under this section—

(A) shall commence on the later of—

(i) October 1, 1992;

(ii) the day the participant upon whose service the right to the annuity is based becomes entitled to an annuity under such Act; or

(iii) such former wife's or husband's 50th birthday; and

(B) shall terminate on the earlier of—

(i) the last day of the month before the former wife or husband dies or remarries before 55 years of age, except that the entitlement of the former wife or husband to an annuity under this section shall be restored on the date such remarriage is dissolved by death, annulment, or divorce; or

(ii) the date on which the annuity of the participant terminates.

(2) DISABILITY ANNUITIES.—Notwithstanding paragraph (1)(A)(ii), in the case of a former wife or husband of a disability annuitant—

(A) the annuity of the former wife or husband shall commence on the date on which the participant would qualify on the basis of the participant's creditable service for an annuity under the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (other than a disability annuity) or the date the disability annuity begins, whichever is later; and

(B) the amount of the annuity of the former wife or husband shall be calculated on the basis of the annuity for which the participant would otherwise so qualify.

(3) ELECTION OF BENEFITS.—A former wife or husband of a participant or retired participant shall not become entitled under this section to an annuity or to the restoration of an annuity unless the former wife or husband elects to receive it instead of any other annuity to which the former wife or husband may be entitled under CIARDS or any other retirement system for Government employees on the basis of a marriage to someone other than the participant.

(4) APPLICATION.—

(A) TIME LIMIT; WAIVER.—An annuity under this section shall not be payable unless appropriate written application is provided to the Director of Central Intelligence, complete with any supporting documentation which the Director may by regulation require, not later than October 1, 1993. The Director may waive the application deadline under the preceding sentence in any case in which the Director determines that the circumstances warrant such a waiver.

(B) RETROACTIVE BENEFITS.—Upon approval of an application under subparagraph (A), the appropriate annuity shall be payable to the former wife or husband with respect to all periods before such approval during which the former wife or husband was entitled to an annuity under this section, but in no event shall an annuity be payable under this section with respect to any period before October 1, 1992.

(d) RESTORATION OF ANNUITIES.—Notwithstanding subsection (c)(4)(A), the deadline by which an application for a retirement annuity must be submitted shall not apply in cases in which a former spouse's entitlement to such annuity is restored after October 1, 1992, under subsection (b)(1) or (c)(1)(B).

(e) APPLICABILITY IN CASES OF PARTICIPANTS TRANSFERRED TO FERS.—The provisions of this section shall apply to a former wife or husband of a CIARDS participant who has elected to become subject to chapter 84 of title 5, United States Code. For purposes of this subsection, any reference in this section to a participant's CIARDS annuity shall be deemed to refer to the transferred participant's annuity computed in accordance with section 302(a) of the Federal Employees' Retirement System Act of 1986.

(f) SAVINGS PROVISION.—Nothing in this section shall be construed to impair, reduce, or otherwise affect the annuity or the entitlement to an annuity of a participant or former participant under title II or III of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees.

SEC. 103. HEALTH BENEFITS.

(a) IN GENERAL.—Section 16 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403p) is amended—

(1) by redesignating subsections (c) through (e) as subsections (d) through (f), respectively;

(2) by inserting after subsection (b) the following new subsection (c):

"(c) ELIGIBILITY OF FORMER WIVES OR HUSBANDS.—(1) Notwithstanding subsections (a) and (b) and except as provided in subsection (d), an individual—

"(A) who was divorced on or before December 4, 1991, from a participant or retired participant in the Central Intelligence Agency Retirement and Disability System or the Federal Employees Retirement System Special Category;

"(B) who was married to such participant for not less than ten years during the participant's creditable service, at least five years of which were spent by the participant during the participant's service as an employee of the Agency outside the United States, or otherwise in a position the duties of which qualified the participant for designation by the Director of Central Intelligence as a participant under section 203 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note); and

"(C) who was enrolled in a health benefits plan as a family member at any time during the 18-month period before the date of dissolution of the marriage to such participant;

is eligible for coverage under a health benefits plan.

"(2) A former spouse eligible for coverage under paragraph (1) may enroll in a health benefits plan in accordance with subsection (b)(1), except that the election for such enrollment must be submitted within 60 days after the date on which the Director notifies the former spouse of such individual's eligibility for health insurance coverage under this subsection.".

(b) CONFORMING AMENDMENT.—Subsection (a) of such section is amended by striking out "subsection (c)(1)" and inserting in lieu thereof "subsection (d)".

SEC. 104. SOURCE OF PAYMENT FOR ANNUITIES.

Annuities provided under sections 101 and 102 shall be payable from the Central Intelligence Agency Retirement and Disability Fund established by section 202 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note).

SEC. 105. EFFECTIVE DATE.

Sections 101 through 103 shall take effect as of October 1, 1992. No benefits provided pursuant to those sections shall be payable with respect to any period before that date.

TITLE II—TAX TREATMENT OF CERTAIN RETIREMENT BENEFITS

SEC. 201. TREATMENT OF CERTAIN DISABILITY BENEFITS RECEIVED BY FORMER POLICE OFFICERS OR FIREFIGHTERS.

(a) GENERAL RULE.—For purposes of determining whether any amount to which this section applies is excludable from gross in-

come under section 104(a)(1) of the Internal Revenue Code of 1986, the following conditions shall be treated as personal injuries or sickness in the course of employment:

(1) Heart disease.

(2) Hypertension.

(b) AMOUNTS TO WHICH SECTION APPLIES.—This section shall apply to any amount—

(1) which is payable to an individual (or to the survivors of an individual) who was a full-time employee of any police department or fire department which is organized and operated by a State, by any political subdivision thereof, or by any agency or instrumentality of a State or political subdivision thereof; and

(2) which is received in calendar year 1989, 1990, or 1991.

For purposes of the preceding sentence, the term "State" includes the District of Columbia.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. GIBBONS] will be recognized for 20 minutes, and the gentleman from Iowa [Mr. GRANDY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Connecticut [Mrs. KENNELLY], the principal sponsor of this fine piece of legislation.

Mrs. KENNELLY. Mr. Speaker, I rise in support of H.R. 5651. First, let me thank the leadership of both the Ways and Means and Intelligence Committees, Congressmen ROSTENKOWSKI, GIBBONS, ARCHER, MCCURDY, SHUSTER, and GEKAS, for their great assistance in bringing this bill to the floor today. H.R. 5651 addresses two complicated areas of pension and tax law, but it has important consequences for individuals who have served our country and our local communities.

In the main, H.R. 5651 recognizes the contributions made by certain former spouses of Central Intelligence Agency employees and provides them much needed retirement security.

Throughout the 1980's, Congress enacted legislation to provide greater retirement equity for the spouses of Federal Government employees. The CIA Spouses' Retirement Equity Act of 1982 provided that qualified former spouses of CIA officers would presumptively receive upon divorce a pro rata share of the officer's retirement benefits, up to 50 percent, based on the length of the marriage during the period of Agency services prior to divorce. The qualified former spouses would also be awarded a similar share of the officer's survivorship benefits. These presumptive amounts could be adjusted by court order or spousal agreement.

This right, which is substantially the same as that provided to similarly situated former spouses of foreign service officers, has been extremely important for the financial security of older women facing divorce from clandestine officers of the CIA. We are all now well aware of how difficult it has been for women to secure an equitable division of marital assets upon divorce, and the financial deprivation that usually results. These difficulties have been compounded for CIA spouses who have been unable to reveal in open court basic details of their personal circumstances.

Under the 1982 law, unfortunately, in order to qualify as a CIA former spouse, an individual not only had to have been married to a CIA employee during at least 10 years of creditable service, but 5 years had to have been spent outside the United States by both marriage partners.

The Subcommittee on Legislation of the Permanent Select Committee on Intelligence, which I chair, has become aware that the 5-year overseas rule for the spouse has disqualified from retirement and survivorship benefits many former spouses whose sacrifices for family and country have been as great as those of the former spouses who met the requirement of the rule. These women also provided great support to their husbands and to the Agency by maintaining cover, accepting frequent transfers, and participating in service-related activities. They bore all family responsibilities stateside alone while the officer served overseas, and agreed to the extra demands on family income of maintaining two households. Like other CIA spouses, they found employment opportunities, when not precluded by the nature of the officer's work, to be very limited, and they too experienced the stress of living with secrecy and the fear for the physical safety of their partners. The subcommittee has found that these women were in some cases prevented from meeting the 5 years overseas rule by days because they were not allowed by the Agency to accompany the officers to war zone assignments or because they needed to bring a sick child back to the United States for medical care.

Congress last year repealed the 5-year overseas rule for former spouses divorced after December 4, 1991. H.R. 5651 addresses the plight of a relatively small number of individuals divorced before the repeal. It enables them to receive on a prospective basis retirement and survivor benefits equivalent to the amount they would have been presumptively been awarded, provided they meet the other former spouse requirements. In addition, these individuals will be allowed to purchase Federal health insurance benefits on the same terms available to other CIA former spouses.

Mr. Speaker, the tales of some of the women who will benefit from this legislation have been shared with the Subcommittee on Legislation, and they are heart rending. We are talking about people who were—and are—every bit as dedicated to the highest ideals of the Central Intelligence Agency as anyone employed there, but who have paid great costs financially and emotionally for their service.

I have had discussions about this bill with Mr. SHUSTER, the ranking minority member of the Intelligence Committee, and with Mr. GEKAS, the ranking minority member of the Subcommittee on Legislation, either directly or through staff, and I share their concern that any potential fiscal year 1993 shortfall to the CIARDS fund as a result of this legislation be addressed. I have assured both of these fine gentlemen from Pennsylvania, and the officials of the Central Intelligence Agency, that I will not push for final enactment of this bill until the potential fiscal year 1993 shortfall is remedied.

Mr. Speaker, the Subcommittee on Legislation held a lengthy hearing on issues facing former spouses on May 22, 1992. At this hearing, witnesses from the Association of American Foreign Service Women and an association of CIA spouses made a forceful case for the need to extend former spouse legislation to spouses who had not met the 5-years overseas rule. This is not a concept objected to by the Central Intelligence Agency or by the leadership of the Intelligence Committee. In fact, since the enactment of the Central Intelligence Agency Former Spouses' Retirement Equity Act of 1982, the Congress on three occasions has enacted legislation to address the needs of qualified former spouses where divorce or retirement had taken place prior to the effective date of the act.

Unfortunately, despite the substantial savings that have been made in the Intelligence Authorization Act of fiscal year 1993, the Intelligence Committee does not have within its jurisdiction as a wide range of options as would be desirable when it comes to the offsets required under the Budget Act to make improvements in the CIA retirement and disability system. Although the subcommittee undertook a massive rewrite and revision of the Central Intelligence Agency Retirement Act of 1964 for certain employees in the fiscal year 1993 intelligence authorization act, it limited the changes it made, in all but two minor matters, to technical adjustments.

Frankly, I was very frustrated by this situation, and made clear at each step in our legislative process that I would continue to work to extend former spouse legislation. We have today a solution to the roadblock—a bill which is under the joint jurisdiction of the Intelligence and Ways and Means Committees, and included in a package that includes Budget Act offsets. We thus have the opportunity to recognize today the unpaid and unsung contributions of CIA spouses and to ensure they enjoy basic retirement security.

The second section of H.R. 5651 simply excludes from gross income pay-

ments made to police and fire officials as a result of heart disease or hypertension incurred in the course of employment and misclassified for Federal tax purposes as a result of State errors.

This statutory change is necessary because a State law error in several States, including Connecticut, caused the IRS to rule that these benefits received by police and fire officials are taxable. These benefits were intended to be treated as workmen's compensation. For example, the error in the Connecticut State statute was the "irrebuttable presumption" that heart and hypertension conditions were the result of hazardous work conditions. This means that any policemen or firefighter who developed a heart condition or hypertension was automatically deemed to qualify for these benefits on the basis that the nature of the job caused the medical condition. The words "irrebuttable presumption" made the benefits taxable.

In Connecticut, at least, the State law has been corrected so that while there is a presumption that such conditions are the result of hazardous work, the State or municipality involved could require medical proof. Simply deleting the "irrebuttable presumption" made the benefits satisfy the IRS definition of workmen's compensation.

Therefore, all this section would do is to exempt from income those payments received by these individuals as a result of faulty State law but only for the past 3 years—1989, 1990, and 1991. From January 1, 1992 forward, those already receiving these benefits would have to meet the standard IRS test.

The importance of this amendment is that these individuals were led to believe that by following State law their benefits were exempt from Federal income tax. The cities and towns involved believed that they followed State law and therefore all parties involved believed that these benefits were not subject to tax.

However, the IRS currently has an audit project ongoing in Connecticut, and several other States, and has deemed these benefits taxable. All this section says is that all parties involved made a good faith effort to comply with what they thought the law was. The States were in error and where that error has been rectified these individuals on disability should not required to pay 3 years back taxes plus interest and penalties.

Again, I urge support of the House for this bill.

□ 1310

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

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

Mr. Speaker, Republican members of the Committee on Ways and Means have heard no objection to this bill. It is my understanding it is supported by the Permanent Select Committee on Intelligence. We do not object to passage.

Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, the description given of the issue by the gentlewoman from Connecticut [Mrs. KENNELLY] is very accurate, and requires no embellishment. The only consideration that was brought to our attention, and in particular to mine when we were prepared to come to the floor today, was the fiscal implications; whether or not what would occur here in the natural course of the fielding of this legislation would violate the pay-as-you-go concepts that have been embedded into our budget process. I was worried whether or not the Office of the Budget was in approval of the funding sources for this piece of legislation.

Because of colloquies that we were able to undertake among the minority and majority members in the Select Committee on Intelligence, we are assured, and we want to put it on the RECORD, that once this legislation moves reasonably and foreseeably to the conference committee, that we will make certain through our representatives on that committee that the funding source will not violate pay-as-you-go, and will reasonably fund the proposed legislation.

Mr. GIBBONS. Mr. Speaker, I yield such time as she may use to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Speaker, I would like to thank the gentleman from Pennsylvania [Mr. GEKAS] for those remarks. I do absolutely understand what he is saying and agree with what he is saying, and I make it very clear today that I understand, and unless it is pay-as-you-go, it cannot go.

Mr. GIBBONS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, I want to thank the gentlewoman from Connecticut [Mrs. KENNELLY] and the other Members for all their hard work on this important measure. I am pleased to be associated with this piece of legislation, H.R. 5651. The bill will help to right a wrong that has been done to some of the most dedicated public servants in this country, police officers and firefighters, people who serve in critically important, and stressful, and difficult jobs. As a result, they are often the victims of stress-related diseases that cause heart problems and hypertension.

The State of Connecticut long ago recognized that these health problems were related to the pressures that firefighters and police officers suffer on the job, and began to award nontaxable pensions to these retired men and women who could not work due to the heart and hypertension problems. The Connecticut law did not require evidence of a direct relationship between a person's service as a police officer and a firefighter and the development of these diseases.

In 1991 the IRS held that these pensions were taxable and came looking to these disabled workers for back taxes. Over the last year the IRS has proceeded to levy taxes on these benefits and has proceeded to demand that these disabled public servants pay back taxes on 1989, 1990, and 1991 benefits as well. These were people who were complying with the law as best they knew it and were receiving disability benefits after years of public service.

The IRS has also threatened to assess penalties and interest on these retirees if they did not pay the taxes promptly. Under H.R. 5651, as described by the gentlewoman from Connecticut [Mrs. KENNELLY] and others, the IRS would be prohibited from collecting back taxes from those currently receiving heart and hypertension pensions for the years 1989, 1990, and 1992. This legislation would only impact those who are now, after many years of collecting these pensions, being asked for back taxes. It would not impact the tax status of future awards.

Today the disabled firefighters and police officers have been put on notice and are complying with their tax obligations. These disabled public servants deserve the relief granted by this bill, and I urge passage of H.R. 5651.

Mr. MCCURDY. Mr. Speaker, title I of H.R. 5651 concerns the Central Intelligence Agency Retirement and Disability System [CIARDS], a matter that is within the jurisdiction of the Permanent Select Committee on Intelligence. The Intelligence Committee's Subcommittee on Legislation has, under the able leadership of the gentlewoman from Connecticut [Mrs. KENNELLY] and her predecessor, the gentleman from New York [Mr. MCHUGH] devoted considerable effort to ensuring that CIARDS offers a retirement system to clandestine Central Intelligence Agency [CIA] officers as similar as possible to those available in the foreign service and civil service.

The fiscal year 1992 Intelligence Authorization Act contained an important CIARDS amendment which eliminated a requirement that a former husband or wife of a CIARDS participant, or former participant, must have spent 5 years outside the United States to qualify for former spouse benefits in the event of divorce. This requirement had operated to disallow the payment of benefits to divorced spouses who had been unable to meet the 5-year requirement through no fault of their own, often because operational conditions made it impossible for them to accompany their spouse overseas or because they had to return to the United States to care for family members who were ill. Unfortunately, the elimination of the 5-year rule, while making substantially more equitable the definition of "spouse" for retirement benefit calculations,

had to be made prospectively because of the dictates of the Budget Enforcement Act.

When the fiscal year 1992 intelligence authorization was enacted, and the change in the 5-year rule became effective, we knew that there were a relatively small number of spouses, divorced before the date of enactment, who would continue not to qualify as former spouses and therefore not be entitled to retirement benefits. Mrs. KENNELLY has repeatedly made clear her intention to assist these individuals if it were legislatively possible to do so. I have supported that intention, and am therefore pleased that a way has been found, through the bill now before us, to address the requirements of the Budget Enforcement Act so that the benefits of the elimination of the 5-year rule may be made available to those the Intelligence Committee could not assist in the authorization process.

I understand the concern of the CIA that enactment of this legislation not produce a shortfall in fiscal year 1993 CIARDS funding. I believe that concern can be resolved as the legislative process continues. In that regard, I note Mrs. KENNELLY's assurances to our committee's ranking Republican, Mr. SHUSTER, and the ranking Republican on the Legislation Subcommittee, Mr. GEKAS. I will certainly do whatever I can to be of assistance.

Mr. Speaker, H.R. 5651 is important legislation which deserves the support of the House. I want to compliment Congresswoman KENNELLY on her tireless efforts to ensure that the contributions to the Nation made by those whose spouses were clandestine intelligence officers are properly recognized.

Ms. DELAURO. Mr. Speaker, thank you, Congresswoman KENNELLY, and other Members, for all your hard work on this important measure. I am pleased to be associated with this legislation, H.R. 5651, because it embodies one of the most basic reasons we are all here—to stand up for our constituents against the injustice of an often overzealous bureaucracy.

This bill will help right a serious wrong that has been done to some of the most dedicated public servants in this country—police officers and firefighters. People who serve in critically important, stressful, and difficult jobs. As a result, they are often victims of stress-related diseases that cause heart problems and hypertension.

The State of Connecticut long ago recognized that these health problems were related to the pressures firefighters and police officers suffer on the job, and in 1971 it began to award nontaxable pensions to these retired men and women who could not work due to heart and hypertension related problems.

In 1991, the IRS held that these pensions were taxable, and came looking to these disabled workers for back taxes.

Over the last year, the IRS proceeded to levy taxes on these benefits. But they were not content to simply tax 1992 and future benefits, they demanded that these disabled public servants pay back taxes on their 1989, 1990, and 1991 benefits as well. These were all people who were complying with the law as they knew it, and were receiving disability benefits after years of public service. Many individual tax assessments were more than $10,000. The IRS also threatened to assess penalties and interest on these retirees if they did not pay these back taxes promptly.

Under H.R. 5651, the IRS would be prohibited from collecting back taxes from those currently receiving heart and hypertension pensions for the years 1989, 1990, and 1991. This legislation would only impact those who are now—after many years of collecting these pensions—being asked for back taxes. It would not impact the tax status of future awards. Today, the disabled fire-fighters and police officers have been put on notice and are complying with their tax obligation.

These disabled public servants deserve the relief granted by this bill. There is no question about what they have given to their State, country, and communities, and no question that they deserve our help. We have an opportunity today to help people who have made careers out of helping others. We have a chance to right a wrong that has been done to them, and remove a heavy burden they should not be forced to carry in their retirement. I urge passage of H.R. 5651.

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

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

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Florida [Mr. GIBBONS] that the House suspend the rules and pass the bill, H.R. 5651.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

PERMITTING TAX-EXEMPT BONDS TO BE ISSUED TO FINANCE OFFICE BUILDINGS FOR THE UNITED NATIONS

Mr. GIBBONS. Mr. Speaker, by direction of the Committee on Ways and Means, I move to suspend the rules and pass the bill (H.R. 5639) to permit tax-exempt bonds to be issued to finance office buildings for the United Nations.

The Clerk read as follows:

H.R. 5639

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

SECTION 1. TAX-EXEMPT FINANCING FOR UNITED NATIONS OFFICE BUILDINGS.

(a) IN GENERAL.—A bond described in subsection (b) shall be treated as described in section 141(e)(1) of the Internal Revenue Code of 1986, but section 147(d) of such Code shall not apply to such bond.

(b) BOND DESCRIBED.—A bond is described in this subsection if such bond is issued as part of an issue 95 percent or more of the net proceeds of which are to be used to finance any office building (and land which is functionally related and subordinate thereto) for the United Nations or any agency or instrumentality thereof.

(c) EFFECTIVE DATE.—This section shall apply to bonds issued after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. GIBBONS] will be recognized for 20 minutes and the gentleman from Iowa [Mr. GRANDY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. RANGEL], the author of this legislation.

Mr. RANGEL. Mr. Speaker, I rise to bring before the House H.R. 5639, a bill to authorize the issuing of tax-exempt bonds to finance offices for agencies of the United Nations.

Now that Germany has been reunified the German Government is moving its capital from Bonn back to Berlin. Thus, there will be a great deal of vacant office space in Bonn. As with any responsible government the German Government believes it has a need to put people back in Bonn to keep the local economy going.

To repopulate Bonn the German Government has offered several U.N. agencies now located in New York City free office space and moving expenses.

These agencies are UNICEF, the U.N. Development Fund, the U.N. Population Fund, and the U.N. Fund for Women.

The loss to New York City and the Nation beyond the blow to the international prestige is a loss of over 2,300 jobs and $200 million in salaries and other expenses.

To keep these agencies in New York City Mayor David Dinkins, in the face of the city's acute financial crises, is willing to have the city make sacrifices because of the importance of keeping these agencies in the city and the United States. The city has offered to consolidate these agencies in a few office buildings that the city would buy.

To finance the purchase of these buildings and keep the rents low the city will have to use tax-exempt debt. Unfortunately, the Internal Revenue Code does not provide for the use of tax-exempt bonds to finance facilities that would benefit the United Nations. The United Nations is not considered a government agency by the Tax Code. This bill would make the United Nations an eligible purpose for the use of proceeds of tax-exempt bonds.

Hopefully, between the lower interest allowing for lower rents and other inducements the city will offer there will be enough of an incentive for these agencies to stay.

Because the bonds are under the State bond cap and New York State generally used up all of its cap, New York will issue no more tax-exempt bonds than it now issues. Thus, there should be, at worst, a negligible revenue loss over the current status.

I want to make clear that the State Department and the U.S. Mission to

the United Nations have indicated their support for New York City's efforts to retain the U.N. agencies.

I believe my colleagues will agree New York City should not have to take on the German Government by itself. The Federal Government should provide help through this provision.

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

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

Mr. Speaker, I rise in support of H.R. 5639. The bill is limited and narrow, but appropriately so. H.R. 5639 would allow the United Nations to use tax-exempt bonds to acquire additional space.

State and local governments and charitable organizations have access to tax-exempt bonds; this bill would give the United Nation access to tax-exempt financing in this one circumstance. The bill permits the United Nations to use the tax-exempt bonds only to acquire new facilities in New York, and the bonds would count against New York's bond volume cap. I urge your support for the bill.

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

Mr. GIBBONS. Mr. Speaker, this is a very worthy bill. I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. GIBBONS] that the House suspend the rules and pass the bill, H.R. 5639.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

RELATING TO TAX-EXEMPT BONDS FOR GOVERNMENT-OWNED HIGH-SPEED INTERCITY RAIL FACILITIES

Mr. GIBBONS. Mr. Speaker, by direction of the Committee on Ways and Means, I move to suspend the rules and pass the bill (H.R. 5653) to amend the Internal Revenue Code of 1986 to exempt the full amount of bonds issued for Government-owned high-speed intercity rail facilities from the State volume cap on private activity bonds and to require reporting of certain income and real property taxes.

The Clerk read as follows:

H.R. 5653

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

SECTION 1. EXEMPTION FOR GOVERNMENT-OWNED HIGH-SPEED INTERCITY RAIL FACILITY BONDS FROM STATE VOLUME CAP.

(a) IN GENERAL.—Subsection (g) of section 146 of the Internal Revenue Code of 1986 (relating to exemption for certain bonds) is amended by adding at the end thereof the following new sentence:

"Paragraph (4) shall be applied without regard to '75 percent of' in the case of any bond which is part of an issue referred to therein if all of the property to be financed by the net proceeds of such issue is to be owned by a governmental unit (determined in accordance with section 142(b)(1)(B))."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to bonds issued after December 31, 1994.

SEC. 2. INFORMATION REPORTING OF INCOME TAXES AND REAL PROPERTY TAXES.

(a) IN GENERAL.—Subsection (a) of section 6050E of the Internal Revenue Code of 1986 (relating to State and local income tax refunds) is amended to read as follows:

"(a) REQUIREMENT OF REPORTING.—Every person who, with respect to any individual, during any calendar year—

"(1) makes payments of refunds of State or local income taxes or real property taxes (or allows credits or offsets with respect to such taxes) aggregating $10 or more, or

"(2) receives payments of State or local real property taxes aggregating $10 or more,

shall make a return according to forms or regulations prescribed by the Secretary setting forth the amount of such payments, credits, or offsets, and the name, address, and TIN of the individual with respect to whom a payment described in paragraph (1), credit, or offset was made or from whom a payment described in paragraph (2) was received."

(b) TECHNICAL AMENDMENTS.—

(1) Subsection (b) of section 6050E of such Code is amended—

(A) by inserting "and of payments received from the individual" before the period at the end of paragraph (2), and

(B) by inserting "or, in the case of payments described in paragraph (2), will not claim itemized deductions under chapter 1 for the taxable year during which such payments are paid or incurred by the individual" before the period at the end of such subsection.

(2) Subsection (c) of section 6050E of such Code is amended to read as follows:

"(c) PERSON.—For purposes of this section, the term 'person' means—

"(1) the officer or employee—

"(A) having control of the payments of the refunds (or the allowance of the credits or offsets), or

"(B) receiving the payments described in subsection (a)(2), or

"(2) the person or persons appropriately designated for purposes of this section."

(3) REGULATORY AUTHORITY.—Section 6050E of such Code is amended by adding at the end thereof the following new subsection:

"(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section in cases where real property taxes are paid by a person on behalf of another person."

(c) CLERICAL AMENDMENTS.—

(1) The section heading for section 6050E of such Code is amended to read as follows:

"SEC. 6050E. CERTAIN STATE AND LOCAL TAX PAYMENTS AND REFUNDS."

(2) The table of sections for subpart B of part III of subchapter A of chapter 61 of such Code is amended by striking the item relating to section 6050E and inserting the following:

"Sec. 6050E. Certain State and local tax payments and refunds."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made or received in calendar years after 1992.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. GIBBONS] will be recognized for 20 minutes and the gentleman from Iowa [Mr. GRANDY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. GIBBONS].

□ 1230

Mr. GIBBONS. Mr. Speaker, the gentleman from Pennsylvania [Mr. COYNE] is the sponsor of this proposal and the gentleman from New York [Mr. RANGEL], will speak in his stead.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. RANGEL].

Mr. Speaker, this bill would require that State and local governments properly inform taxpayers about any user fees which are not currently deductible from Federal taxes. State and local governments would not have the responsibility for determining which fees are nondeductible. The bill requires the Secretary of the Treasury to issue regulations providing guidance for enforcing this provision.

This is the funding part of the legislation which the gentleman from Pennsylvania [Mr. COYNE] has introduced, which would give us an opportunity to establish the United States as a player in the development of the cutting edge high-speed rail technology. The bill would enable State and local governments to use effectively their tax-exempt bond authority for the development of governmentally owned high-speed rail facilities.

This proposal simplifies the treatment of high-speed rail bonds by eliminating the requirement that 25 percent of a bond's value be allocated against a State's bond volume limitation. Under the current law, 75 percent of a high-speed rail bond's value is already outside of the cap.

The intent of this proposal, Mr. Speaker, is to place high-speed rail bonds on an equal footing with airport and dock bonds which are 100 percent outside the bond value cap.

Since 1988 the Internal Revenue Code has allowed the issuance of tax-exempt bonds for high-speed intercity rail facilities but not rolling stock. I urge the support of the House for this bill.

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

Mr. Speaker, I rise reluctantly in opposition to this bill. While I certainly see merit in its effort to make high-speed rail part of our transportation infrastructure, its revenue offset will prove to be quite controversial.

H.R. 5653 would impose another unfunded mandate on State and local governments. This bill will force them to change accounting systems, information collection, and tax reporting. Any additional revenue the Federal Government receives from this change will be greatly outweighed by the administra-

tive burdens on State and local governments. Unlike the Federal Government, State and local governments have been making hard choices and balancing their budgets. The last thing we need is the Federal Government making their jobs harder and picking up revenue at their expense.

Within the last several days, Members of Congress have received letters from county and other local governments expressing grave concern about this unfunded mandate. In light of the concern expressed by the people who would have to implement this provision, I think more careful study and analysis needs to be undertaken before any such change is made.

I would note at this point that the Committee on Ways and Means has not held a hearing on this particular proposal.

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

Mr. GIBBONS. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I can understand the concern expressed by the minority that there are questions with respect to the revenue raiser for this bill. I certainly do not favor measures which will impose administrative burdens on our counties. I speak in behalf of the principle of trying to create these types of bullet trains or intercity type of fast transportation. I would emphasize that in order to qualify for tax-exempt financing outside the State volume cap, the bond financed property must be governmentally owned.

I think this bill would encourage investment in new mass transportation systems that the country desperately needs. My own State of Texas is entertaining the possibility of a bullet train, and many problems remain to be worked out. But we do know overall that rapid transportation, interstate and intrastate, is clean, it is safe, and it puts a lot of people to work. It is one of the safest ways to move people, and though we may have some disagreement on how to raise revenue to pay for it as we move forward, this measure should be advanced so that at least we can try to work out our differences as the process moves forward. I think this is a good proposal that the gentleman from New York [Mr. RANGEL] has offered on behalf of the gentleman from Pennsylvania [Mr. COYNE].

Mr. GRANDY. Mr. Speaker, I yield 5 minutes to the gentleman from Texas [Mr. FIELDS].

Mr. FIELDS. Mr. Speaker, I rise in opposition to H.R. 5653, a bill that exempts tax-exempt bonds issued to finance Government-owned high-speed intercity rail facilities from the State activity bond volume caps.

I believe that consideration of this bill under suspension of the rules is inappropriate. There have been no formal hearings on this particular bill that I am aware of. It seems to me that it is very unwise to pass such legislation without subjecting it to the full hearing process.

I would like to focus my objection to the bill on the mischief it could cause in the State of Texas. In May 1991, the Texas High-Speed Rail Corp. was awarded the franchise to build a 200-mph train to serve the major cities in Texas. The corporation beat out the competition mainly because of their pledge to build the system without using public money.

Over the past year, the proposed rail project has raised considerable controversy throughout the areas of Texas that will be affected by it. The people who live and work along the proposed train route are loudly protesting the project, citing loss of land, loss of mobility, possible ill effects on cattle and crops, as reasons for opposing the train. Others have asked the question, what is the need—the purposed served? Thus far, a purpose or need has not been demonstrated to many who have studied the issue. Partly because of this controversy, the corporation has found it difficult to find financing for the project.

In addition to the purpose and land use concerns, a number of us are concerned that the corporation will turn to public funds to build this controversial project. As I said earlier, the corporation originally pledged to use only private funds. However, recent quotes from supporters of the project lead me to believe otherwise. The following quote is from a news article in the Houston Post that discussed a possible supportive relationship between H.R. 5653 and the Texas high-speed rail project, in spite of the fact that the bonds referred to in the bill could only be used by Government-owned enterprises.

But backers of the Texas rail projects say there are a number of ways to get around the Government ownership provision, including having the State take ownership of the bullet train in name while leasing it back to the private owners.

After reading this statement I believe it is clear that the corporation has grossly misled the people of Texas in promising to provide them with a privately funded rail project, and intends to use whatever means necessary to secure public funding. I feel that the project is premature, there is no evidence that demonstrates a need for a high-speed train, particularly one that will be disruptive to, and possibly confiscate, family farms and ranches. Mr. Speaker, do you know who will get left holding the bag should the project owners wheedle their way around the restrictions on these bonds, then default on bonds and the project? The Texas taxpayers, that's who. And how many rail projects in this country don't wind up being heavily subsidized by the Federal Government?

High-speed rail projects should be funded on their own merits by the private sector, not paid for a public that has little need or use for such a system.

Mr. Speaker, I object to the passage of H.R. 5653 under suspension of the rules because I believe that the effects of the bill need to be heard through the committee hearing process. Failing that, the Members of the House should at least have the opportunity to vote on the bill.

□ 1330

Mr. GRANDY. Mr. Speaker, I yield 3 minutes to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in opposition to the bill also, and my principal concern is that of unfunded mandates.

We talk a great deal about it. We shift a great deal of responsibility to local governments.

I want to tell you that in a small State, in a small community, local governments are burdened about as heavily as they can be. In the long run, my friends, I think one of the things that you are going to see and be most concerned about in this Congress is an active Congress seeking to do all kinds of good things for everyone with no money to do it with, and we will shift those costs either to local governments or, indeed, to employers.

So my leader, the minority spokesman, talked about hearing from national groups of county officials and others. I want to tell you about a group that comes from Carbon County, WY, a very small county having difficulty in the economy. They are concerned about this. They are concerned about the effort to pay for this provision of $150 million to require counties to report to taxpayers and the IRS the amount of property taxes paid, that is, deductible for Federal income tax purposes. The requirement applies to all taxing authorities and would be effective on January 1, 1994.

Let me give you some of the difficulties that a county would have, and that is making a determination as to whether a charge is a tax or a fee. For example, IRS findings include where part of an amount paid to a county water district covered maintenance charges and bond tax that the amount could not be determined, the entire amount of the deduction was disallowed. Taxpayer's one-time tap fee paid for the hookup to the city sewer system was characterized as a special assessment for an improvement benefiting the taxpayer's property and, hence, was held to be nondeductible as a capital improvement and on and on they go.

So, Mr. Speaker, we are dealing here with an additional imposed burden on

local government, not only the cost of this copy of this notice to be sent to IRS without a Social Security number, by the way, so it makes it very ineffectual, but also to have to make the determinations not clearly made in the bill.

Mr. Speaker, I rise in opposition to the bill.

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

Mr. Speaker, Let me just expand a little bit on what the gentleman from Wyoming talked about in terms of the unintended consequences of H.R. 5653.

The concern that the gentleman expressed and the concern that I mentioned in my remarks and that the gentleman from Texas [Mr. FIELDS] expanded upon is that we are perhaps unintentionally unleashing a potential section 89 on local governments. Try to imagine a local government attempting to separate which costs of a road project are solely for new construction and which are for maintenance. They would be obligated to do that under H.R. 5653.

If the coin bill becomes law, our State and local governments would need to completely overhaul their accounting systems, buy new equipment, add staff, all of which would be paid for with taxpayer dollars. City and county tax collectors rarely ever match Social Security numbers to property tax records. The tremendous burdens placed on these local governing boards to match property tax records and Social Security numbers would shift resources from other local services like police, fire protection, and education to compliance for this measure.

Another Federal burden on cities that does not improve life in the cities is not something we should be supporting at this time.

I can reiterate from my own personal experience, because I have small communities, sometimes under 10,000 citizens, that now have full-time employees doing nothing but complying with Federal paperwork.

This proposal has technical problems, because it would require the local tax collector to make a determination or get a ruling from the IRS about each item on the tax bill and segregate out those items deductible and those that are not deductible. This is a completely new reporting requirement, and there is not very much time, and there is not very much experience either, in the IRS or at the local level in making these kinds of determinations.

While this provision would apply to tax returns filed on taxes paid in 1994, it would be unadministerable for a period of time, because the IRS would be required to make determinations on basically every use of property tax money. Every city is then going to feel the need to file for determinations on just about every special assessment or use of property tax dollars, and the $2,000 filing fee for each of these determinations along with the inevitable backlog of filings will make this even more difficult to comply with.

Mr. Speaker, with those criticisms, I urge the House to reject H.R. 5653 at this point. Obviously this is an item that needs to be discussed in hearings with the proper committees of jurisdiction.

Mr. COYNE. Mr. Speaker, today the House has an opportunity to establish the United States as a player in the development of cutting edge high-speed rail technologies.

This bill would enable State and local governments to use effectively their tax-exempt bond authority for the development of governmentally owned high-speed rail facilities. My proposal simplifies the treatment of high-speed rail bonds by eliminating the requirement that 25 percent of a bond's value be allocated against a State's bond volume limitation. Under current law, 75 percent of a high-speed rail bond's value is already outside the cap.

The intent of this proposal is to place high-speed rail bonds on an equal footing with airport and dock bonds, which are 100 percent outside the bond volume cap. Since 1988, the Internal Revenue Code has allowed the issuance of tax-exempt bonds for high-speed intercity rail facilities but not rolling stock. Trains using such facilities must operate at speeds in excess of 150 miles per hour.

Unfortunately, the 25-percent bond volume cap allocation requirement places high-speed rail bonds in competition against industrial revenue bonds, mortgage revenue bonds, and other long-standing bond issues. My bill ends this anomaly in the Code and provides States with the ability to promote the development of modern, high-technology, high-speed rail transportation systems.

Enactment of this proposal will assist States in every region of the country where plans for high-speed rail systems are on the table. High-speed rail systems are now in various stages of planning and development in Pennsylvania, California/Nevada, Illinois, Minnesota, Florida, the Northeast corridor, Ohio, Texas, and Washington.

The United States has been unacceptably slow to join other advanced industrial nations in developing high-speed rail systems. We are losing ground quickly to Japan, Germany, and other Western European nations in building environmentally friendly high-speed rail systems.

The Federal Government has long played a central role in building highways and airports. We need a similar commitment to ensure the development of U.S. high-speed rail systems. The facts are that no new national transportation systems have been developed commercially in the history of our country without a significant commitment at the Federal level. High-speed rail systems using state-of-the-art, steel-wheel-to-steel technologies and systems using advanced, innovative magnetic levitation technologies will not proceed without this support.

The United States led early research efforts on maglev, but today we are at risk of losing out to foreign competitors in this field. This is exactly what happened with VCR technology which was lost to foreign competitors. High-speed rail systems using maglev technology would have the potential of relieving urban transportation congestion by offering reliable intercity transportation at speeds of up to 310 miles per hour.

The city of Pittsburgh, which I am proud to represent, is home to efforts to place the United States once again at the cutting edge of maglev research and development. Pittsburgh is the home of the Mellon Institute's High-Speed Ground Transportation Center at Carnegie-Mellon University. In addition, steps are being taken to develop the commercial potential of maglev technologies.

High-speed rail systems offer an answer to increased congestion on the Nation's highways and at the Nation's airports. The elimination of this gridlock will alleviate a significant inefficiency in the U.S. economy. According to the U.S. Transportation Department, traffic delays will cost $50 billion a year in lost wages and wasted gasoline by the year 2005. The FAA estimates that air traffic congestion will affect 74 percent of air passengers, compared with 39 percent in 1986.

High-speed rail systems provide significant environmental benefits. Earlier this year, Ms. Dawn Erlandson, tax policy director, Friends of the Earth, testified before the Ways and Means Committee in support of the use of tax-exempt high-speed rail bonds. She noted that assuming regional high-speed rail systems were phased in starting in 2000, the cumulative nationwide energy savings would be 6.6 billion barrels of oil over the first decade of the 21st century.

The use of tax-exempt high-speed rail bonds has been endorsed by nearly every major environmental group. In addition to Friends of the Earth, groups supporting high-speed rail bonds include the Sierra Club, the Union of Concerned Scientists, the National Wildlife Federation, the National Audubon Society, and the Natural Resources Defense Council.

My proposal includes a revenue offset which makes it deficit neutral. This offset would simply require States and local governments to provide taxpayers with the information they need to comply with existing tax law for claiming itemized deductions.

Under current law, taxpayers may claim an itemized deduction for real property taxes paid to State and local governments, but may not claim a Federal tax deduction for State and local government user fees. The revenue offset would simply require State and local governments to provide taxpayers with accurate information regarding the amount of tax deductible real property taxes.

This proposal has the added benefit of protecting taxpayers from Internal Revenue Service penalties for claiming incorrect itemized deductions. The General Accounting Office is currently completing an exhaustive study of this issue which will provide the IRS with much of the information required to pursue action against taxpayers claiming incorrect property tax deductions.

Mr. Speaker, high-speed rail merits effective access to State and local government tax-exempt bonds. This bill simply places high-speed rail on an equal footing with airports and docks. High-speed rail should have an opportunity to compete on a level playing field with

other modes of transportation. Eliminating the 25-percent allocation requirement provides high-speed rail systems with that opportunity.

Mr. RAHALL. Mr. Speaker, I rise in opposition to H.R. 5653, a bill to exempt Government-owned high speed intercity rail facility bonds from the State volume cap.

At first glance, Mr. Speaker, the bill seems harmless enough. But on second and third reading, it is yet another unfunded Federal mandate which imposes tremendous new costs and additional administrative burdens on local governments. And the costs are applied to all taxpayers, whether you ever have a bullet train in your neighborhood or not.

I can't tell you, Mr. Speaker, how often Congress has done just that in the past—imposing more and more congressional mandates on localities, while yanking every other kind of support you can think of—leaving cities strapped for money and going bankrupt—just trying to comply with or deal with unfunded mandates.

All you have to do, is look at congressionally mandated wastewater and sewage treatment, or safe drinking water requirements that States, cities, and towns have to meet, and then look at the dwindling funds from the Federal level to help them pay for the improvements necessary in order to know that it just is not fair. States, towns, and cities can't fill the funding gaps anymore. And they can't raise the money or leverage it or appropriate it to pay for the mandates we mindlessly impose upon them. The resources just are not there.

This bill, Mr. Speaker, actually requires local taxing authorities to send a notice to the taxpayers and to the IRS, stating which taxes are deductible under Federal income tax rules. The local tax collector would have to make a determination, or get a ruling from the IRS, as to each charge included on the tax bill. And, if push comes to shove, in the administrative confusion bound to follow, the IRS can change its mind.

I shudder to think of the administrative chaos that would ensue administratively—not only for counties and cities, but school districts as well. School districts have got enough problems as it is.

I shudder to imagine a local government attempting to separate which costs of a road project are solely for new construction, and which are for maintenance.

Bullet trains, Mr. Speaker, are already 75 percent exempt from the cap. If a State desires to commit State funds or dedicate part of the State's bond cap, they could build these projects right now.

As it is, under this bill, if the cap is lifted taxpayers across the Nation will end up paying for projects that the beneficiary States refuse to fund for themselves, and that all States will not necessarily benefit from.

Afterall, the bullet train is not just like airports. The tax law requires airports to be publicly operated; the bullet train will be privately operated.

I am not quite ready to vote for this bill, Mr. Chairman. Perhaps a little more study, a few public hearings, a little more research into the technologies to be relied upon for future operation and maintenance—the way we usually try to do business around here.

Maybe after knowing a lot more about the probable effects of eliminating the cap, I can vote for such a bill. But not today.

Mr. CONDIT. Mr. Speaker, I rise in opposition to H.R. 5653, legislation to remove existing barriers in the ability of State and local governments to issue Federal tax-exempt high speed rail bonds. I do not oppose this legislation because I oppose the development of high speed rail transit systems. In fact, I believe high speed rail to be one of the solutions to our intercity transit problems. However, I oppose this legislation because the revenue offset provision will impose another unfunded Federal mandate on our local governments.

Under this revenue offset provision, State and local governments would be directed to provide taxpayers and the Internal Revenue Service with a notice stating which taxes are deductible under Federal income tax rules. This unfunded Federal mandate will impose tremendous new costs and additional administrative burdens on local governments. In fact, there is still some question as to whether our localities even have the resources to provide this information. Very few local governments have Social Security numbers on file and matched to property tax records. Without a Social Security number on the notice, the information will be useless to the IRS. In addition, there will be no way for the IRS to match this data with other Federal or State income tax files.

While H.R. 5653 has the admirable goal of advancing high speed rail, the Federal Government should not pass the costs on to our already financially strapped localities. If the Congress wants to provide beneficial tax treatment for the issuance of Federal tax-exempt high speed rail bonds, then the Federal Government should pay for it.

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

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

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Florida [Mr. GIBBONS] that the House suspend the rules and pass the bill, H.R. 5653.

The question was taken.

Mr. FIELDS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. GIBBONS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the nine bills just considered.

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

There was no objection.

COMPREHENSIVE SERVICE PROGRAMS FOR HOMELESS VETERANS ACT OF 1992

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5400) to establish in the Department of Veterans Affairs a program of comprehensive services for homeless veterans, as amended.

The Clerk read as follows:

H.R. 5400

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Comprehensive Service Programs for Homeless Veterans Act of 1992".

SEC. 2. PILOT PROGRAM.

(a) IN GENERAL.—Subject to the availability of appropriations provided for under section 9, the Secretary of Veterans Affairs shall establish and operate, through September 30, 1995, a pilot program under this Act to expand and improve the provision of benefits and services by the Department of Veterans Affairs to homeless veterans.

(b) COMPREHENSIVE CENTERS.—The pilot program shall include the establishment of no more than four additional demonstration programs at sites under the jurisdiction of the Secretary to be centers for the provision of comprehensive services to homeless veterans. The services to be provided at each site shall include a comprehensive and coordinated array of specialized services, which may include those services authorized under sections 1712A, and 1730 of title 38, United States Code, section 115 of Public Law 100–322 (38 U.S.C. 1712 note), section 801(b) of Public Law 100–628 (102 Stat. 3257), and any other provision of law under which the Secretary may provide services to homeless veterans.

(c) PLACEMENT OF VETERANS BENEFITS COUNSELORS.—The pilot program shall also include the services of veterans benefits counselors at—

(1) no more than 45 sites at which the Secretary provides services to homeless chronically mentally ill veterans pursuant to section 115 of Public Law 100–322 (38 U.S.C. 1712 note);

(2) no more than 26 sites at which the Secretary furnishes domiciliary care to homeless veterans pursuant to section 801(b) of Public Law 100–628 (102 Stat. 3257);

(3) no more than 12 centers which provide readjustment counseling services under section 1712A of title 38, United States Code; and

(4) each of the demonstration sites established under subsection (b).

SEC. 3. GRANTS.

(a) AUTHORITY TO MAKE GRANTS.—Subject to the availability of appropriations provided for under section 9, the Secretary of Veterans Affairs, during fiscal years 1993, 1994, and 1995, shall make grants to assist eligible entities in establishing new programs to furnish outreach, rehabilitative services, vocational counseling and training, and transitional housing assistance to homeless veterans.

(b) CRITERIA FOR AWARD OF GRANTS.—The Secretary shall establish criteria and requirements for the award of a grant under this section, including criteria for entities eligible to receive such grants. The Secretary shall publish such criteria and requirements in the Federal Register not later than 90 days after the date of the enactment of this Act. In developing such criteria and requirements, the Secretary shall consult with the National Coalition for Homeless Veterans and to the maximum extent possible shall take into account the findings of the assessment of needs of homeless veterans

conducted by the Secretary under section 5. The criteria established under this section shall include the following:

(1) Specification as to the kind of projects for which such grant support is available, which shall include (A) expansion, remodeling, or alteration of existing buildings, or acquisition of facilities, for use as service centers, transitional housing, or other facilities to serve homeless veterans, and (B) procurement of vans for use in outreach to, and transportation for, homeless veterans to carry out the purposes set forth in subsection (a).

(2) Specification as to the number of projects for which grant support is available, which shall include provision for no more than 25 service centers and no more than 20 programs which incorporate the procurement of vans as described in paragraph (1).

(3) Appropriate criteria for the staffing for the provision of the services for which a grant under this section is furnished.

(4) Provisions to ensure that the award of grants under this section (A) shall not result in duplication of ongoing services in excess of needs identified under section 5, and (B) to the maximum extent practicable, shall reflect appropriate geographic dispersion and an appropriate balance between urban and nonurban locations.

(5) Provisions to ensure that an entity receiving a grant shall meet applicable State and community fire and safety requirements, but fire and safety requirements applicable to buildings of the Federal Government shall not apply to real property to be used by a grantee in carrying out the grant.

(6) Specifications as to the means by which an entity receiving a grant may contribute in-kind services to the start-up costs of any project for which support is sought and the methodology for assigning a cost to that contribution for purposes of subsection (c).

(c) FUNDING LIMITATIONS.—A grant under this section may not be used to support operational costs of a grantee, except as provided for under section 4. The amount of a grant under this section may not exceed 65 percent of the estimated cost of the expansion, remodeling, alteration, acquisition, or procurement provided for under this section.

(d) ELIGIBLE ENTITIES.—The Secretary may not make a grant under this section unless the applicant for the grant—

(1) is a public or nonprofit private entity with the capacity (as determined by the Secretary) to effectively administer a grant under this section (except that a nonprofit entity described in section 1718(b)(2) of title 38, United States Code, and which was established by employees of the Department of Veterans Affairs shall not be eligible for a grant under this section);

(2) has demonstrated that adequate financial support will be available to carry out the project for which the grant has been sought consistent with the plans, specifications, and schedule submitted by the applicant; and

(3) has agreed to meet the applicable criteria and requirements established under subsection (b) (and the Secretary has determined that the applicant has demonstrated the capacity to meet those criteria and requirements).

(e) APPLICATION REQUIREMENT.—An entity described in subsection (d) desiring to receive assistance under this section shall submit to the Secretary an application. The application shall set forth—

(1) the amount of the grant requested with respect to a project;

(2) a description of the site for such project;

(3) plans, specifications, and the schedule for implementation of such project in accordance with requirements prescribed by the Secretary under subsection (b); and

(4) reasonable assurance that upon completion of the work for which assistance is sought, the program will become operational and the facilities will be used principally to provide to veterans the services for which the project was designed, and that not more than 25 percent of the services provided will serve clients who are not receiving such services as veterans.

(f) PROGRAM REQUIREMENTS.—The Secretary may not make a grant to an applicant under this section unless the applicant, in the application for the grant, agrees to each of the following requirements:

(1) To provide the services for which the grant is furnished at locations accessible to homeless veterans.

(2) To maintain referral networks for, and aid homeless veterans in, establishing eligibility for assistance, and obtaining services, under available entitlement and assistance programs.

(3) To ensure the confidentiality of records maintained on homeless veterans receiving services under the grant.

(4) To establish such procedures for fiscal control and fund accounting as may be necessary to ensure proper disbursement and accounting with respect to the grant and to such payments as may be made under section 4.

(5) In the case of an application for a grant for a service center for homeless veterans, that—

(A) such center shall provide services to homeless veterans during such hours as the Secretary may specify in requirements established under subsection (b) and shall be open to such veterans during such hours on an as-needed, unscheduled basis;

(B) space at such center will be made available, as mutually agreeable, for use by staff of the Department of Veterans Affairs, the Department of Labor, and other appropriate agencies and organizations in assisting homeless veterans served by such center; and

(C) such center shall be equipped and staffed to provide, or to assist in providing, health care, mental health services, hygiene facilities, benefits and employment counseling, meals, transportation assistance, and such other services as the Secretary determines necessary; and

(D) such center shall be equipped and staffed to provide, or to assist in providing, job training and job placement services (including job readiness, job counseling, and literacy and skills training), as well as any outreach and case management services that may be necessary to carry out this subparagraph.

(6) To seek to employ homeless veterans and formerly homeless veterans in positions created for purposes of the grant for which those veterans are qualified.

SEC. 4. PER DIEM PAYMENTS.

(a) PER DIEM PAYMENTS FOR FURNISHING SERVICES TO HOMELESS VETERANS.—Subject to the availability of appropriations provided for under section 9, the Secretary of Veterans Affairs, pursuant to such criteria as the Secretary shall prescribe, shall provide to a recipient of a grant under section 3 (or an entity eligible to receive a grant under section 3 which after the date of enactment of this Act establishes a program which the Secretary determines carries out the purposes described in section 3) per diem payments at such rates as the Secretary shall prescribe by regulation for services furnished to any homeless veteran—

(1) whom the Secretary has referred to the grant recipient (or entity eligible for such a grant); or

(2) for whom the Secretary, within three working days, has authorized the provision of services;

if such veteran is eligible for such services in a facility of the Department.

(b) LIMITATION.—The amount of per diem payments made with respect to a veteran under this section may not exceed one-half of the cost to the grant recipient (or other eligible entity) of providing such service.

(c) IN-KIND ASSISTANCE.—In lieu of per diem payments under this section, the Secretary may, with the approval of the grant recipient, provide in-kind assistance (through the services of Department employees and the use of other Department resources) to a grant recipient (or entity eligible for such a grant) under section 3.

(d) INSPECTIONS.—The Secretary may inspect any facility of an entity eligible for payments under subsection (a) at such times as the Secretary considers necessary. No per diem payment may be made to an entity under this section unless the facilities of that entity meet such standards as the Secretary shall prescribe.

SEC. 5. ASSESSMENT OF NEEDS OF HOMELESS VETERANS.

(a) REGIONAL ASSESSMENTS.—The Secretary of Veterans Affairs shall require the director of each medical center and the director of each regional benefits office of the Department (1) to assess the needs of homeless veterans living within the area served by the medical center or regional office, and (2) to catalogue programs of the Department, of other departments and agencies of the Federal, State, and local governments, and of nongovernmental organizations, which provide services to homeless persons in such area.

(b) MATTERS TO BE INCLUDED.—Each such assessment shall—

(1) be made in coordination with representatives of State and local governments, other appropriate departments and agencies of the Federal Government, and nongovernmental organizations that have experience working with homeless persons in that area;

(2) identify the needs of homeless veterans with respect to—

(A) health care;

(B) education and training;

(C) employment;

(D) shelter;

(E) counseling; and

(F) outreach services;

(3) indicate the extent to which the needs referred to in paragraph (2) are being met adequately by the programs of the Department, of other departments and agencies of the Federal Government, of State and local governments, and of nongovernmental organizations; and

(4) be carried out in accordance with uniform procedures and guidelines prescribed by the Secretary.

(c) USE OF ASSESSMENT.—The Secretary shall compile such assessment information for use in program planning and to assist in carrying out the provisions of this Act and other provisions of law under the jurisdiction of the Secretary of Veterans Affairs relating to assistance to homeless veterans.

SEC. 6. OUTREACH SERVICES.

(a) ASSIGNMENT OF VBA EMPLOYEES.—The Secretary of Veterans Affairs shall assign such employees of the Veterans Benefits Administration as the Secretary considers appropriate to conduct outreach programs and provide outreach services for homeless veter-

ans. Such outreach services may include site visits through which homeless veterans can be identified and provided assistance in obtaining benefits and services that may be available to them.

(b) LIMITATION.—No funds may be expended for the purpose of subsection (a) unless those funds are specifically identified for such purpose through the appropriations process.

SEC. 7. EXTENSION AND EXPANSION OF PROGRAMS FOR HOMELESS VETERANS.

(a) Section 115(d) of the Veterans' Benefits and Services Act of 1988 (38 U.S.C. 1712 note) is amended by striking out "1992" and inserting "1995".

(b) Section 801 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Public Law 100-628; 102 Stat. 3257) is amended in subsection (c), by striking out the period at the end of the first sentence and inserting in lieu thereof "and, if funds remain available, to other homeless veterans who need such services, but the Secretary shall administer the provision of such services in a manner which gives priority to, and facilitates access to services for, homeless veterans who have a chronic mental illness.".

SEC. 8. AUTHORITY TO MAKE PROPERTIES AVAILABLE FOR HOMELESS PURPOSES.

Section 3735 of title 38, United States Code, is amended—

(1) in subsection (a),

(A) in paragraph (2)—

(i) by inserting ", lease, lease with an option to purchase, or donate" after "sell"; and

(ii) by inserting "or lease or donation" after "sale"; and

(B) in paragraph (3)(B), by inserting ", leased, or donated" after "sold"; and

(2) in subsection (b), by striking out "September 30, 1993" and inserting in lieu thereof "December 31, 1995".

SEC. 9. AUTHORITY TO LEASE CERTAIN PROPERTY OF THE DEPARTMENT OF VETERANS' AFFAIRS FOR EXTENDED LEASE TERMS.

(a) AUTHORITY.—Notwithstanding section 8122(a)(1) of title 38, United States Code, and subject to subsection (b), the Secretary of Veterans Affairs may lease to a representative of the homeless for a term in excess of three years any real property at the West Los Angeles Veterans Affairs Medical Center for which an application of the representative for the use of the property has been approved by the Secretary of Health and Human Services under section 501(e) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411(e)). Any such lease shall be subject to the provisions of section 501(f) of such Act (42 U.S.C. 11411(f)).

(b) LIMITATION.—The Secretary may not lease real property under subsection (a) for a term in excess of three years to a representative of the homeless unless the representative agrees to use the property only as a location for the provision of services to homeless veterans and the families of such veterans.

(c) DEFINITION.—In this section, the term "representative of the homeless" has the meaning given such term in section 501(h)(4) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411(h)(4)).

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this Act *(other than section 8)* $48,000,000 for each of the fiscal years 1993, 1994, and 1995. No funds may be used for the purposes of this Act *(other than section 8)* unless expressly provided for in an appropriation law. Nothing in this Act shall be construed to diminish funds for, or continuation of, existing programs administered by the Secretary of Veterans Affairs to serve veterans.

SEC. 11. ANNUAL REPORTS.

Not later than May 1 of each of 1994, 1995, and 1996, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the implementation of this Act. Each such report shall, to the extent feasible, include information on (1) the number of veterans assisted, (2) the services provided, and (3) the Secretary's analysis of the operational and clinical effectiveness and cost-effectiveness of the programs established under, or with assistance provided by, this Act.

The SPEAKER pro tempore (Mr. MCDERMOTT). Pursuant to the rule, the gentleman from Mississippi [Mr. MONTGOMERY] will be recognized for 20 minutes, and the gentleman from Florida [Mr. STEARNS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. MONTGOMERY].

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

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material, on H.R. 5400, the bill now under consideration.

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

There was no objection.

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

Mr. Speaker, H.R. 5400 is a comprehensive bill designed to help needy, homeless veterans. There have been reports that 30 percent of those who are homeless are veterans. Yet, of $761 million which Congress appropriated in fiscal year 1992 for major programs authorized by the Stewart B. McKinney Homeless Assistance Act, the $33 million which support VA programs for homeless veterans represents only 4.3 percent of the total amount. This thin slice of the total funding allocated to assist homeless veterans contrasts starkly with the number of homeless veterans in the streets of every major city in the country.

Veterans deserve better and this bill would authorize an additional $48 million in fiscal year 1993 to help alleviate the problem.

Mr. Speaker, the Congressional Budget Office estimates that H.R. 5400 would increase direct spending by $4 million in fiscal year 1993 and less than $500,000 in fiscal years 1994 and 1997.

Last Thursday, our committee ordered H.R. 5008 reported to the House. This bill contains cost saving provisions that total more than $197 million in fiscal year 1993. The bill will offset the total spending in several bills reported by the committee, including the bill now under consideration. We expect to bring H.R. 5008 to the floor before the August recess.

I call this to the attention of my colleagues in order to assure them that our committee will not report any direct spending bills this session unless we have reported measures to offset the cost.

Mr. Speaker, the bill was crafted by several members of the committee. The distinguished gentleman from West Virginia, HARLEY "BUCKY" STAGGERS," is the chief sponsor of the bill and deserves much credit for his leadership. HARLEY held several hearings, including some in the field, to gather information and data on the problems homeless veterans face in everyday living.

Since becoming chairman of the Subcommittee on Housing and Memorial Affairs, the gentleman from West Virginia was quick to do several things to enhance the lives of homeless veterans.

Previous bills he spearheaded have resulted in the establishment of transitional housing for veterans who participate in compensated work therapy programs. He is responsible for the enactment of legislation making it possible for nonprofit organizations to lease housing units from the VA for use as transitional group residences for veterans suffering from alcohol and drug abuse.

So the bill currently before us is one of several bills coming out of his subcommittee designed to provide much needed benefits for homeless veterans.

I also want to acknowledge the work of the gentleman from Massachusetts, the Honorable JOE KENNEDY, who introduced his own bill, H.R. 2648, last year that would expand programs for homeless veterans, with emphasis on nonprofit organizations.

The gentleman from Illinois, the Honorable LANE EVANS has been very much involved in programs to help the homeless and he was part of the team that developed this bill.

The gentlelady from California, one of the new members of the committee, the Honorable MAXINE WATERS, is another member of the group who helped draft the bill we are considering today. Two amendments offered by the gentlelady to provide specific help to homeless veterans in Los Angeles were adopted when the full committee marked up the bill last Thursday.

DAN BURTON and BOB STUMP made major contributions in drafting this bill, and I thank both of them for their cooperation and hard work.

I'm grateful to all members of the committee who worked together to get a good bill to the floor.

This is truly a bipartisan effort and I'm most grateful for the way everyone has worked together on this measure.

I now yield to the gentleman from West Virginia [Mr. STAGGERS].

Again, I want to thank the gentleman from West Virginia for the strong and active leadership he has provided as chairman of the Subcommittee on Housing and Memorial Affairs. So much has been done to reform VA housing programs under his leadership.

When he assumed the chairmanship, he proposed several reforms that had a dramatic impact in reducing the inventory of VA foreclosed properties. Mr. STAGGERS restructured the loan guaranty program, making it more fiscally sound. He constantly resisted administration proposals to increase loan fees, which has been no easy task considering the budget problems that have been with us for several years.

Mr. STAGGERS gave the national cemetery system a shot in the arm when it was most needed by holding numerous hearings to expose deficiencies in the program and get additional funds through the Appropriations Committee to correct those deficiencies.

I know I speak for all Members when I say thank you for the service the gentleman has rendered to our Nation's veterans. They are fortunate to have him in the Congress working in their behalf. They will miss him when he leaves the House a the close of this Congress and so will we.

□ 1340

Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. EVANS] to explain this piece of legislation.

Mr. EVANS. Mr. Speaker. I appreciate the chairman bringing this legislation to the floor today and the gentleman's leadership on this issue.

I also rise in praise for the gentleman from West Virginia [Mr. STAGGERS] for his offering of this legislation.

I also join in praising the gentleman from Massachusetts [Mr. KENNEDY] who is reaffirming his traditional family commitment to the underprivileged and poor of our country by bulldogging this legislation through the process.

I also want to salute the gentlewoman from California [Ms. WATERS] for her leadership on this issue as well.

Mr. Speaker, the first thing I learned in the Marine Corps boot camp was that you were never supposed to leave anyone behind, and yet that is exactly what has happened to so many of our veterans who live on the streets of our cities and in the poor rural parts of our country.

From the streets of the District of Columbia to the beaches of California, veterans from every peacetime era and armed conflict since World War II, including the Persian Gulf war, are among the homeless. They constitute between 30 and 50 percent of America's homeless and it is estimated that between 150,000 and 250,000 veterans are homeless on a nightly basis in our Nation across the country.

It is a national tragedy that homeless veterans are denied the very privileges and rights that they fought to protect and that we take for granted everyday.

These men and women do not want to be homeless. They do not want to leave their friends and family. Most are high school graduates and more than one-third have either attended or graduated from college. Nevertheless, many have fallen victim to the continuing recession, high housing and medical costs, job skills that are not transferable to the general work force, and often, post-traumatic stress disorder [PTSD]—an illness for which few, it any, homeless veterans receive treatment.

One veteran I know is homeless despite being a qualified medical technician. The VA delayed authorizing medical treatment for his service-connected disorder and he lost both his job and his home. Now he and his wife are living in a local shelter here in the District of Columbia looking for a job, and still fighting with the VA.

Unfortunately, this story is played out around the country daily. Programs for homeless veterans remain far from fully funded and without exception, there are more eligible persons than spots in the programs. In fact, the Federal Government only has three authorized programs, that specifically target homeless veterans. Accordingly, 16 States do not have any federally funded programs and many others only have programs in one city in their States.

Thankfully, organizations around the country have noted this failure and sought to fill the void. Groups such as the National Coalition for Homeless Veterans [NCHV] have successfully established programs to assist homeless veterans return to, and remain in, mainstream society. For their dedication to our veterans, I would like to personally thank the homeless veteran service providers around the country. I especially want to thank the board of the NCHV—Bill Elmore of the Missouri Veterans Leadership Program, Ralph Cooper of the Veterans Benefits Clearinghouse, Jerry Washington of Base Camp, Robert Van Keuren of the Vietnam Veterans of San Diego, Michael Blecker of Swords to Plowshares, Ken Smith of the Vietnam Veterans Workshop, and Stephen Peck of Far from Home—as well as Joan Alker of the National Coalition of the Homeless.

These groups, however, are limited by the funding that they receive. While veterans comprise one-third of the homeless, programs that which target them receive less than 5 percent of the Stewart B. McKinney Homeless Assistance Act funds. This year, such programs will only receive about $34.5 million of the $792 million appropriated under the McKinney Act.

We are not advocating a redistribution of the existing McKinney Act funds. Such action would only complicate the problem by eliminating programs that benefit the entire homeless population. Rather, we seek to both increase overall funding and establish new programs.

As citizens and elected Representatives, we must join the battle against homelessness. We need to ensure that food, temporary shelter, clothing, medical care and mental health counseling, job training and referrals, and other essentials are made available to homeless veterans.

For these reasons, I urge you to support passage of H.R. 5400, The Comprehensive Service Programs for Homeless Veterans Act of 1992. Working with homeless veterans service providers, Representatives STAGGERS, KENNEDY, WATERS, and I drafted this unique legislation that will undoubtedly benefit homeless veterans and their families.

H.R. 5400 authorizes the Secretary of Veterans Affairs to establish up to four new comprehensive homeless centers, authorizes the services of veterans benefits counselors at certain homeless chronically mentally ill sites, at VA domiciles and vet centers. These veteran benefits specialists will be able to augment the range of services now provided.

The bill will also solidify the responsibilities of Federal, State, and local governments to help homeless veterans by authorizing the Secretary to provide grant support, up to 65 percent, to assist in establishing new programs to furnish outreach, rehabilitative services, vocational counseling and training, and transitional housing assistance. Per diem payments and in-kind services to grantees on behalf of a homeless veteran would also be authorized.

Lastly, H.R. 5400 authorizes the Secretary to make properties available for homeless purposes through leasing, leasing with option to buy and donations, assigns certain VBA employees to conduct outreach and requires the VA to assess the needs of homeless veterans living within the areas served by VA medical centers and regional offices.

Mr. Speaker, America's veterans have always answered the call to duty when freedom or this great Nation is threatened. Today, we have the opportunity to answer the call of need of America's homeless veterans. I, therefore, urge favorable consideration of this measure.

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

Mr. STEARNS. Mr. Speaker, I rise today in support of H.R. 5400, the Comprehensive Service Programs for Homeless Veterans Act of 1992.

I want to commend Chairman MONTGOMERY, the ranking minority member, Mr. STUMP, subcommittee chairman, Mr. STAGGERS, and ranking subcommittee member Mr. BURTON for

their efforts in developing H.R. 5400 and bringing to the floor this outstanding program on behalf of homeless veterans.

On February 26, 1992, the committee heard testimony regarding several innovative and positive approaches to the problems of homeless veterans. These programs focused on the chronic problems experienced by our country's veterans. These outreach services sought to combine clinical care, and rehabilitation efforts, that include among other things, substance abuse treatment and job training.

Obviously, this type of comprehensiveness is an effort to move beyond simple crisis intervention and bring substantial and long term assistance for the homeless veteran's reintegration into society.

The uniqueness of this approach cannot be overstated. Comprehensive rehabilitation worked. Instead of simply giving money to build shelters for homeless veterans, the VA will continue its efforts to assist the veteran as a whole person. An old proverb states that you can feed a man for one day or you can teach him to fish and he and feed himself for a life time. And that is precisely what this bill is going to do.

I commend this approach.

Mr. Speaker, I want to conclude my remarks by calling attention to how we are going to pay for these programs.

The Veterans' Committee is painfully aware that the VA cannot sustain its commitment to the VA health care system if other veterans programs have their budgets further stretched to pay other deserving VA programs. It becomes a paradox of robbing Peter to pay Paul. It is not good policy to develop worthwhile veteran programs and pay for them by pilfering other veteran programs. This member knows of no VA service or benefit that is so over budgeted that it can afford to have its funds cut for use in another program no matter how meritorious.

In light of that reality, the bill contains language which authorizes $48 million through the Stewart B. McKinney Homeless Assistance Act. Of the $761 million which Congress appropriated in fiscal year 1992 for this act for assisting our Nation's homeless, only 4.3 percent went to the homeless veteran, a group that comprises nearly one-third of our Nation's homeless population. Therefore, it seems only appropriate that one-third of the money used to fight homelessness comes from the McKinney fund. This does no violation to the McKinney Act as the money will go to the homeless.

Therefore, Mr. Speaker, I commend this bill to the full House.

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

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume in order to thank the gentleman from Florida [Mr. STEARNS] for helping on this bill today. I note also that the gentleman from Arkansas [Mr. HAMMERSCHMIDT], also on our committee, is in support of this legislation.

Mr. Speaker, it is a good bill, a worthwhile measure. I urge my colleagues to support the bill.

Mr. STAGGERS. Mr. Speaker, I would first like to thank and commend the gentleman from Mississippi [Mr. MONTGOMERY], the chairman of the full committee for his distinguished leadership and his contributions to, and strong support of this measure. I would also like to thank the gentleman from Arizona [Mr. STUMP], and the gentleman from Indiana [Mr. BURTON], the ranking minority members of the full committee and the subcommittee for their efforts and support. I especially want to acknowledge the work and contributions of the gentleman from Illinois [Mr. EVANS], the gentleman from Massachusetts [Mr. KENNEDY], and the gentlelady from California [Ms. WATERS], without whom this bill would not have been possible. The individual members of the subcommittee have worked hard together to develop this legislation and I would like to thank each of them for their excellent contributions as well.

Mr. Speaker, H.R. 5400, the Comprehensive Service Programs for Homeless Veterans Act of 1992, will expand the scope of VA's existing programs for the homeless and seed new ones.

In its report to the Committee on the Budget on the President's proposed budget for fiscal year 1993, this committee identified among its recommendations a need to expand and create new programs to combat homelessness among veterans. The committee stressed that for many homeless veterans, psychiatric and medical problems exacerbate conditions which have led to dependence on homeless shelters or even to living on the streets.

Those problems have been a focus of committee concern over a period of years. Accordingly, the committee has helped shape, nurture and monitor a series of new VA programs targeted at rehabilitating homeless veterans. The most extensive of these are a 27-site residential rehabilitation program centered in VA domiciliaries and a 45-site VA-administered, community-based program aimed at homeless veterans with chronic psychiatric problems. Both these efforts combine outreach, clinical care, and rehabilitation, including such elements as substance abuse treatment and job training, to offer a degree of comprehensiveness which provides participants not simply crisis intervention, but a real hope for reintegration back into society.

These VA programs have expanded modestly since their inception as their successes have won recognition and respect. Yet, of $761 million which Congress appropriated in fiscal year 1992 for major programs authorized by the Stewart B. McKinney Homeless Assistance Act, the $33 million which support these 2 VA programs represents only 4.3 percent of the total. This thin slice of the total funding allocated to assist the homeless contrasts starkly with estimates projecting that one-third of America's homeless are veterans.

In view of such findings, the committee has gone on record as strongly supporting increased McKinney Act funding for existing VA programs. The committee has clearly documented the need for such funding, as well as the gains to be realized from linking existing programs targeted at homeless veterans with expansions of VA compensated work therapy projects and transitional housing programs. At the same time, while recognizing the important role to be played by VA in combating homelessness, the committee acknowledges that homelessness is also very much a societal and community problem. VA certainly has expertise it can share. This one Federal department cannot be seen, however, as solely responsible for addressing the complex array of problems which create and prolong homelessness, even among veterans. Indeed, the successes VA has had in helping this population underscore the importance of networking—among governmental and nongovernmental entities—to leverage the resources needed to develop effective programs.

In weighing the needs of homeless veterans, the committee has adopted a multipronged approach. It has proposed an expansion in the scope of existing VA programs and, through the reported bill, would seed new ones. Underlying the bill is the belief that veterans should receive a greater share of McKinney Act funding, and that with such increased support, VA rehabilitative programs—in concert with the community—can become a model in combating the ills underlying homelessness.

The bill is structure so as to proscribe the use of funds to carry out the new programs authorized in the bill unless such funds are expressly provided for in an appropriation law. H.R. 5400 would require $4 million in direct spending, which will be offset by H.R. 5008 which is scheduled for floor consideration next week. The remainder of funding is subject to the availability of appropriations of $48 million for each of fiscal years 1993, 1994, and 1995 to carry out its provisions. Hopefully, the funding will be made available when the House Appropriations Committee moves the VA, HUD, independent agencies appropriations bill of 1993 later this week.

GRANTS

Mr. Speaker, H.R. 5400 would call for the VA to establish a 3-year program of grant support to assist public or nonprofit private entities to establish new programs to serve homeless veterans. Grant support would be available to aid in establishing new programs to provide one or more of the following services: outreach, rehabilitative services, vocational counseling and training, and transitional housing assistance.

The purpose of these grants is to develop services not previously available and to target those services primarily to veterans. Grants are to be targeted particularly to areas which, on the basis of VA-conducted needs assessments, are shown to have the greatest need for such services.

The grant program reflected in this measure incorporates elements of VA's successful State home construction grant program authorized in subchapter III of chapter 81 of title 38, U.S. Code. As in the State home program, grants under the bill would be available to support up to 65 percent of capital start-up costs, although such grants could not be used

to pay for operational costs such as staffing. Like the State home program, grantees are not required to use the grant to provide services to veterans exclusively. A grantee may, for example, offer services to veterans and their family members, but must design and operate any program established with the grant in such a way that it provides at least 75 percent of its assistance to veterans. Under this measure, grants could be used to expand, remodel, alter, or acquire existing buildings for use as transitional housing or other facilities to serve homeless veterans.

The committee envisions that grantees will include, though not necessarily be limited to nonprofit private entities, operating under the constraints of limited budgets. In view of this consideration, the bill makes specific provision for a grant applicant meeting its start-up costs in whole or in part through provision of in-kind services.

PER DIEM PAYMENTS

Mr. Speaker, H.R. 5400 would require VA to institute a program of per diem payments under VA-prescirbed criteria. Payments under this provision, and subject to VA's criteria, would be made for particular services which those entities have furnished to a homeless veteran if the veteran were eligible to receive those services from a VA facility. The bill provides for making payments to both recipients of a grant under the reported bill as well as to entities which would have been eligible for a grant but which after the date of enactment of the bill have, through other means, established a program which carries out the bill's purposes.

Reflecting provisions of the State home per diem program, the bill limits the amount VA may pay. The bill provides that such a payment may not exceed half the cost to the applicable provider of furnishing the pertinent service or services.

AUGMENTATION OF VA PROGRAMS

Mr. Speaker, while H.R. 5400 seeks to expand VA-community partnerships to help meet the needs of homeless veterans, the committee also hopes through this measure to improve the effectiveness of VA's own efforts to serve these veterans. It does so through a number of provisions.

As stated previously, the Veterans' Health Administration has many programs that provide service to the homeless. Some of these programs include: Homeless Chronically Mentally Ill [HCMI]; Domiciliary Care for Homeless Veterans [DCHV]; Compensated Work Therapy/Independent Living Housing [CWT/ILH] Program; Community Residential Care [CRC] Program, and the Readjustment Counseling Service [RCS]. In most locations, these services are not coordinated, but function independently.

Therefore, H.R. 5400 would authorize the Secretary to establish and operate, through September 30, 1995, a pilot program to expand and improve the provision of VA benefits and services to homeless veterans by: First, including the establishment of no more than four additional comprehensive homeless centers and, second, authorizing the placement of veteran benefit counselors at no more than 45 VA sites where the Secretary provides services to homeless chronically mentally ill veterans, at not more than 26 sites at which the VA furnishes domiciliary care to homeless veterans, and at no more than 12 centers and at the four new comprehensive homeless centers.

Experience with the Dallas Comprehensive Homeless Center which opened in September 1990 and the Brooklyn Comprehensive Homeless Center which opened in October 1991 demonstrated a very successful model for assistance to the homeless. Based on these successes to date, H.R. 5400 proposes to expand the testing of the comprehensive homeless center concept on a wider geographic scale.

The additional veterans benefits counselors authorized under the bill would provide improved access to, and delivery of, VA monetary benefits and services. A team approach is envisioned. VBA staff would seek out homeless veterans and families within the community. Working as a team with HCMI coordinators, DCHV staff, vet center counselors, homeless outreach specialists would provide case management to each individual to ensure that claims assistance, appropriate counseling services, and medical treatment are provided. This specialized team would be particularly active in networking with various VA and non-VA resources to meet the shelter and other needs of homeless veterans.

Another function of the VBA veterans services division is to provide fiduciary oversight service to incompetent beneficiaries. In this capacity, veterans service division employees are required to do extensive travel throughout the jurisdiction served. H.R. 5400 would enable such employees to provide additional services in these areas in the nature of outreach to homeless veterans provided such services are clearly identified and budgeted for.

ASSESSMENT OF NEEDS OF HOMELESS VETERANS

Mr. Speaker, the bill would require the Secretary to assess the needs of homeless veterans. The Secretary would require the Director of each VA medical center and VA regional benefits office to assess the needs of homeless veterans living within their respective service areas. The assessment would be coordinated with representatives of State and local governments, other appropriate departments, and agencies of the Federal Government, as well as nongovernmental organizations that have experienced working with the homeless in that area and would focus on the areas of health care, education and training, employment, shelter, and outreach services. The Secretary would use the assessment in program planning and to assist in carrying out the provisions of the bill and other provisions of law under the Secretary's jurisdiction.

EXTENSION AND EXPANSION OF PROGRAMS FOR HOMELESS VETERANS

Mr. Speaker, as stated previously, the Homeless Chronically Mentally Ill [HCMI] Program targets homeless veterans with psychiatric difficulties and operates out of 43 VA medical facilities located in 26 States and the District of Columbia. The basic components of the HCMI Program are: active community-conducted outreach services, psychiatric and medical assessment and treatment, intensive case management, and residential rehabilitation. Since the program's inception, over 46,600 homeless veterans have been clinically assessed and over 11,800 have been placed in community-based residential treatment facilities. The bill extends authority for the Secretary to continue this highly successful program from September 30, 1992, to September 30, 1995.

Section 801 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988—Public Law 100–628; 102 Stat. 3257—authorizes appropriations for the treatment of homeless veterans who have a chronic mental illness disability. H.R. 5400 would amend Public Law 100–628 to authorize the use of moneys under the HCMI Program for any homeless veteran, if funds remain available, provided the Secretary administers the provision of such services in a manner which gives first priority to, and facilitates access to services for homeless veterans who have a chronic mental illness.

VA ACQUIRED PROPERTIES

Mr. Speaker, Public Law 100–198, the Veterans Home Loan Program Improvements and Property Rehabilitation Act of 1987, enabled the VA to sell acquired properties at discounted prices to State and local agencies, as well as nonprofit organizations, to provide shelter to the homeless.

Under VA regulations, to be eligible for sale under this program, the property must have been on hand for 6 months or more and be available for an as is cash sale. The sale price for such property is 50 percent of the latest listing price for cash.

It is the committee's understanding that only 8 properties have been sold under this program. Although the VA's inventory has decreased from an alltime high of 25,175 in March 1988 to its current inventory of 12,800—it's lowest point since December 1981—the committee believes that there are a number of homes located in areas appropriate for use by the homeless. Therefore, the reported bill authorizes the Secretary to make such properties available through leasing, leasing with option to buy or through donations. In promulgating its regulations, the Secretary may consider the regulations of the Department of Housing and Urban Development under the McKinney Act supportive housing demonstration lease-option agreement.

AUTHORITY TO LEASE PROPERTY OF THE DEPARTMENT OF VETERANS AFFAIRS FOR EXTENDED LEASE TERMS

Mr. Speaker, Public Law 100–322 prohibits VA from excessing or otherwise disposing of property located at the west Los Angeles VA Medical Center. Title 38, United States Code [USC], section 8122, authorizes VA to outlease land or buildings for a term not exceeding 3 years. In accordance with title V, Public Law 100–77—42 USC 11411—section 501, VA is obliged to lease its unutilized and underutilized property, which has been determined both suitable and available to an approved homeless provider for a term of not less than 1 year, unless the applicant requests a shorter term.

H.R. 5400 would grant authority for the Secretary of Veterans Affairs to lease real property at the west Los Angeles VA Medical Center for a term in excess of 3 years to a representative of the homeless. The lease would be based on an application from the representative of the homeless, approved by the Secretary of Health and Human Services,

under provisions of the Stewart B. McKinney Homeless Assistance Act. For purposes of the reported bill, the term "representative of the homeless" shall have the meaning given such term in section 501(g)(4) of the Stewart B. McKinney Homeless Assistance Act—42 USC 11411(g)(4).

AUTHORIZATION OF APPROPRIATIONS

Mr. Speaker, there are authorized to be appropriated to carry out the reported bill $48 million for each of the fiscal years 1993, 1994, and 1995. No funds may be used for the reported bill, with the exception of section 8, unless expressly provided for in an appropriation law. Nothing in the reported bill diminishes funds for continuation of existing programs administered by the Secretary.

ANNUAL REPORTS

Lastly, H.R. 5400 requires the Secretary to submit an annual report to the Committees on Veterans' Affairs of the Senate and the House of Representatives, no later than May 1 of each of 1994 and 1995. Each report shall include the number of veterans assisted, the services provided, and the Secretary's analysis of the operational and clinical effectiveness and cost effectiveness of the programs established under the bill.

Mr. Speaker, America's veterans have always answered the call to duty when freedom or this great Nation is threatened. Today, we have the opportunity to answer the call of need of America's homeless veterans. I therefore urge favorable consideration of this measure.

Mr. KENNEDY. Mr. Speaker, H.R. 5400, the Comprehensive Service Programs for Homeless Veterans Act of 1992, is a culmination of 3 months' work between Mr. STAGGERS, Mr. EVANS, and myself. My distinguished colleagues and I combined our legislative ideas into one bill, H.R. 5400, in the hopes of getting the most possible funds for homeless veterans.

As part of our commitment to our Nation's deserving soldiers, let's not forget that a quarter million of them now live on the streets in every State of this country. This bill seeks to get veterans back into homes by improving existing VA homeless programs, initiating a Federal grant program to assist community-based organizations in starting and maintaining homeless veteran programs, and preventing homelessness by allowing the VA to lease or donate property to homeless veteran programs.

Many Members of Congress have already cosponsored my original homeless veterans bill, H.R. 2648. The bill we are voting on here today is actually an improvement. The original bill I authored established three types of programs: Drop-in service centers where veterans could have received outreach services such as benefits and legal assistance; mobile support teams which would have used medically equipped vans to bring services to veterans in hard to reach areas; and transitional housing programs which would have provided veterans in temporary residential programs with a wide array of medical and social services, including job training.

H.R. 5400 does all of that and more. It requires regional officers and medical center directors to assess the needs of the homeless veterans in each region so that programs can be developed to meet their specific needs. H.R. 5400 then gives community-based providers the means to develop and maintain homeless veteran programs by establishing a Federal matching grant program.

In short, this bill provides homeless veteran providers with maximum input into developing programs, and maximum support in maintaining them. It also significantly enhances existing VA homeless programs. I urge my colleagues to support this legislation, so that we can fund these desperately needed programs.

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise today in support of H.R. 5400, the Comprehensive Service Programs for Homeless Veterans Act of 1992.

First, I wish to commend the chairman of the VA subcommittee with jurisdiction over this bill, Representative STAGGERS, and the ranking member, Representative BURTON of Indiana, for their hard work in crafting this legislation.

H.R. 5400 contains several effective measures to address the plight of our Nation's homeless veterans. Specifically, the bill would provide the Secretary of Veterans Affairs with the authority to establish comprehensive homeless centers. These centers would provide an array of services such as transitional housing, rehabilitation, job training and employment counseling.

Furthermore, H.R. 5400 requires local VA medical center and regional office directors to assess the needs of homeless veterans living within their area of service.

It is a sad irony that many of our Nation's homeless men and women were at one time members of our Nation's armed services. It is only fitting that we take action to assist them in getting back on their feet.

I urge my colleagues to support H.R. 5400.

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

Mr. STEARNS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MCDERMOTT). The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 5400, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

HELSINKI HUMAN RIGHTS DAY

Mr. FASCELL. Mr. Speaker, I move to suspend the rules and pass the Senate joint resolution (S.J. Res. 310) to designate August 1, 1991, as "Helsinki Human Rights Day."

The Clerk read as follows:

S.J. RES. 310

Whereas August 1, 1991, is the seventeenth anniversary of the signing of the Final Act of the Conference on Security and Cooperation in Europe (CSCE) (hereafter in this preamble referred to as the "Helsinki accords");

Whereas the Helsinki accords were agreed to by the Government of Albania, Armenia, Austria, Azerbaijan, Belgium, Bosnia-Herzegovina, Bulgaria, Byelarus, Canada, Croatia, Cyprus, Czech and Slovak Federal Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, the Holy See, Hungary, Iceland, Ireland, Italy, Kazakhstan, Kyrgyzstan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Monaco, the Netherlands, Norway, Poland, Portugal, Romania, Russia, San Marino, Slovenia, Spain, Sweden, Switzerland, Tajikistan, Turkey, Turkmenistan, Ukraine, the United Kingdom, the United States of America, Uzbekistan, and Yugoslavia;

Whereas the Helsinki accords express the commitment of the participating States to "respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, for all without distinction as to race, sex, language or religion";

Whereas the participating States have committed themselves to "ensure that their laws, regulations, practices and policies conform with their obligations under international law and are brought into harmony with the provisions of the Declaration of Principles and other CSCE commitments";

Whereas the participating States have committed themselves to "respect the equal rights of peoples and their right to self-determination, acting at all times in conformity with the purposes and principles of the Charter of the United Nations and with the relevant norms of international law, including those relating to territorial integrity of States";

Whereas the participating States have affirmed that the "ethnic, cultural, linguistic and religious identity of national minorities will be protected and that persons belonging to national minorities have the right to freely express, preserve and develop that identity without any discrimination and in full equality before the law";

Whereas the participating States have recognized that the free will of the individual, exercised in democracy and protected by the rule of law, forms the necessary basis for successful economic and social development;

Whereas the participating States have committed themselves to respect fully the right of everyone to leave any country, including their own, and to return to their country;

Whereas the participating States recognize that "democratic government is based on the will of the people, expressed regularly through free and fair elections; and democracy has as its foundation respect for the person and the rule of law; and democracy is the best safeguard of freedom of expression, tolerance of all groups of society, and equality of opportunity for each person";

Whereas on November 21, 1990, the heads of State or government from the signatory States signed the Charter of Paris for a New Europe, a document which has added clarity and precision to the obligations undertaken by the participating States;

Whereas the Conference on Security and Cooperation in Europe has made major contributions to the positive developments in Europe, including greater respect for the human rights and fundamental freedoms of individuals and groups;

Whereas the Conference on Security and Cooperation in Europe provides an excellent framework for the further development of genuine security and cooperation among the participating States; and

Whereas, despite significant improvements, all participating States have not yet

fully implemented their obligations under the Helsinki accords: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) August 1, 1992, the seventeenth anniversary of the signing of the Final Act of the Conference on Security and Cooperation in Europe (hereinafter referred to as the "Helsinki accords") is designated as "Helsinki Human Rights Day";

(2) the President is authorized and requested to issue a proclamation reasserting the American commitment to full implementation of the human rights and humanitarian provisions of the Helsinki accords, urging all signatory States to abide by their obligations under the Helsinki accords, and encouraging the people of the United States to join the President and Congress in observance of Helsinki Human Rights Day with appropriate programs, ceremonies, and activities;

(3) the President is further requested to continue his efforts to achieve full implementation of the human rights and humanitarian provisions of the Helsinki accords by raising the issue of noncompliance on the part of any signatory State which may be in violation;

(4) the President is further requested to convey to all signatories of the Helsinki accords that respect for human rights and fundamental freedoms continues to be a vital element of further progress in the ongoing Helsinki process; and

(5) the President is further requested, in view of the considerable progress made to date, to develop new proposals to advance the human rights objectives of the Helsinki process, and in so doing to address the major problems that remain.

SEC. 2. The Secretary of State is directed to transmit copies of this joint resolution to the Ambassadors or representatives to the United States of the other fifty-one Helsinki signatory States.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. FASCELL] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida [Mr. FASCELL].

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

Mr. Speaker, I rise in support of Senate Joint Resolution 310, designating August 1, 1992, as "Helsinki Human Rights Day."

This measure, which is similar to legislation we have passed in previous years, was considered by the Committee on Foreign Affairs and reported favorably on July 22, 1992. The resolution was also referred to the Committee on Post Office and Civil Service which, because of the timeliness of the measure, waived consideration so that we could bring it to the floor today. I would like to thank the distinguished chairman of the Post Office Committee for his cooperation in this regard.

Mr. Speaker, while the Helsinki signatory countries, particularly those of Eastern and Central Europe, have made great strides in ensuring respect for human rights and fundamental freedoms in their countries in the last 2 years, serious problems still remain. Whether it is the vicious civil war in the former Republic of Yugoslavia with the deplorable ethnic cleanup imposed by Serbian authorities, or the plight of the Kurdish minority in Iraq and Turkey, the denial of the rights of ethnic or religious minorities continues to jeopardize these nations' progress toward democratization and the peace and prosperity of the entire region. Recent and disturbing events in several countries involving ethnic minorities demonstrate the need to continue to emphasize protection of human rights, especially ethnic and minority rights. These issues were highlighted at the recently completed summit of the 52 nations participating in the CSCE process which was held July 9 and 10 in Helsinki, Finland.

This resolution calls upon the President to commemorate August 1, 1992, as Helsinki Human Rights Day. It also urges the President to continue his efforts to achieve full implementation of the human rights and humanitarian provisions of the Helsinki Final Act by all Helsinki signatories. The President is also requested to develop new proposals to advance the human rights objectives of the Helsinki process. I commend the chairman of the Helsinki Commission and chief sponsor of the resolution, Mr. HOYER, for his continuing efforts in this regard and I urge immediate adoption of the resolution.

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

Mr. Speaker, I want to express my strong support for this resolution, and I commend my good friend, Chairman DANTE FASCELL, for his leadership in bringing this important resolution before the House today.

Senate Joint Resolution 310 designates August 1, 1992, as "Helsinki Human Rights Day." As many of my colleagues know, August 1 marks the 17th anniversary of the signing of the Helsinki accords in 1975. For each of those 17 years, Congress has passed resolutions designating August 1 as "Helsinki Rights Day."

The more than 50 nations who signed the Helsinki accords pledged themselves to respect human rights, including the right to freedom of thought and conscience for all. They pledged themselves to promote laws and practices that would respect fundamental human rights.

Unfortunately, for most of those 17 years, half of Europe was under the grip of Communist dictatorships. Despite the fact that most of these regimes had freely signed the Helsinki accords, they routinely violated the spirit and letter of the accords.

Nevertheless, we here in the United States and those in the rest of the free world continued to insist that the peoples then living under Communist rule were entitled to the same rights as we ourselves enjoyed.

I am pleased to say that this year, for the first time ever, we can celebrate the collapse of communism throughout Europe and the triumph of the values contained in the Helsinki accords. From the Atlantic to the Urals, people and governments are embracing the ideals of democracy and individual rights.

However, as recent events in Bosnia and other parts of Yugoslavia clearly demonstrate, the United States must continue to make the promotion of human rights a cornerstone of its European policy. There are still people in parts of Europe and the former Soviet Union whose fundamental rights are being violated.

The Helsinki accords provide the blueprint for a Europe that is whole and free. By designating August 1 as "Helsinki Human Rights Day," the Congress will send a message to the peoples of Europe that we will continue to work to protect their hard-won freedom.

Mr. HOYER. Mr. Speaker, as chairman of the Commission on Security and Cooperation in Europe, the Helsinki Commission, I rise in strong support of Senate Joint Resolution 310, legislation designating August 1, 1992, as "Helsinki Human Rights Day." I would like to take this opportunity to thank my distinguished colleagues, LEE HAMILTON, the chairman of the Europe and Middle East Subcommittee, and GUS YATRON, the chairman of the Human Rights and International Organizations Subcommittee, who have been tireless leaders over the years in the struggle for human rights throughout the world. We will miss GUS in the next Congress and his undaunting pursuit of human rights. Finally, I want to thank the chairman of the House Foreign Affairs Committee, DANTE FASCELL, who was instrumental in creating the Helsinki Commission and making the principles of the Helsinki Final Act a beacon for the transition to democracy that has swept Eastern and Central Europe and the Commonwealth of Independent States.

Mr. Speaker, Senate Joint Resolution 310 was introduced by the cochairman of the Helsinki Commission, Senator DENNIS DECONCINI and is identical to House Joint Resolution 508, which I, along with the other eight members of the Helsinki Commission and many more of my colleagues have introduced here in the House.

August 1, 1992, marks the 17th anniversary of the gathering in Helsinki of representatives from the 35 nations of Europe and the United States and Canada to sign the Final Act of the Conference on Security and Cooperation in Europe. This agreement marked a beginning of a new hope—a new hope to ease strained East-West relations; a hope for new exchanges of ideas and technologies; a hope that ever country might some day feel a sense of security within their own borders, and most importantly, for those suffering under the yoke of communism, a hope for a drastic improvement in fundamental freedoms and human rights.

This resolution, Mr. Speaker, in my opinion, reaffirms that hope. The breakup of the Soviet

Union, the creation of the Commonwealth of Independent States and the addition of 17 new members into the CSCE provides a fresh and exciting opportunity for further advancement of the goals of the Helsinki accords. Yet as we have witnessed in the last year, the fall of communism and the yearning for democracy have not instantaneously cured all of the human rights problems which have festered within the dark shadow cast by the former Iron Curtain. The death of communism has unleashed a new spectrum of problems—which we must, with a new sense of vigor, seek to address. The conflicts in Bosnia, Nagorno-Karabakh, Georgia, and Trans-Dniestr are examples of the new kind of crises that the new CSCE must confront.

Just recently, President Bush signed in Helsinki a new declaration which reinforces our common conviction that human rights form the cornerstone of security. The recent Helsinki meeting established a High Commissioner for National Minorities, who will help investigate and resolve problems involving national minorities in the early stages. Progress was also made in coordinating the institutions, mechanisms, factfinding missions, and political consultative processes that the CSCE has now established. Perhaps most important of all, agreement was reached on the principle that the CSCE may undertake peacekeeping in order to supervise and maintain cease-fires, monitor troop withdrawals, and provide humanitarian and medical aid.

The problems facing the 52 signatory nations present perhaps an even greater challenge than those of the past. In this respect, the ability of CSCE to manage change—not prevent it—will be its litmus test in the future. In that regard, the United States, along with all of the members of the CSCE, must remain dedicated, determined, and unwavering in its commitment to these accords. I urge adoption of this joint resolution and once again thank my colleagues for their prompt action on this legislation.

Mr. PORTER. Mr. Speaker, as one of the original sponsors of Senate Joint Resolution 310 and as a member of the Helsinki Commission, I am pleased to rise in strong support of this resolution which designates August 1, 1992, as Helsinki Human Rights Day.

The signing of the Helsinki accords on August 1, 1975, marked the start of a dynamic process which has led to historic changes in Europe over these past few years. When the leaders of 35 countries met in Helsinki to sign the Final Act of the CSCE, tensions between East and West were strong and cooperation between the two sides on matters relating to human rights and the rule of law was virtually nonexistent. Now, 17 years later, the countries of Eastern Europe are free, the Soviet Union has collapsed and democracy and peaceful change through free and fair elections is taking root through the region. The CSCE process deserves credit for its role in bringing about a common commitment to human rights and fundamental freedoms across Europe.

Although the cold war is over, the work of the CSCE is not over. It can now play a critical role in helping to address the issues facing postcold war Europe, such as the tensions over nationality which have arisen most notably in Yugoslavia and in newly independent countries of the CIS. The CSCE can also develop its role to ensure the full implementation of human rights guarantees in each of the 52-member countries. The task of the Helsinki process should now be to make irreversible the democratic advancements that have been made in Eastern Europe and the former Soviet Union and to consolidate mechanisms for preventing conflict and preserving peace throughout Europe.

Because the CSCE process has been such a useful forum to monitor international compliance to the Helsinki accords, I believe that model of the Helsinki Commission should be applied to other international agreements. For this reason, I have recently introduced legislation to create a Rio Commission.

The Rio Commission would oversee progress toward the policy goals produced at the U.N. Conference on Environment and Development [UNCED] in Rio de Janeiro in June. Like the Helsinki Commission, the Rio Commission would be composed of Members of Congress and the executive branch and would keep track of how the United States and UNCED conferees are implementing the commitments they made at the Earth summit to achieve environmental protection and sustainable development. It is my hope that by establishing a Rio Commission, we will make as much progress on Earth summit goals as we have made on the commitments that were included in the Helsinki accords.

I am pleased to join my colleague, STENY HOYER, chairman of the Helsinki Commission, in marking the anniversary of the signing of the Helsinki accords and I urge the adoption of this resolution.

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

GENERAL LEAVE

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate joint resolution under consideration.

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

There was no objection.

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida [Mr. FASCELL] that the House pass the Senate joint resolution, Senate Joint Resolution 310.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate joint resolution was passed.

A motion to reconsider was laid on the table.

CIVIL TILTROTOR DEVELOPMENT ADVISORY COMMITTEE ACT OF 1991

Mr. OBERSTAR. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3537) to direct the Secretary of Transportation to establish a Civil Tiltrotor Development Advisory Committee in the Department of Transportation, and for other purposes.

The Clerk read as follows:

H.R. 3537

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Civil Tiltrotor Development Advisory Committee Act of 1991".

SEC. 2. CIVIL TILTROTOR DEVELOPMENT ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—The Secretary of Transportation shall establish in the Department of Transportation a Civil Tiltrotor Development Advisory Committee (hereinafter in this section referred to as the "Advisory Committee") to evaluate the technical feasibility and economic viability of developing civil tiltrotor aircraft and a national system of infrastructure to support the incorporation of tiltrotor aircraft technology into the national transportation system.

(b) MEMBERSHIP.—

(1) APPOINTMENT.—The Advisory Committee shall be composed of members appointed by the Secretary of Transportation, not later than 60 days after the date of the enactment of this Act, as follows:

(A) At least 1 representative of the Department of Transportation.

(B) At least 1 representative of the Federal Aviation Administration.

(C) At least 1 representative of the National Aeronautics and Space Administration.

(D) Representatives of other Federal departments and agencies, State and local governments, and private industry, as considered appropriate and necessary by the Secretary.

(2) QUALIFICATION.—Members appointed pursuant to subparagraphs (A), (B), and (C) of paragraph (1) shall be appointed from among individuals employed under the Federal departments and agencies described in such subparagraphs who receive an annual rate of basic pay which equals or exceeds the rate payable for level VI of the Senior Executive Service.

(3) CHAIRPERSON.—The Secretary of Transportation shall appoint a Chairperson of the Advisory Committee from among individuals employed under the Department of Transportation who receive an annual rate of basic pay which equals or exceeds the rate payable for level IV of the Executive Schedule.

(c) DUTIES.—The Advisory Committee shall—

(1) determine the costs, feasibility, and economic viability of developing a civil tiltrotor aircraft and establishing the necessary infrastructure to incorporate such aircraft and other advanced vertical takeoff and landing aircraft into the national transportation system;

(2) determine the benefits to the national economy and transportation system, including the potential for improved linkages and connections with other modes of transportation, of incorporating civil tiltrotor aircraft and other advanced vertical takeoff and landing aircraft into the national transportation system;

(3) determine further aeronautical research and development requirements needed to incorporate civil tiltrotor aircraft and other advanced vertical takeoff and landing aircraft into the national transportation system;

(4) determine changes to regulatory standards governing use of the airspace which would be required to incorporate civil tiltrotor aircraft and other advanced vertical takeoff and landing aircraft into the national transportation system; and

(5) recommend which of the costs of developing civil tiltroter aircraft and establishing the infrastucture necessary to support civil tiltrotor aircraft and other advanced vertical takeoff and landing aircraft should be paid by the Federal Government and which of such costs should be paid by private industry.

(d) REPORT.—Not later than the 365th day following the date of the first meeting of the Advisory Committee, the Advisory Committee shall transmit to Congress a report containing its determinations and recommendations under subsection (c).

(e) TERMINATION.—The Advisory Committee shall terminate on the 30th day following the date of submission of its report under subsection (d).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. OBERSTAR] will be recognized for 20 minutes and the gentleman from Arkansas [Mr. HAMMERSCHMIDT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, H.R. 3537 is an important step in ensuring that civil tiltrotor technology will become a part of our national Transportation system. This bill to define its parameters directs the Secretary of Transportation to establish a Civil Tiltrotor Advisory Committee. That Committee or Commission, as it may well be called, is the next logical step in the process of developing civil tiltrotor technology.

Mr. Speaker, NASA and FAA last year issued a comprehensive report on civil tiltrotor technology. The report concluded that commercial tiltrotor would be technically feasible, economically viable, and substantially would benefit airports and air travelers by relieving pressure on airport runway capacity.

□ 1400

The primary purpose of the advisory committee would be to identify specific needs in the Nation's airport infrastructure, as well as air space regulatory changes that may be needed to effectively incorporate tiltrotor aircraft into the Nation's air transportation system. The Commission would also examine the appropriate role for the Federal Government and for the private sector in the future development of the civil tiltrotor. That advisory committee would include high level DOT, FAA, and NASA officials, as well as experts from State and local government and from the private sector.

How important is this V-22 technology? Well, at a recent conference I attended where there were participants from overseas, Japanese Government officials observed that they had been studying this technology for quite some time, found it very attractive and very exciting for high density market locations and that, quote, if the United States will develop this technology and build the aircraft, we will buy it. And they said, "But if you choose not to do so, sell us the technology; we'll build it and sell it back to you." If we do not proceed with the civilian application of civil tiltrotor, I am convinced that that is exactly what will happen. We will wind up somehow seeing this technology get into foreign hands, be developed overseas, and sold back to the United States.

The areas of this country where tiltrotor has civilian applications are precisely here on the east coast, precisely here on the west coast, where we have high density market areas, high concentrations of population and high frequency of short travel, and in this age of hub and spoke aviation, of short distance travel of the population to the hub airport, and there to be distributed out across the United States or into international markets, that is where we need such aircraft that can move into dense markets, not occupy a great deal of runway space and yet move large numbers of people very efficiently.

So, Mr. Speaker, I hope we will move ahead with this commission, identify the needs, the problems, and move on with the technology of actually developing the aircraft for civilian use.

I cannot conclude without observing, as all of us noted with shock, and dismay and concern, the crash of a V-22 Osprey in the Potomac River just a few days ago. An inquiry is already underway. The cause, as we have seen in other similar crashes of developmental aircraft, will be found and, with the proper application of technology, will be fixed. I am confident we will be able to proceed with this technology, but that incident makes it all the more important for us to move ahead with this broad-based Commission, to examine all the aspects of the application of the V-22 tiltrotor technology to civilian purposes.

I urge the adoption of the legislation.

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

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

Mr. Speaker, I want to express my appreciation to the chairman of our Aviation Subcommittee, the gentleman from Minnesota [Mr. OBERSTAR] and ranking member, the gentleman from Pennsylvania [Mr. CLINGER] for their work on this bill.

It is well known that airport congestion and airline delays continue to be serious problems in this country. They are bound to get worse in the future as air traffic increases.

Building new airports to relieve the congestion is expensive and often unpopular because of the noise associated with them.

Tiltrotor aircraft could help to solve the congestion and delay problems. They take off and land like helicopters and can operate from heliports located downtown or from separate areas on existing airports.

When operating from downtown areas, tiltrotor aircraft could save passengers time by allowing them to avoid street congestion that would otherwise be encountered in driving to and from the airport. Once airborne, the aircraft engines tilt forward to speed passengers to their destination.

It has also been suggested that this aircraft could play an important role in drug enforcement programs, search and rescue missions, and disaster assistance efforts.

Despite all these advantages, the tiltrotor program seems to be in a holding pattern at the moment. The problem is that we are faced with a chicken-and-egg type problem. Aircraft manufacturers are reluctant to build tiltrotor aircraft in large numbers without some airline orders. But airlines are reluctant to order the aircraft until these new planes have been built and demonstrated to be reliable.

Unfortunately, the tiltrotor program suffered a terrible set-back recently when one of the planes crashed into the Potomac River. While this tragedy certainly justifies a reassessment of the program, it should not necessarily cause us to abandon it. If the technical experts can fix the problem that caused this accident, tiltrotor technology could still provide significant benefits to inner-city travelers. And if we do not build the tiltrotor, the Japanese or some other foreign country probably will.

I agree with the gentleman from New Jersey [Mr. ROE] when he says, it is important to keep this issue alive. The advisory committee created by this bill can help to do that. This advisory committee will also be able to answer questions about the costs, feasibility, safety, and economic viability of the tiltrotor concept. I support this initiative and urge the House to approve this bill.

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

Mr. Speaker, we have no further requests for time on our side. I just in conclusion want to observe that the tiltrotor represents 21st-century technology. It is technology on which, once again, the United States is on the leading edge. We have advanced the state of the art. We are positioned to move ahead with something very exciting in civil aviation. We ought not to lose the opportunity to do so.

I want to take this opportunity also to thank my colleague, the gentleman from Pennsylvania [Mr. CLINGER], for the time that he has devoted with me to the development of this legislation.

I compliment him on his splendid work and contribution, as always, in the field of aviation.

I urge enactment of this legislation.

GENERAL LEAVE

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

The SPEAKER pro tempore (Mr. MCDERMOTT). Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. WELDON. Mr. Speaker, as an original cosponsor of H.R. 3537, the Civil Tiltrotor Development Advisory Committee Act of 1991, I rise in support of this bill. Tiltrotor technology has proven itself successful and the potential for this technology in civil aviation is tremendous. In order to continue the cooperation between military and civilian interests in tiltrotor technological development, however, the establishment of this advisory committee is imperative.

While the military continues development of the tiltrotor aircraft for military use, the Federal Aviation Administration will certify a derivative for civilian use. FAA oversight of production will hasten the transfer of this technology from the military to our civilian transportation system. This legislation will facilitate coordination between all Federal agencies involved in tiltrotor development efforts. This is certainly a minimal investment for such a huge potential payoff.

I hope my colleagues realize the potential for civilian tiltrotor aircraft and help support their development by supporting H.R. 3537.

Mr. ROE. Mr. Speaker, H.R. 3537 is an important step in ensuring that civil tiltrotor technology will become part of our national transportation system.

The bill directs the Secretary of Transportation to establish a Civil Tiltrotor Development Advisory Committee. The Commission is the logical next step in the process of developing civil tiltrotor technology.

Last year, NASA and FAA issued a comprehensive report on civil tiltrotor technology. That report concluded that commercial tiltrotors would be technically feasible, economically viable, and of great benefit to the Nation's airport capacity if steps were taken to develop the infrastructure to support tiltrotor operations. Our Aviation Subcommittee held a hearing and received testimony 2 years ago that led to similar conclusions.

The Advisory Commission created by the bill now before us would conduct the necessary analysis and identify specifically what needs to be done by the Federal Government and the private sector to ensure that tiltrotor aircraft become an integral part of our transportation system.

Without this Commission to provide a focus on what needs to be done with respect to incorporating tiltrotor technology into our transportation system, I believe we will see little more than lipservice to this potentially revolutionary technology.

This bill makes possible a dramatically different and improved transportation system for the 21st century.

Finally, as everyone knows, a V–22 Osprey tiltrotor aircraft crashed last week in the Potomac River. It will likely take some time for this tragedy to be fully investigated and understood, but it should in no way deter our efforts to clear the way for civil tiltrotor technology from being incorporated into our transportation system. We should recognize that the aircraft that did crash is a developmental aircraft. Whatever the cause of the accident, we can expect to see the problem understood and fixed, and the overall program continued.

The work of the Advisory Committee is parallel to the military program. While this accident is certainly a setback in the military program, there is every reason for us to continue to proceed on the civil side. The work of the Advisory Committee does not hinge on the investigation of the accident. The bill's purpose is to address financial and infrastructure issues associated with the civil tiltrotor.

In conclusion, Mr. Speaker, I urge adoption of this important legislation.

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

Mr. OBERSTAR. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. OBERSTAR] that the House suspend the rules and pass the bill, H.R. 3537.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill was passed.

A motion to reconsider was laid on the table.

AMENDING TITLE XIII OF THE FEDERAL AVIATION ACT OF 1958 RELATING TO AVIATION INSURANCE

Mr. OBERSTAR. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5465) to amend title XIII of the Federal Aviation Act of 1958 relating to aviation insurance, as amended.

The Clerk read as follows:

H.R. 5465

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

SECTION 1. INSURANCE FOR DEPARTMENTS AND AGENCIES OF THE UNITED STATES.

(a) IN GENERAL.—Section 1304(a) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1534(a)) is amended—

(1) by inserting after "under this title" the following: ", including insurance to cover any risk from the operation of an aircraft while such aircraft is engaged in intrastate, interstate, or overseas air commerce"; and

(2) by adding at the end the following new sentence: "In addition, such department or agency may, with the approval of the President, procure such insurance to cover any risk arising from the provision of goods or services directly related to and necessary for an operation of an aircraft covered by insurance procured under the preceding sentence if such operation is in the performance of a contract of such department of agency or is for the purpose of transporting military forces or materiel on behalf of the United States pursuant to an agreement between the United States and a foreign government.".

(b) CONFORMING AMENDMENT.—Section 1302(a)(3) of such Act (49 U.S.C. App. 1532(a)(3)) is amended by striking "Insurance" and inserting "Subject to section 1304(a), insurance".

SEC. 2. EXTENSION OF PROGRAM.

Section 1312 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1542) is amended by striking "1992" and inserting "1997".

SEC. 3. ADMINISTRATION OF AVIATION INSURANCE PROGRAM.

(a) REVIEW.—The Comptroller General of the United States shall conduct a review of the administration of the aviation insurance program under title XIII of the Federal Aviation Act of 1958 during the Persian Gulf conflict for the purpose of determining methods of improving the efficiency of the administration of such program by reducing the paperwork and time period required for provision of insurance under such program.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall transmit to Congress a report on the results of the review conducted under subsection (a), together with any recommendations of the Comptroller General for improving the efficiency of the administration of the aviation insurance program under title XIII of the Federal Aviation Act of 1958.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. OBERSTAR] will be recognized for 20 minutes and the gentleman from Arkansas [Mr. HAMMERSCHMIDT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I rise in strong support of H.R. 5465, a bill to reauthorize for 5 years the Aviation Insurance Program included in title XIII of the Federal Aviation Act. This is the program which provides air carriers with Government-sponsored insurance when commercial insurance is unavailable or available at unreasonable rates due to world events. The need for this long-established program of war risk insurance, as it is conveniently called, was underscored during the Desert Shield and Desert Storm operation of the gulf conflict.

□ 1350

If we had not had war risk insurance, commercial air carriers simply would not have been able to operate in the Persian Gulf area, either on a commercial basis or in pursuit of government policies and programs as they were under contract to do. The U.S. Government simply would not have had the necessary airlift capability to undertake the swift and efficient deployment of the military personnel and goods without that available commercial capacity, and that capacity in the private sector would not have been available if the air carriers had not been able to have in place insurance to cover possible losses for entering a war zone.

The significance of commercial air operations is underscored by the fact that more than 6,000 flights were operated on behalf of the United States military, carrying personnel and goods into the Persian Gulf area. Those operations received nonpremium insurance. That is, the carriers paid a fee of only $200 per aircraft for that insurance. More than 40 commercial flights received premium insurance. That is, they paid the Government a premium for the insurance they received. Happily or fortunately, there were no claims for damage or loss in the course of the gulf conflict. But unexpectedly and surprisingly, the Government did earn approximately $600,000 on the insurance that was provided for those operations.

Clearly, this is not a program that has been subject to abuse. It has been activated only a handful of times during the course of the history of this program, but when we have needed it, it has been essential. Based on our experience in the gulf and based on the testimony the subcommittee received during two hearings on the subject, we proposed to modify the existing program in some important aspects.

The bill authorizes the Government to provide insurance for carriers who operate domestic flights, that is, in the domestic United States on behalf of the military, in contrast to the existing program that insures only the international leg of operations. We found that those operations were continual. They started at one point in the domestic United States, terminated intermediately at another point in the United States, and then continued to an international destination. The entire operation, not just one leg of it, should have been covered, and that is what this legislation will do.

Second, the bill will direct a report by the General Accounting Office to be undertaken, with findings and recommendations on how the program has operated and in what ways it can be improved beyond those provided in this legislation.

We recommend this GAO study based upon concerns about the approval process necessary to receive the aviation insurance. There has been a number of concerns by private carriers that the process became overly complex and delayed and could be streamlined, and we think a GAO inquiry into the matter can provide some recommendations for streamlining the process. Carriers should know significantly in advance of operations whether they will be receiving insurance in order to notify passengers and in order to make necessary arrangements. I can cite from personal experience how complex that process can become, because I was called by a carrier at one point in the gulf conflict when the carrier did not know when it was going to operate. There were two Departments of Government, neither talking to each other, both of them unnecessarily delaying the operation, and I had to get involved in bringing them together and resolving the conflict. That should not happen. It ought to operate smoothly. The GAO ought to be able to study the issue and provide us some sound recommendations.

Finally, Mr. Speaker, the legislation authorizes the Government to insure the ground support operations necessary to service those flights operated on behalf of the Government. Presently, the program is authorized only to insure flights.

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

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

Mr. Speaker, the War Risk Insurance Program is a little-known, but potentially very important, Federal program. It was first authorized in 1951 and has been used only sparingly since. However, it did play an important role during the Persian Gulf conflict. It was used to insure flights carrying troops and supplies to the Middle East.

In the past, the reauthorization of the War Risk Program had been handled routinely. Frequently we accomplished it without even the need to hold a hearing. However, experience gained during the Persian Gulf war justified a closer look at the program this time.

Our hearings on this subject focused on the issue of extending war risk coverage to domestic flights. Currently, war risk policies cover only international flights, but the airlines urged us to extend the program to domestic flights as well.

I am pleased that the bill addresses this issue, at least in part. It would extend the War Risk Insurance Program to some domestic flights, primarily those flights that carry troops and supplies for the Defense Department.

Another source of complaints about the War Risk Program concerned the bureaucracy and the redtape that airlines had to endure to get insurance coverage for specific flights. While the bill does not address this problem directly, it does require the General Accounting Office to study the matter and make some recommendations. This will give us a chance to revisit this issue once we have the benefit of GAO's analysis.

Mr. Speaker, the Public Works and Transportation Committee undertook a thorough review of the War Risk Insurance Program. I appreciate the time that the subcommittee chairman, Mr. OBERSTAR, and the ranking member, Mr. CLINGER, spent becoming familiar with the details of this highly technical program. I support this bill that is the result of those efforts, and commend Chairman ROE for moving it expeditiously through the full committee.

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

Mr. OBERSTAR. Mr. Speaker, I want to again offer my compliments to my ranking member of the subcommittee, the gentleman from Pennsylvania [Mr. CLINGER], for his participation throughout the several hours of hearings we held on this issue and for the time he has devoted to shaping the legislation and bringing about the support we needed in committee to bring this bill to the House floor.

I want to offer my compliments especially to the staffs on both sides of the subcommittee who have labored long and hard, listening to the many interests and concerns on the side of both the military and the Department of Transportation, as well as the carriers involved, and who have done a splendid job in shaping this legislation.

Mr. ROE. Mr. Speaker, I rise in strong support of H.R. 5465, a bill to reauthorize for 5 years the Aviation Insurance Program in title XIII of the Federal Aviation Act. This program provides commercial air carriers with Government-sponsored insurance when commercial insurance is unavailable or is available at unreasonable rates due to world events.

The War Risk Insurance Program provided vital to the country's national interest during the Persian Gulf conflict when our Nation's carriers operated flights on behalf of the military. During the conflict, commercial insurance for flights to the Middle East increased so dramatically that operations to the area would have been prohibitively expensive if the Government had not been able to provide insurance. The kind of civil airlift that proved so necessary to our country's success in Desert Shield and Desert Storm would not have been available if air carriers were not assured that adequate insurance was being provided for their operations.

Desert Shield and Desert Storm exemplify the need to reauthorize this program without delay. Prior to the Persian Gulf conflict, this program had been used only a handful of times. Yet, when the need arose for this program to be implemented on a large-scale basis, on relatively short notice, the program succeeded in providing the necessary insurance and effectively assisting in the military effort.

In addition to reauthorizing the Aviation Insurance Program for 5 years, H.R. 5465 expands the existing program to authorize the Government to insure domestic flights being operated by commercial carriers on behalf of the Government. The present program authorizes insurance for international flights only. The committee considers that this expansion is necessary to ensure that there is no gap in insurance coverage when carriers are operating flights on behalf of the Gov-

ernment. Without the assurance that adequate insurance is available, carriers may choose not to operate flights on behalf of the Government, which would seriously reduce the Government's airlift capability.

The bill also requires the General Accounting Office to study how the Aviation Insurance Program operated during Desert Shield and Desert Storm. The GAO report will make recommendations to Congress about how the program could be improved.

Mr. Speaker, I urge my colleagues to support this very important legislation.

Mr. OBERSTAR. Mr. Speaker, I yield back the balance of my time.

GENERAL LEAVE

Mr. OBERSTAR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the pending bill, H.R. 5465.

The SPEAKER, pro tempore Mr. MCDERMOTT. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. OBERSTAR] that the House suspend the rules and pass the bill, H.R. 5465, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

PROVIDING ADDITIONAL TIME TO NEGOTIATE A LAND DISPUTE IN SOUTH CAROLINA

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5566) to provide additional time to negotiate settlement of a land dispute in South Carolina.

The Clerk read as follows:

H.R. 5566

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

SECTION 1. FINDINGS.

The Congress finds the following:

(1) Suits on possessory land claims may be commenced against tens of thousands of citizens in York, Lancaster, and Chester Counties, South Carolina, within the area claimed in the suit Catawba Indian Tribe of South Carolina against State of South Carolina, et al., Civil Action No. 80-2050 (D.S.C.).

(2) Tens of thousands of such suits would be costly to all parties, including the Federal judicial system, and would create a burden upon interstate commerce.

(3) The filing of such suits may be averted by settlement if additional time is made available for the parties to negotiate and implement the terms of settlement.

(4) The Congress has authority to enact this legislation under the Indian Commerce Clause and the Interstate Commerce Clause of the Constitution; and the Department of Justice concurs in this construction of Article I of the Constitution.

SEC. 2 PURPOSE.

The purpose of this Act is to prevent the social, economic, and judicial disruption that would result from the commencement of law suits against tens of thousands of citizens in York, Lancaster, and Chester Counties, South Carolina, and the burden on interstate commerce that such suits would impose. The parties to the above reference suit require additional time in which to negotiate and implement the terms of settlement; and if such time is made available, it may avert the necessity of thousands of law suits. The purpose of this Act is not to revive, renew, or extend any claim barred by any period of limitation, repose, or time bar as of the effective date of this Act.

SEC. 3 STATUTE OF LIMITATION.

(a) If any period of limitation or repose, or any other defense based wholly or partly on the passage of time, bars any claim brought by or on behalf of any Indian, Indian nation, or tribe or band of Indians claiming or asserting damages or an interest in land in York, Lancaster, or Chester Counties, South Carolina, under section 2116 of the Revised Statutes (25 U.S.C. 177; commonly known as the Indian Non-Intercourse Act), the Constitution of the United States, common law, or any treaty, as of the date of enactment of this Act, such period of limitation or repose, or other defense based wholly or partly on passage of time, shall bar any such claim, without regard to whether such claim has already been filed.

(b) If any period of limitation or repose, or any other defense based wholly or partly on the passage of time, has not barred any claim, filed or unfiled, by or on behalf of an Indian, Indian nation, or tribe or band of Indians claiming or asserting damages or an interest in land in York, Lancaster, or Chester County, South Carolina, under section 2116 of the Revised Statutes (25 U.S.C. 177; commonly known as the Indian Non-Intercourse Act), the Constitution of the United States, common law, or treaty, as of the date of the enactment of this Act, the running of any such period of limitation or repose, or any other defense based wholly or partly on the passage of time, shall be suspended as of the date of the enactment of this Act until October 1, 1993. On October 1, 1993, the time upon which any such defenses are based shall resume running. The period of time remaining for any time-related defense to become a bar to any such claim shall be the same on October 1, 1993, as it was immediately prior to the date of the enactment of this Act. Nothing in this subsection shall be construed to affect the application of any period of limitation, repose, or time bar to the claim of any individual Indian which is pursued under any Federal or State law generally applicable to non-Indians as well as Indians.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the measure before us, H.R. 5566.

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

There was no objection.

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

Mr. Speaker, H.R. 5566 sponsored by Mr. SPRATT, preserves the legal status of the land claims of the Catawba Tribe of Indians of South Carolina 1 year. Unless this bill passes, the tribe is prepared to sue approximately 27,500 landowners in the State of South Carolina and will do so to meet the statute of limitations deadline which the tribe asserts falls on October 19 of this year. The tribe would be serving the defendant landowners at the end of this month to meet this deadline unless this legislation is passed immediately. Mere service of process in this case would result in great expense to both the tribe and the defendants.

This is an urgent matter and the committee has expedited its procedures to accommodate the tribe, the landowners and the State because the parties are engaged in negotiations which will hopefully result in a fair and equitable settlement of the Catawba claims.

This measure has the support of the administration, the tribe, the State, and the South Carolina delegation. I urge my colleagues to support it.

H.R. 5566

PURPOSE

The purpose of H.R. 5566 is to suspend the running of the limitations periods applicable to an Indian claim for damages and possession of land in York and Lancaster Counties, South Carolina. This bill is not intended to affect in any way the substantive claims or defenses either side may assert in the litigation of this claim. The bill does not address or affect litigation of this claim. The bill does not address or affect the substance of the land claim, or reflect any congressional intent to modify the claim or any defenses land holders may have to such claim, other than to suspend for a stated time statutory and common law periods of limitation and repose that may apply to the claim.

BACKGROUND

On October 28, 1980, a suit was filed in the U.S. District Court for South Carolina entitled *Catawba Indian Tribe of South Carolina* v. *State of South Carolina, et al.* The plaintiff, (the "Catawbas") alleges that in treaties made with the British Government in 1760 and 1763, a tract of 144,000 acres in South Carolina was reserved to the Catawbas; and that in return for guarantees of quiet possession, the Catawbas ceded the remainder of their lands held under aboriginal title. The Catawbas further allege that in 1840, the State of South Carolina, without federal participation or approval, negotiated a "treaty" with the Catawbas, attempting to extinguish Indian title so that the lands could be conveyed to non-Indians. The Catawbas allege that South Carolina failed to honor its promise to acquire a new reservation for the Catawbas. The Catawbas further allege that the 1840 "treaty" was void under federal law and thus conveyed no interest in the reservation lands to the non-Indian occupants. On December 14, 1943, the State of South Carolina, the Catawbas, and the federal Office of In-

dian Affairs entered into a "Memorandum of Understanding," providing for the extension of federal benefits to the Catawbas. The Catawbas contend that this MOU established a federal trust relationship. On July 1, 1962, by virtue of the "Catawba Division of Assets Act," 25 U.S.C. Section 931-938, the Catawbas' relationship with the federal government was terminated.

After a three-year effort to settle the claim without disruptive litigation failed, the Catawbas on October 28, 1980, filed suit in the U.S. District Court to regain possession of 140,000 acres in the U.S. District Court to regain possession of 140,000 acres purportedly ceded by the 1840 treaty. The suit was filed as a defendant class action naming 76 defendants as representatives of a defendant class then estimated to number 27,500. The Catawbas sought immediate certification of the defendant class, but the District Court, over their objection, postponed consideration of class action status in favor of first considering the named defendants' motion to dismiss based on the effects of the Catawba Division of Assets Act ("Act"). The court then dismissed the case, holding that the Catawba Division of Assets Act ratified the 1840 treaty, extinguished the Catawbas existence as a tribe and the federal trust responsibility for the land claim, and made state statutes of limitations applicable to the claim in such a way as to bar the claim. In 1984, the United States Court of Appeals for the Fourth Circuit reversed the District Court. *Catawba Indian Tribe of South Carolina* v. *State of South Carolina*, 740 F.2d 305 (4th Cir. 1984) (en banc, per curiam); (adopting panel opinion, 718 F2d 1291, 4th Cir. 1983). In 1986, the United States Supreme Court, reviewing only the question of whether the Catawba Division of Assets Act resulted in the application of South Carolina statutes of limitations to the claim, reversed the Fourth Circuit and held that state statutes of limitations should be borrowed and applied to the claim as a result of the Act. However, the court did not decide what effects their application would have on the claim. The Supreme Court instead remanded that question to the Fourth Circuit Court of Appeals. *State of South Carolina* v. *Catawba Indian Tribe of South Carolina*, 476 U.S. 498 (1986).

In, 1989, the Fourth Circuit ruled that because of South Carolina's prohibition against tacking (adding together) successive periods of adverse possession to achieve 10 years under the statute of limitations, the Catawbas' claim would be barred against only those named defendants who had possessed the land for 10 continuous years between July 1, 1962, which was the effective date of the Catawba Division of Assets Act, when state law became applicable to the Catawbas, and October 28, 1980, when the law suit was filed. *Catawba Indian Tribe of South Carolina* v. *State of South Carolina*, 865 F. 2d 1444 (4th Cir. 1989, en banc), cert. denied, 491 U.S. 906 (1989).

The case was remanded to the District Court and over the Catawbas' objection, the court postponed consideration of the plaintiff's class action motion in order to determine which of the seventy-six named defendants could establish ten continuous years' of adverse possession and thus be dismissed from the case. The court dismissed twenty-nine named defendants and thousands of acres from the claim. The court then took up the plaintiff's motion for class certification, and on February 19, 1991, the court ruled (1) that if the Catawbas were to prevail against the remaining named defendants, that would not affect the value and marketability of the lands of the absent class members, because many of them would have a statute of limitations defense, and (2) that no defendant class exists because the filing of the complaint and class action motion in 1980 did not toll the running of the applicable statutes of limitations. The court held that because of South Carolina's 20-year presumption of a grant, under which tacking is permitted, time continued to run against unnamed defendants after the claim was filed in 1980, and this common law presumption operated to bar the remainder of the claim. In addition, the District Court held that the 20-year limitations doctrine did not require an affirmative showing by each defendant that the land claimed by them had been adversely possessed for the twenty-year period. Both issues (dismissal based on adverse possession and denial of class certification) are currently before the Fourth Circuit on appeal and on mandamus petition respectively. Case Nos. 90-2446 and 91-2341.

By calculation of the Catawbas' attorneys, there was approximately 20 months left in the 20-year limitation period when the Catawbas filed their suit on October 28, 1980; or in other words, the Catawbas filed suit 18 years and 4 months after July 1, 1962. Because the District Court's rulings on February 19, 1991, on tolling and on the operation of the 20-year doctrine are not yet final, the Catawbas contend that in order to protect their claim, they must assume that the District Court will be reversed. They assume (1) that the running of state limitations periods was tolled by the filing of the complaint in 1980, and (2) that South Carolina law does require an affirmative factual showing that each parcel of land has been possessed adversely for the requisite period before the Catawbas' land claim can be barred. Thus, under these assumptions, as of February 19, 1991, when the District Court denied class certification, the statute of limitations began running again. As a result, the Catawbas believe that they now have less than 3 months in which to file suits against individual land holders before the 20-year limitations period expires on or about October 19, 1992. Unless the Fourth Circuit issues a Writ of Mandamus directing the District Court to certify a defendant class, or if no decision is issued soon by the Fourth Circuit, the Catawbas believe that they have no choice but to proceed against the current occupants of the land in question, now estimated to number about 40,000. The Catawbas' attorneys have informed the Committee that they must file their suits by September 2, 1992 in order to fulfill the requirements for service by the deadline of October 19, 1992.

ANALYSIS

The Supreme Court has recognized that the Catawbas assert a federal cause of action. *State of South Carolina* v. *Catawba Indian Tribe*, 476 U.S. 498, 507 (1989); see *Oneida Indian Nation* v. *County of Oneida*, 414 U.S. 661 (1974) (Oneida I). The Court of Appeals for the Fourth Circuit, on remand from the Supreme Court, held that the Catawba land claim arises under federal law for purposes of federal court jurisdiction under 28 U.S.C. Sections 1331, 1337, and 1362. *Catawba Indian Tribe* v. *South Carolina*, 865 F. 2d 1444, 1455-56 (4th Cir. 1989) (en banc); cert. denied, 491 U.S. 906 (1989). While the applicable periods of limitations derive from state statutory and common law, they have been made applicable to the Catawbas' cause of action by virtue of Congressional enactment—the Catawba Division of Assets Act. In the absence of this Act, there would be no statute of limitations, state or federal, applicable to the Catawbas' possessory claim. *State of South Carolina* v. *Catawba Indian Tribe of South Carolina*, 476 U.S. 498, 507-508 (1986); *County of Oneida* v. *Oneida Indian Nation*, 470 U.S. 226, 240-244 (1985) (Oneida II: "in the absence of a controlling federal limitations period, the general rule is that a state limitations period for an analogous cause of action is borrowed and applied to the federal claim."). Thus, the Catawba Division of Assets Act applied the normal rule that state law limitations periods would be borrowed and applied to the Catawbas' federal claim as a matter of federal law. See 476 U.S. at 518: "These are federal claims, [citing Oneida I] and the statute of limitations is thus a matter of federal law [citing Oneida II]." Justice Blackmun dissenting.

Because Congress, in the exercise of its plenary power over Indian affairs, permitted the borrowing of state law limitations periods for application to the Catawbas' claim, Congress may, through the exercise of that same power, preempt the application of the state limitations periods and suspend their applicability and operation for a period of time. It is not the intent of Congress to dictate or direct how state law is to be interpreted. The Department of Justice, in a June 24, 1992, letter to Senator J. Strom Thurmond, Senator Ernest F. Hollings, and Congressman John M. Spratt, Jr. concurred in this conclusion.

That Congress for a time may have permitted the federal courts to borrow South Carolina's analogous limitations periods and apply them to this land claim is no impediment to Congress' reassertion of the federal power in an area over which Congress has plenary authority. Many cases recognize federal power to insulate Indians form state power even after state power has attached *United States* v. *John*, 437 U.S. 634 (1978); *United States* v. *McGowan*, 302 U.S. 533 (1938) (land in Nevada purchased after statehood by the federal government and held in trust for Indians was Indian country); *Winters* v. *United States*, 207 U.S. 564 (1908); *Eastern Band of Cherokee Indians* v. *Lynch*, 632 F. 2d 373 (4th Cir. 1980). The last case is especially instructive. The Eastern Band of Cherokees was similar in its history to the Mississippi Choctaw involved in *United States* v. *John*, supra, in that they stayed in the east while others of the tribe were removed to the west. They became citizens of the State, bought some land for a reservation, and became incorporated under state law. The state taxed their lands and those lands were lost for nonpayment of taxes. The federal government redeemed those lands, took them in trust, and passed a statute in 1924, allowing state taxation of one additional year after which time it was no longer allowed. The state attempted to tax income earned on the reservation and to tax personal property thereon, but the court held that federal law preempted such authority.

CONCLUSION

Congress does not seek to revive any tribal claims that have already been barred. However, Congress may direct that the statute of limitations applicable to Indian claims be extended, as it did repeatedly in amending 28 U.S.C. Section 2415.

□ 1420

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Minnesota has already addressed the provisions of the bill in detail, and the need for its swift passage, so I will sim-

ply note that I add my support of H.R. 5566 to that of the tribe, the landowners, and the State of South Carolina.

I hope that the parties to Catawba Indian Tribe versus South Carolina will use the opportunity afforded by this bill to reach a fair and equitable settlement of the tribe's land claim.

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

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from South Carolina [Mr. SPRATT], the principal sponsor of this legislation.

Mr. SPRATT. Mr. Speaker, I rise in support of H.R. 5566. I introduced this bill to avoid massive disruption in my congressional district, disruption which would surely result if some 40,000 law suits were commenced against landholders in York, Lancaster, and Chester Counties, SC. To prevent the commencement of these suits, this bill must enacted before the recess in August. For that reason, I wish to express my gratitude to Chairman MILLER and Congressman YOUNG and Congressman RHODES for allowing this legislation to be considered on an expedited basis, as well as the gentleman from Minnesota [Mr. VENTO] and the gentleman from Wyoming [Mr. THOMAS].

The legislation is short and simple, but its background is long and complex. There is not enough time to cover it fully, but I need to give a summary to explain the purpose of this bill and why it is so urgent.

On October 28, 1980, a case entitled Catawba Indian Tribe of South Carolina versus State of South Carolina, et alia, was filed in the U.S. District Court for South Carolina. The plaintiff sued 76 defendants, alleging that a treaty made between the Catawbas and the State of South Carolina in 1840 was void under the Indian Non-Intercourse Act because it was never ratified by Congress. The treaty ceded 144,000 acres of land to the State of South Carolina, and 150 years later, the plaintiff seeks to recover the land and trespass damages. Among the 76 defendants are the State of South Carolina, local governmental entities, and major landholders. I was among the defendants named, because I then owned approximately 830 acres of land within the area claimed, and now own approximately 810 acres. When the suit was filed in 1980, the plaintiff moved to have the named defendants certified as a class representing not only their own interests but also the interests of all other landholders similarly situated in the claim area. The district court did not rule on plaintiff's motion for class action certification at the time, but instead granted the defendants' motion for dismissal. In 1986, the Supreme Court reversed the district court in part, but held that the land claim alleged by the plaintiff was subject to the statutes of limitation of State of South Carolina after July 1, 1962.

When the suit was finally remanded to the district court, the plaintiff renewed its motion for class action certification, which the court denied in February 1991. Because of the court's denial of class action certification, plaintiff's attorneys have announced that the plaintiff will have to sue an estimated 40,000 landowners in York, Lancaster, and Chester Counties, South Carolina. Attorneys for the plaintiff calculate that the 20-year period of limitations will run out on October 19, 1992; consequently, the plaintiff is preparing to file thousands of lawsuits by late August of this year.

The bill I am introducing would suspend the running of any period of limitations that has not already expired until October 1, 1993. Thus, it would grant both parties additional time within which to work out terms of settlement.

It goes without saying that 40,000 lawsuits would create chaos. Even though the vast majority of landowners would probably have a successful defense, they would have to retain an attorney to search their title, prepare affidavits, and file and argue a motion for summary judgment. All of this would be costly; and while the suits were pending, it would be difficult to transfer land and obtain title insurance.

Since the fall of 1989, Gov. Carroll A. Campbell, Jr., and I have sought to settle the entire suit out of court. We have made progress and narrowed the gap on most of the major issues. However, we have not yet reached full agreement; and even if we had, we would not be able to consummate a settlement agreement by enacting State and Federal legislation before October 19, 1992. At this point, the only way to avoid thousands of lawsuits, and the disruption they would cause, is to give the parties more time to negotiate and implement a settlement agreement.

This is the sole purpose of this legislation. It would not prevent the plaintiff from bringing thousands of lawsuits before October 19, 1992, if it chooses; but it would give the plaintiff another option: not suing now and negotiating instead for settlement. The bill would suspend until October 1, 1993, only those periods of limitation that have not run out by the effective date of this act. It would not revive, renew, or extend any claim barred by any period of limitation or repose, or any other time bar, as of the effective date of this act.

Before preparing this bill, I, along with Senator THURMOND and Senator HOLLINGS, sent a proposed draft of it to the Attorney General for review. I am submitting for the record a copy of our letter to the Attorney General and a copy of the favorable opinion letter received from Assistant Attorney General W. Lee Rawls, on June 24, 1992. I request unanimous consent that these documents be included in the RECORD immediately following my statement.

In addition, I submitted the bill for review to our South Carolina attorney general, Travis Medlock; and to Hale and Dorr, the law firm representing the State of South Carolina in this suit. And in developing the bill, I have worked with the law firm representing the plaintiff, the Native American Rights Fund [NARF] of Boulder, CO. As I already mentioned, we submitted the draft legislation to the Attorney General for his review and opinion at the specific request of NARF. The draft of the bill I am filing today differs somewhat from the draft submitted to the Attorney General; but the changes were sought by the Native American Rights Fund in order to strengthen the bill. The Native American Rights Fund is satisfied that the bill, as drawn, protects their client's interests as much as legally possible.

I have made clear what this bill is intended to do. I also want to make clear what this bill is not intended to do. This bill is not intended to affect in any way the substantive claims or defense either side may assert should the Catawbas' land claim be litigated. In drafting this bill, it was explicitly agreed by the Catawbas and by the landowners' attorneys that this legislation would not touch the substantive merits of their claim, but would merely suspend any period or statute of limitations until October 1, 1993, so that there would be additional time to negotiate. No party or court should read into this legislation any other meaning. In summary, this legislation does not address or affect the substance of the Catawbas' land claim, or reflect, even implicitly, any congressional intent to modify the Catawbas' claim or any defenses landowners may have to such claim, other than to suspend for a fixed period of time statutory and common law periods of limitation and repose that may apply to the claim.

In particular, H.R. 5566 does not state or imply whether the Catawbas are an Indian tribe today or were a tribe at any time relevant to their claim. Nor does the bill state whether any trust relationship ever existed between the Catawbas and the Federal Government. These are issues for a court to resolve if this land claim is litigated. Congress does not speak to these or any other such issues in this legislation.

I have disclosed to the House that I own land in the area claimed by the Catawbas and that I am a defendant in the suit now pending. I have a substantial interest in the outcome of this litigation. For the past 2 years, I have kept the House Committee on Official Standards of Conduct informed of my personal interest in the suit and my efforts to settle the claim. Within cer-

tain constraints, the committee has advised me that I may work for settlement of the claim, though I should not introduce settlement legislation. In regard to this bill, a staff attorney with the committee has advised me that since I am a named defendant already, this legislation will not affect my status in the pending suit, and I can introduce the bill and support its passage. To the extent that this bill allows more time for negotiation and settlement, it serves my personal interests, but it clearly serves the interests of some 30,000 to 40,000 constituents who own land in the area claimed by the Catawbas.

For the RECORD I include the correspondence referred to earlier.

HOUSE OF REPRESENTATIVES,
Washington, DC, June 16, 1992.

Hon. WILLIAM P. BARR,
Attorney General of the United States, U.S. Department of Justice, Washington, DC.

DEAR ATTORNEY GENERAL BARR: We are writing to request an opinion from the Justice Department as to the constitutionality of draft legislation affecting a claim by the Catawba Indian Tribe of South Carolina against approximately 27,500 landowners in South Carolina. A copy of the proposed legislation is enclosed.

In 1980, the Catawba Indian Tribe of South Carolina brought suit against 76 defendants alleging that a treaty made with the State of South Carolina in 1840 was void under the Indian Non-Intercourse Act because it was never ratified by Congress. The treaty ceded 144,000 acres of land to the State, and the Catawbas seek to recover the land. The Catawbas moved to have the named defendants certified as a class, but the district court denied their motion for class action certification. The Catawbas have, therefore, announced that the tribe will sue approximately 27,500 individual landowners in York, Lancaster, and Chester Counties, South Carolina. Lawyers for the tribe are convinced that the 20-year statute of limitations, applicable under South Carolina law, runs out October 19, 1992; consequently, they are preparing to file their suits by late August 1992. The draft legislation we are proposing would grant the Catawba Indian Tribe of South Carolina an additional eight months in which to sue.

Obviously, 27,500 lawsuits would create chaos. Even though the vast majority of landowners would have a successful defense, they would have to retain an attorney to search their title, prepare affidavits, and file and argue a motion for summary judgement. All of this would be costly; and while the suits were pending, it would be difficult to buy or sell land and virtually impossible to obtain title insurance.

Governor Campbell and Congressman John Spratt have been negotiating since the fall of 1989 to settle the entire suit out-of-court. They have made significant progress and believe that they are close to an agreement. However, they will not be able to settle the suit and have an agreement consummated by state and federal legislation by October 19, 1992. The only way to avoid some 27,500 suits is to extend the deadline for eight additional months. This is what the draft bill is designed to accomplish.

The South Carolina Attorney General's office, the attorneys representing the State, and attorneys for the title insurance companies have all reviewed the legislation and find it in acceptable form. Attorneys for the tribe have also reviewed the legislation. In principle, they do not oppose an extension and are willing to refrain from filing the suits if Congress extends the deadline.

The Catawbas' suit came before the Supreme Court in 1986 on appeal of an order of dismissal. The Court noted that the Catawbas' relationship with the federal government had been terminated as of July 1, 1962; and in the termination act, Congress provided that as of the date of termination "all statutes of the United States that affect Indians because of their status as Indians shall be inapplicable to them, and the laws of the several States shall apply to them in the same manner they apply to other persons or citizens in their jurisdiction." Consequently, the Supreme Court held that South Carolina statutes of limitation as to suits for recovery of land applied to the Catawbas. As indicated above, the Catawbas' attorneys now believe that the applicable South Carolina statute will run on October 19, 1992.

There is no federal statute of limitation applicable to their claim; but the tribe's attorneys believe that Congress probably has the authority under the Constitution to extend the time for filing the individual suits. However, they are not convinced of this conclusion, and they are concerned that if Congress passed a law extending the statute, a court might find that the deadline remained October 19 because the law is unconstitutional. The tribe's attorneys have requested a letter opinion from the Department of Justice confirming Congress's authority to provide additional time.

As you will see, the draft legislation cites Congress's authority under the Commerce Clause. There is no question that the filing of these suits would cause a significant impact on commerce in the claim area of 225 square miles, and specifically on interstate commerce since York and Lancaster Counties lie on the North Carolina border. However, if necessary, the legislation could also cite Congress's plenary authority over Indian matters.

If we are to avoid the suits and gain time for negotiating settlement, this bill must be passed before the August recess. Therefore, time is of the essence. We would appreciate your response within a week, at the latest. Thank you very much for your assistance.

Respectfully,

STROM THURMOND,
U.S. Senate.
ERNEST HOLLINGS,
U.S. Senate.
JOHN M. SPRATT,
Member of Congress.

HOUSE OF REPRESENTATIVES,
Washington, DC, June 12, 1992.

Hon. WILLIAM P. BARR,
Attorney General of the United States, U.S. Department of Justice, Washington, DC.

DEAR MR. ATTORNEY GENERAL: In conjunction with the enclosed letter I have cosigned with Senators Thurmond and Hollings regarding draft legislation affecting the Catawba claim, I should disclose that I have an interest in the outcome of the suit.

I am one of approximately 75 defendants named in *Catawba Indian Tribe of South Carolina, Inc.* vs. *State of South Carolina*, Civil Action No. 80-2050, now pending in the District Court of South Carolina. The Catawbas intended for the named defendants to be constituted as a class representative of the 25,000-30,000 landowners in the claim area. The district court denied their motion for certification of the class, and the Catawbas have sought to have the Fourth Circuit Court of Appeals mandamus the court to certify the class. The Court of Appeals has not yet rendered a decision.

I own approximately 800 acres in the claim area. Along with about 55 other defendants, I moved for summary judgement, and the district court entered an order releasing my land from the suit and dismissing the suit as to me. However, the Catawbas have appealed the summary judgement orders issued by the district court. I expect my defense of title to prevail on appeal as to some 700 acres, but the Catawbas my obtain a reversal as to a tract of some 100 acres.

On October 14, 1990, I wrote the House Committee on Official Standards in order to present my situation and ask for guidance on how I could proceed. The Committee advised me not to introduce settlement legislation so long as I remained a defendant, but allowed me to engage in settlement negotiations with government officials and with the Catawbas, provided I disclosed my interest in the matter, which is the purpose of this letter.

Respectfully,

JOHN M. SPRATT, Jr.,
Member of Congress.

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, June 24, 1992.

Hon. John C. Spratt,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN SPRATT: This is in response to your request for the views of the Department of Justice on the constitutionality of draft legislation affecting a claim by the Catawba Indian Tribe of South Carolina against approximately 27,500 landowners in South Carolina. The draft bill would have the effect of tolling the statute of limitations applicable to the Tribe's claims if the statute has not already run. We have briefly analyzed the draft bill in light of pertinent legal and constitutional issues. In our view, the legislation is constitutional.

The purpose of the proposed legislation is to preserve, for a brief period, the current legal status of the Tribe's claims under the applicable statute of limitations so that the parties have time to complete settlement discussions, and thereby avoid massive and burdensome litigation of the claims. The bill would provide that if the applicable statute of limitations has run by the date of its enactment, then all claims subject to it filed or unfiled, will remain barred. However, if the applicable statute of limitations has not run by the date of enactment, then

"* * * any action by a plaintiff shall be treated as commenced on the date of the enactment of this Act if such action is commenced on or before April 15, 1993[,] and any amendment to an existing claim, if otherwise permissible, shall be treated as if commenced on April 15, 1993."

The fundamental issue is whether Congress has the power to alter the statute of limitations applicable in this case. We would conclude that Congress has that power. First, the cause of action in the Catawba case is one "arising under" federal law for purposes of 28 U.S.C. 1331. The Fourth Circuit explicitly so held in *Catawba Indian Tribe* v. *South Carolina*, 865 F.2d 1444 (4th Cir. 1989) (en banc), and the Supreme Court so stated in *South Carolina* v. *Catawba Indian Tribe*, 476 U.S. 498, 507 (1985), although the issue was not squarely before the Supreme Court.

The Supreme Court first squarely recognized the federal character of such Tribal land claims in *Oneida Indian Nation* v. *County*

of Oneida, 414 U.S. 661 (1974), and generally stated that the rules for decision of such claims were federal in character. *Id.* at 674. In a subsequent decision in that same case, the Court specifically ruled that state statutes of limitation do "not apply of their own force to Indian land title claims." *County of Oneida* v. *Oneida Indian Nation*, 470 U.S. 226, 240 n.13 (1985). Instead, such statutes are "borrowed and applied to the federal claim * * *" if the application of the state statute is not inconsistent with federal law. Id. at 240.[1]

This conclusion would appear to resolve two potential constitutional issues. First, it makes clear that the draft bill would effect no violation of the Tenth Amendment or other principles of state sovereignty. Congress clearly has the power under the Commerce Clause of Article I to regulate in this area. Tolling the statute of limitations applicable in this case would be merely an exercise of that power. It would do nothing more than alter a "borrowed" statute of limitations that, absent congressional action, has served as the applicable bar. The bill thus neither commandeers state legislative processes nor contains a direct mandate to states. Compare *New York* v. *United States*, Slip Op. at 28–29 (Supreme Court, June 19, 1992) (invalidating federal statutory provision requiring states that do not provide for disposal of low-level radioactive waste generated in state to take title to and assume liability for that waste). Cf. *Hodel* v. *Virginia Surface Mining and Reclamation Association*, 452 U.S. 264 (1980) (exercise of federal powers that preempt state law does not impermissibly intrude on state sovereignty).

Second, the bill does not appear to create separation of powers problems by interfering with the judicial function. By changing the applicable statute of limitations, Congress in the draft bill is compelling a change in the law, rather than a particular result or finding under old law. The Supreme Court has upheld this type of congressional action where it has been challenged as improperly affecting pending litigation. See *Robertson* v. *Seattle Audubon Society*, 112 S.Ct. 1407 (1992). In *Robertson*, the Court upheld a federal statute that altered the legal standard required under certain environmental statutes with respect to certain timber sales in the Pacific Northwest. The Court rejected the plaintiffs' claim that the provision at issue was an impermissible "statutory directive," holding that "[a] statutory directive binds *both* the executive officials who administer the statute *and* the judges who apply it in particular cases * * *. Here, our conclusion [is] that what Congress directed—to agencies and courts alike—was a change in the law, not specific results under old law." Id. at 1414 (emphasis in original).

Because it is within Congress's plenary power to alter a federal statute of limitations, we do not believe that accomplishing that end through a "deeming" provision such as proposed section 2(b) would interfere with judicial powers in violation of Article III of the Constitution. Since Congress could state that "any statute of limitations that has not expired on the date of enactment of this bill is extended to April 15, 1993," it would not be problematic for Congress to provide that any claims subject to such an unexpired statute of limitations on the date of enactment of the bill shall be treated as if filed before the date of enactment.

In conclusion, in our view the draft bill would not violate any applicable constitutional principles. Please do not hesitate to contact me if I can be of further assistance.

Sincerely,

W. LEE RAWLS,
Assistant Attorney General.

CATAWBA NATION,
Rock Hill, SC, July 13, 1992.

Re H.R. 5566.

Hon. GEORGE MILLER,
Chairman, Committee on Interior and Insular Affairs, House of Representatives, Longworth House Office Building, Washington, DC.

DEAR CONGRESSMAN MILLER: On June 3, 1992, the Executive Committee of the Catawba Indian Tribe of South Carolina met and voted unanimously to support legislation that would suspend the running of limitations periods applicable to the Tribe's land claim. The Catawba Tribe has, since it first undertook to resolve this claim in 1977, sought to avoid disruptive litigation in favor of a consensual settlement. Our attorneys have reviewed H.R. 5566 and are satisfied that it is drafted in such a way as to provide as much protection to our claim as can be provided. Our support for H.R. 5566 is based on our understanding that Congress does have the authority to enact such legislation.

I will be happy to provide further information or comment if you desire. Thank you for your consideration.

Sincerely,

GILBERT B. BLUE,
Chief, Catawba Indian Tribe.

□ 1420

Mr. VENTO. Mr. Speaker, I thank the gentleman from South Carolina for his detailed explanation of this. I think all of us understand the year extension of time is modest, considering the time and the magnitude of the issue that is being resolved. We hope that this time will result in a settlement and a fair result for the native Americans and other title owners in South Carolina.

Mr. FALEOMAVAEGA. Mr. Speaker, I rise today in support of H.R. 5566, a bill to extend the statute of limitations regarding a land dispute involving the Catawba Indian Tribe over land in the State of South Carolina. It is my understanding that plaintiffs, defendants and potential defendants in the pending law suit are supportive of this legislation, and passage of this bill will increase the likelihood of consensual settlement of the litigation.

Mr. Speaker, while I support this legislation, I want to emphasize that I intend to continue my efforts to obtain passage of H.R. 5562, a bill to restore Federal recognition to the Catawba Nation. The two bills are independent of one another, and while Federal restoration may eventually be a part of the final settlement of the ongoing litigation, there is no reason for Congress not to restore recognition to these Indians, and every reason, including fairness and justice, that we do.

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

The SPEAKER pro tempore (Mr. MCDERMOTT). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 5566.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

RAILROAD RIGHT-OF-WAY CONVEYANCE VALIDATION ACT

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 711) to validate conveyances of certain lands in the State of California that form part of the right-of-way granted by the United States to the Central Pacific Railway Co., as amended.

The Clerk read as follows:

H.R. 711

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Railroad Right-of-Way Conveyance Validation Act".

SEC. 2. VALIDATION OF CONVEYANCES.

Except as provided in section 5, the conveyances described in section 3 (involving certain lands in Nevada County, State of California) and section 4 (involving certain lands in San Joaquin County, State of California) concerning lands that form parts of the right-of-way granted by the United States to the Central Pacific Railway Company in the Act entitled "An Act to aid in the Construction of a Railroad and Telegraph Line from the Missouri River to the Pacific Ocean, and to secure to the Government the Use of the same for Postal, Military, and Other Purposes", approved July 1, 1862 (12 Stat. 489), hereby are legalized, validated, and confirmed, as far as any interest of the United States in such lands is concerned, with the same force and effect as if the land involved in each such conveyance had been held, on the date of such conveyance, under absolute fee simple title by the grantor of such land.

SEC. 3. CONVEYANCES OF LANDS IN NEVADA COUNTY, STATE OF CALIFORNIA.

The conveyances of land in Nevada County, State of California, referred to in section 2 are as follows:

(1) The conveyances entered into between the Southern Pacific Transportation Company, grantor, and David G. 'Otis' Kantz and Virginia Thomas Bills Kantz, husband and wife, as joint tenants, grantees, recorded June 10, 1987, as instrument number 87–15995 in the official records of the county of Nevada.

(2) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Antone Silva and Martha E. Silva, his wife, grantees, recorded June 10, 1987, as instrument number 87–15996 in the official records of the county of Nevada.

(3) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Charlie D. Roeschen and

[1] The Supreme Court in a variety of contexts has held that state statutes of limitations are "borrowed" in cases where gaps are left in federal law. These borrowed statutes of limitations thus apply as a matter of federal law, rather than of their own force and effect. The Supreme Court has applied this general "state borrowing" doctrine in countless cases, including the *Catawba* case. 476 U.S. at 507 & n. 18 (citing cases). See also *Lampf, Pleva, Lipkind, Prupis & Petgrow* v. *Gilbertson*, 111 S.Ct 2773, 2778–82 (1991) (recognizing borrowing rule but holding that state statute of limitations does not apply where Congress intended federal bar to apply); *Del Costello* v. *International Brotherhood of Teamsters*, 462 U.S. 151, 158–63 1983) (same).

Renee Roeschen, husband and wife as joint tenants, grantees, recorded June 10, 1987, as instrument number 87-15997 in the official records of the county of Nevada.

(4) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Manuel F. Nevarez and Margarita Nevarez, his wife, as joint tenants, grantees, recorded June 10, 1987, as instrument number 87-15998 in the official records of the county of Nevada.

(5) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Susan P. Summers, grantee, recorded June 10, 1987, as instrument number 87-15999 in the official records of the county of Nevada.

(6) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and James L. Porter, a single man, as his sole and separate property, grantee, recorded June 10, 1987, as instrument number 87-16000 in the official records of the county of Nevada.

(7) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Robert L. Helin, a single man, grantee, recorded June 10, 1987, as instrument number 87-16001 in the official records of the county of Nevada.

(8) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Thomas S. Archer and Laura J. Archer, husband and wife, as joint tenants, grantees, recorded June 10, 1987, as instrument number 87-16002 in the official records of the county of Nevada.

(9) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Wallace L. Stevens, a single man, grantee, recorded June 10, 1987, as instrument number 87-16003 in the official records of the county of Nevada.

(10) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Sierra Pacific Power Company, grantees, recorded June 10, 1987, as instrument number 87-16004 in the official records of the county of Nevada.

(11) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Truckee Public Utility District, grantees, recorded June 10, 1987, as instrument number 87-16005 in the official records of the county of Nevada.

(12) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Dwayne W. Haddock and Bertha M. Haddock, his wife as joint tenants, grantees, recorded June 10, 1987, as instrument number 87-16006 in the official records of the county of Nevada.

(13) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and William C. Thorn, grantee, recorded June 10, 1987, as instrument number 87-16007 in the official records of the county of Nevada.

(14) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Jose Guadelupe Lopez, grantees, recorded June 10, 1987, as instrument number 87-16008 in the official records of the county of Nevada.

(15) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Harold O. Dixon, an unmarried man, as to an undivided half interest, and Pedro Lopez, a married man, as to an undivided half interest, as joint tenants, grantees, recorded June 10, 1987, as instrument number 87-16009 in the official records of the county of Nevada.

(16) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Robert E. Sutton and Patricia S. Sutton, husband and wife, as joint tenants, grantees, recorded June 10, 1987, as instrument number 87-16010 in the official records of the county of Nevada.

(17) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Angelo C. Besio and Eva G. Besio, his wife, grantees, recorded June 10, 1987, as instrument number 87-16011 in the official records of the county of Nevada.

(18) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Lawrence P. Young and Mary K. Young, husband and wife, as joint tenants, grantees, recorded June 10, 1987, as instrument number 87-16012 in the official records of the county of Nevada.

(19) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and the estate of Charles Clyde Cozzaglio, grantee, recorded June 10, 1987, as instrument number 87-16013 in the official records of the county of Nevada.

(20) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Noel T. Hargreaves, an unmarried woman, as her sole and separate property, grantee, recorded June 10, 1987, as instrument number 87-16014 in the official records of the county of Nevada.

(21) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Athleisure Enterprises, Incorporated, a Nevada corporation, grantees, recorded January 24, 1989, as instrument number 89-01803 in the official records of the county of Nevada.

(22) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Richard Bwarie, a single man as to an undivided one-half interest, and Roger S. Gannam and Lucille Gannam, husband and wife, as joint tenants, as to an undivided one-half interest, grantees, recorded January 24, 1989, as instrument number 89-01804 in the official records of the county of Nevada.

(23) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and William Campbell and Juanita R. Campbell, his wife as joint tenants, grantees, recorded January 24, 1989, as instrument number 89-01805 in the official records of the county of Nevada.

(24) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and William E. Cannon and Lynn M. Cannon, husband and wife, as joint tenants as to an undivided one-half interest, and Brent Collinson and Dianne Collinson, husband and wife, as joint tenants, as to an undivided one-half interest, grantees, recorded January 24, 1989, as instrument number 89-01806 in the official records of the county of Nevada.

(25) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Christopher G. Eaton and Bernadette M. Eaton, husband and wife as community property, grantees, recorded January 24, 1989, as instrument number 89-01807 in the official records of the county of Nevada.

(26) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Christopher G. Eaton grantee, recorded January 24, 1989, as instrument number 89-01808 in the official records of the county of Nevada.

(27) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Valeria M. Kelly, an unmarried woman, grantee, recorded January 24, 1989, as instrument number 89-01809 in the official records of the county of Nevada.

(28) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and William J. Kuttel and Delia Rey Kuttel, husband and wife, grantees, recorded January 24, 1989, as instrument number 89-01810 in the official records of the county of Nevada.

(29) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Thomas A. Lippert and Laurel A. Lippert, husband and wife, grantees, recorded January 24, 1989, as instrument number 89-01811 in the official records of the county of Nevada.

(30) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Fred J. Mahler, a single man, grantee, recorded January 24, 1989, as instrument number 89-01812 in the official records of the county of Nevada.

(31) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Francis Doyle McGwinn also known as Doyle F. McGwinn, a widower, grantee, recorded January 24, 1989, as instrument number 89-01813 in the official records of the county of Nevada.

(32) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and James D. Ritchie and Susan Ritchie, husband and wife, as joint tenants, grantees, recorded January 24, 1989, as instrument number 89-01814 in the official records of the county of Nevada.

(33) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and William R. Smith and Joan M. Smith, his wife, as joint tenants, grantees, recorded January 24, 1989, as instrument number 89-01815 in the official records of the county of Nevada.

(34) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Anthony J. Stile and Laura A. Stile, husband and wife, as joint tenants, grantees, recorded January 24, 1989, as instrument number 89-01816 in the official records of the county of Nevada.

(35) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Thomas R. Stokes, a single man, and Carla J. Stewart, a single woman, as joint tenants, grantees, recorded January 24, 1989, as instrument number 89-01817 in the official records of the county of Nevada.

(36) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Tom's Television System, Incorporated, a California Corporation, grantees, recorded January 24, 1989, as instrument number 89-01818 in the official records of the county of Nevada.

(37) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Tom's Television System, Incorporated, a California corporation, grantees, recorded January 24, 1989, as instrument number 89-01819 in the official records of the county of Nevada.

(38) The conveyances entered into between the Southern Pacific Transportation Company, grantor, and Harry M. Welch and Betty R. Welch, his wife, as joint tenants, grantees, recorded January 24, 1989, as instrument number 89-01820 in the official records of the county of Nevada.

(39) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Harry Fariel and Joan Fariel, husband and wife, as joint tenants, grantees, recorded February 2, 1989, as in-

strument number 89-02748 in the official records of the county of Nevada.

(40) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Edward Candler and May Candler, husband and wife as community property, as to an undivided two-thirds interest; and Harry Fariel and Joan Fariel, husband and wife, as joint tenants, as to an undivided one-third interest, grantees, recorded February 2, 1989, as instrument number 89-02749 in the official records of the county of Nevada.

(41) The conveyance entered into between the Central Pacific Railroad, grantor, and E.W. Hopkins and J.O.B. Gann, grantees, recorded April 7, 1894, in Book 79 of Deeds at page 679, official records of the county of Nevada.

(42) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and John David Gay and Elizabeth Jean Gay, as Trustees of the David and Elizabeth Gay Trust, grantees, recorded October 3, 1991, as instrument number 91-30654 of the official records of the county of Nevada.

SEC. 4. CONVEYANCES OF LAND IN SAN JOAQUIN COUNTY, STATE OF CALIFORNIA.

The conveyances of land in San Joaquin County, State of California, referred to in section 2 are as follows:

(1) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Ronald M. Lauchland and Lillian R. Lauchland, grantees, recorded October 1, 1985, as instrument number 85066621 in the official records of the county of San Joaquin.

(2) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Bradford A. Lange and Susan J. Lange, his wife, as to an undivided one-half, and Randall W. Lange and Charlene J. Lange, his wife, as to an undivided one-half interest, grantees, recorded October 1, 1985, as instrument number 85066623 in the official records of the county of San Joaquin.

(3) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Leo G. Lewis and Vasiliki L. Lewis, and Billy G. Lewis and Dimetria Lewis, grantees, recorded October 1, 1985, as instrument number 85066625 in the official records of the county of San Joaquin.

(4) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Louis J. Bennett, grantees, recorded October 1, 1985, as instrument number 85066627 in the official records of the county of San Joaquin.

(5) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Joe Alves Correia and Leontina Correia, his wife, grantees, recorded September 1, 1970, instrument number 33915, in book 3428, page 461, of the official records of the county of San Joaquin.

(6) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Willard H. Fike, Jr., and Dorla E. Fike, his wife, grantees, recorded January 7, 1988, instrument number 88001473 of the official records of the county of San Joaquin.

(7) The conveyance entered into between Central Pacific Railway, Grantor, and Nettie M. Murray and Marie M. Hallinan, Grantees, dated May 31, 1949, recorded June 14, 1949, in volume 1179 at page 394 of the official records of the county of San Joaquin.

(8) The conveyance entered into between the Central Pacific Railway Company, a corporation, and its Lessee, Southern Pacific Company, a corporation, Grantor, and Lodi Winery, Incorporated, Grantee, dated August 2, 1938, recorded May 23, 1940, in volume 692, page 249, of the official records of the county of San Joaquin.

SEC. 5. LIMITATIONS ON VALIDATION OF CONVEYANCES.

Nothing in this Act shall be construed to—

(1) diminish the right-of-way referred to in section 2 to a width of less than fifty feet on each side of the center of the main track or tracks maintained by the Southern Pacific Transportation Company on the date of enactment of this Act; or

(2) legalize, validate, or confirm, with respect to any land that is the subject of a conveyance referred to in section 3 or 4 any right or title to, or interest in, such land arising out of adverse possession, prescription, or abandonment, and not confirmed by such conveyance.

(3) diminish any of the right, title, or interest of the United States with respect to oil, gas, and other minerals, or with respect to prospecting for or mining or removal thereof, in any of the lands that are the subject of a conveyance referred to in section 3 or 4.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the measure before us.

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

There was no objection.

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

Mr. Speaker, H.R. 711, introduced by the gentleman from California [Mr. DOOLITTLE], would clear the title to certain lands in Nevada and San Joaquin Counties in the State of California that have long been in private hands, but that were originally granted for use as part of the right-of-way for the first transcontinental railroad. As a result, the United States has a reversionary interest in these properties.

The bill would ratify past conveyances of these tracts by the railroad, so far as it involves the surface estate, thus removing the cloud arising from the reversionary interest.

The Interior Committee amended the bill to include two additional transactions, both related to the same tract of land in the town of Truckee, CA. Information about this tract was provided after the bill's introduction and our hearing on it. The committee also adopted a second amendment, requested by the administration, to make more clear that the United States is reserving any mineral rights it now has in the railroad lands covered by the bill, although not asserting any claim to minerals that are not owned by the United States.

Mr. Speaker, I believe the bill as so amended is not controversial, and I urge its passage.

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

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 711, which was introduced by Mr. DOOLITTLE, a member of the Interior Committee.

H.R. 711, which has been described in detail by Chairman VENTO, would legalize, validate, and confirm 50 conveyances of right-of-way lands in Nevada and San Joaquin Counties in California. These lands, which originally were part of 1862 grants to the railroads by the U.S. Government, are within the 400-foot-wide right-of-way originating from the 1862 land grant.

Most of the conveyances in this bill are within the town of Truckee, CA, and are occupied by homes, other structures, and front yards—some of which have been in existence for over 100 years.

H.R. 711 is intended to validate the physical occupation and ownership of individual property owners of these tracts. In doing so, it will remove the ambiguity surrounding the titles of these tracts.

Mr. Speaker, I urge my colleagues to support H.R. 711.

Mr. DOOLITTLE. Mr. Speaker, I am pleased to have this opportunity to speak in support of H.R. 711. First, I want to thank both the chairman of the Interior Committee and the chairman of the Subcommittee on National Parks and Public Lands for their help in moving this legislation. I also appreciate the hard work of the members on these committees.

H.R. 711 would legalize, validate, and confirm the conveyance of a portion of the railroad right-of-way located within the State of California which was originally granted by act of Congress on July 1, 1862. As introduced, H.R. 711 is comprised of 48 parcels of land and reaches into Nevada and San Joaquin Counties. Additional parcels were added in committee. These parcels form parts of the 400-foot-wide right-of-way granted to the Central Pacific Railway Co. [CP], now known as the Southern Pacific Transportation Co. [SP].

The city of Truckee, CA, as well as many small communities, was destined to grow up astride the original transcontinental line, and as growth manifested itself, homes and other structures were built within and encroaching upon the right-of-way. Property owners in Truckee are disproportionately affected by having 40 of the 50 parcels in their city. Many of these residences, structures, and front yards have been in existence since the late 1800's and early 1900's. To further complicate matters, there is difficulty in identifying the precise location of the original transcontinental line as it passes through the town of Truckee. For purposes of the conveyances, surveys provided by SP have been utilized.

The intent of this legislation is to validate the physical occupation and ownership of indi-

vidual property owners and to remove the ambiguity of title relating to any portion of the property which may fall within the right-of-way as originally granted to CP. The ambiguity to title affects marketability as well as the ability of an individual to secure institutionalized financing. Only through legislation can the owners obtain clear title to the land they have held and paid taxes on for decades.

Mr. Speaker, I know of no formal opposition to H.R. 711, and I urge its passage.

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

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 711, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

AUTHORIZING AND DIRECTING EXCHANGE OF LANDS IN COLORADO

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1182) to authorize and direct the exchange of lands in Colorado, as amended.

The Clerk read as follows:

H.R. 1182

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

SECTION 1. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) Eagle and Pitkin Counties in the State of Colorado (hereinafter in this Act referred to as the "Counties") are offering to convey to the United States approximately one thousand three hundred and seven acres of patented mining claim properties owned by the Counties within or adjacent to the White River National Forest (hereinafter in this Act referred to as the "National Forest inholdings"), including approximately six hundred and sixty nine acres of inholdings within the Holy Cross, Hunter-Fryingpan, Collegiate Peaks, and Maroon Bells Snowmass Wilderness Areas;

(2) the properties identified in paragraph (1) are National Forest inholdings whose acquisition by the United States, would facilitate better management of the White River National Forest and its wilderness resources; and

(3) certain lands owned by the United States within Eagle County comprising approximately two hundred and seventeen acres and known as the Mt. Sopris Tree Nursery (hereinafter in this Act referred to as the "nursery lands") are available for exchange and the Counties desire to acquire portions of the nursery lands for public purposes.

(b) PURPOSES.—The purposes of this Act are—

(1) to provide the opportunity for an exchange whereby the Counties would transfer to the United States the National Forest inholdings in exchange for portions of the nursery lands;

(2) to provide an expedited mechanism under Federal law for resolving any private title claims to the National Forest inholdings if the exchange is consummated; and

(3) after the period of limitations has run for adjudication of all private title claims to the National Forest inholdings, to quiet title in the inholdings in the United States subject to valid existing rights adjudicated pursuant to this Act.

SEC. 2. OFFER OF EXCHANGE.

(a) OFFER BY THE COUNTIES.—The exchange directed by this Act shall be consummated if within ninety days after receipt of the Secretary's appraisal findings pursuant to subsection 3(c) of this Act, the Counties offer to transfer to the United States, pursuant to the provisions of this Act, all right, title, and interest of the Counties in and to approximately—

(1) one thousand two hundred fifty eight acres of lands owned by Pitkin County within and adjacent to the boundaries of the White River National Forest, Colorado, and generally depicted as parcels 1–53 on maps entitled "Pitkin County Lands to Forest Service", numbered 1–11, and dated April 1990, except for parcels 20 (Twilight), 21 (Little Alma), the Highland Chief and Alaska portions of parcel 25 depicted on map 7, and parcel 52 (Iron King) on map 11, which shall remain in their current ownership; and

(2) forty-nine acres of land owned by Eagle County within and adjacent to the boundaries of the White River National Forest, Colorado, and generally depicted as parcels 54–58 on maps entitled "Eagle County lands to Forest Service", numbered 12–14, and dated April 1990, except for parcel 56 (Manitou) on map 14 which is already in National Forest ownership.

(b) EXCHANGE BY THE SECRETARY.—Subject to the provisions of section 3, within ninety days after receipt by the Secretary of Agriculture (hereinafter in this Act referred to as the "Secretary") of a quitclaim deed from the Counties to the United States of the lands identified in subsection (a) of this section, the Secretary, on behalf of the United States, shall convey by quitclaim deed to the Counties, as tenants in common, all right, title, and interest of the United States in and to approximately one hundred and thirty-two acres of land (and water rights as specified in section 7 and the improvements located thereon), as generally depicted as tract A on the map entitled "Mt. Sopris Tree Nursery", dated October 5, 1990.

SEC. 3. RESERVATIONS AND CONDITIONS OF CONVEYANCE.

(a) RESERVATIONS.—In any conveyance to the Counties pursuant to section 2, the Secretary shall reserve—

(1) all right, title, and interest of the United States in and to approximately eighty-five acres of land (and improvements located thereon), which is generally depicted as tracts B (approximately twenty-nine acres) and C (approximately fifty-six acres) on the map referred to in section 2(b);

(2) water rights as specified in section 7(a); and

(3) any easements, existing utility lines, or other existing access in or across tract A currently serving buildings and facilities on tract B.

(b) REVERSION.—It is the intention of Congress that any lands and water rights conveyed to the Counties pursuant to this Act shall be retained by the Counties and used solely for public recreation and recreational facilities, open space, fairgrounds, and such other public purposes as do not significantly reduce the portion of such lands in open space. In the deed of conveyance to the Counties, the Secretary shall provide that all right, title, and interest in and to any lands and water rights conveyed to the Counties pursuant to this Act shall revert back to the United States in the event that such lands or water rights or any portion thereof are sold or otherwise conveyed by the Counties or are used for other than such public purposes.

(c) EQUALIZATION OF VALUES.—(1) Within one hundred and twenty days after the date of enactment of this Act, the Secretary of Agriculture shall complete appraisals of the lands to be exchanged pursuant to subsections (a) and (b) of section 2 of this Act, taking into account any effects on the value of such lands resulting from the use restrictions and reversionary interest imposed by subsection (b) of this section and any other factors that may affect value. The sum of $120,000 shall be deducted from the value of the Counties' offered lands to reflect any adverse claims against such lands which may be adjudicated pursuant to section 5 of this Act.

(2) The appraisals shall utilize nationally recognized appraisal standards, including, to the extent appropriate, the Uniform Appraisal Standards for Federal Land Acquisition.

(3) On the basis of such appraisals, the Secretary shall make a finding as to whether the values (after the deduction described in paragraph (1)) of the lands to be exchanged are equal and shall immediately notify the Counties as to such finding. If the values are not equal, any cash equalization which would otherwise be owed to the Counties by the United States shall be waived. Any equalization amount which may be owed to the United States by the Counties shall be satisfied through conveyance to the United States, within five years of the date of transfer of the nursery lands to the Counties pursuant to section 2(b) of this Act, of additional lands or interests in lands, acceptable to the Secretary, which the Counties own on the date of enactment of this Act or may acquire after such date. Such additional lands shall have a value as approved by the Secretary at least equal to the amount owed plus annual interest on such amount or unconveyed portion thereof, as applicable, at the standard rate determined by the Secretary of the Treasury to be applicable to marketable securities of the United States having a comparable maturity. Interest shall accrue beginning on the date the nursery lands are transferred to the Counties pursuant to section 2(b) of this Act.

(d) RIGHT OF FIRST REFUSAL.—The Secretary may dispose of any or all of the nursery lands reserved pursuant to subsection (a) of this section for fair market value under existing authorities, except that the Secretary shall first offer the Counties the opportunity to acquire the lands. This right of first refusal shall commence upon receipt by the Counties of written notice of the intent of the Secretary to dispose of such property, and the Counties shall have sixty days from the date of such receipt to offer to acquire such properties at fair market value as tenants in common. The Secretary shall have sole discretion as to whether to accept or reject any such offer of the Counties.

SEC. 4. STATUS OF LANDS ACQUIRED BY THE UNITED STATES.

(a) NATIONAL FOREST SYSTEM LANDS.—The National Forest inholdings acquired by the United States pursuant to this Act shall become a part of the White River National Forest (or in the case of portions of parcels 39, 40, and 41 depicted on map 9, and a portion of parcel 54 of map 12, part of the Gunnison and Arapaho National Forests, respectively) for administration and management by the Secretary in accordance with the laws, rules, and regulations applicable to the National Forest System.

(b) WILDERNESS.—The National Forest inholdings that are within the boundaries of the Holy Cross, Hunter-Fryingpan, Collegiate Peaks, and Maroon Bells-Snowmass Wilderness Areas shall be incorporated in and deemed to be a part of their respective wilderness areas and shall be administered in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness.

SEC. 5. RESOLVING TITLE DISPUTES TO NATIONAL FOREST INHOLDINGS.

(a) QUIET TITLE ACT.—Notwithstanding any other provision of law and subject to the provisions of subsection (c) of this section, section 2409a of title 28, United States Code (commonly referred to as the "Quiet Title Act") shall be the sole legal remedy of any party claiming any right, title, or interest in or to any National Forest inholdings conveyed by the Counties to the United States pursuant to this Act.

(b) LISTING.—Upon conveyance of the National Forest inholdings to the United States, the Secretary shall cause to be published in a newspaper or newspapers of general circulation in Pitkin and Eagle Counties, Colorado, a listing of all National Forest inholdings acquired pursuant to this Act together with a statement that any party desiring to assert a claim of any right, title, or interest in or to such lands must bring an action against the United States pursuant to such section 2409a within the same period prescribed by subsection (c) of this section.

(c) LIMITATION.—Notwithstanding section 2409a(g) of title 28, United States Code, any civil action against the United States to quiet title to National Forest inholdings conveyed to the United States pursuant to this Act must be filed in the United States District Court for the District of Colorado no later than the date that is six years after the date of publication of the listing required by subsection (b) of this section.

(d) VESTING BY OPERATION OF LAW.—Subject to any easements or other rights of record that may be accepted and expressly disclaimed by the Secretary, and without limiting the title to National Forest inholdings conveyed by the Counties pursuant to this Act, all other rights, title, and interests in or to such National Forest inholdings if not otherwise vested by quitclaim deed to the United States, shall vest in the United States on the date that is six years after the date of publication of the listing required by subsection (b) of this section, except for such title as is conveyed by the Counties, no other rights, title, or interest in or to any parcel of the lands conveyed to the United States pursuant to this Act shall vest in the United States under this subsection if title to such parcel—

(1) has been or hereafter is adjudicated as being in a party other than the United States or the Counties; or

(2) is the subject of any action or suit against the United States to vest such title in a party other than the United States or the Counties that is pending on the date six years after the date of publication of a listing required by subsection (b) of this section.

(e) COSTS AND ATTORNEYS' FEES.—(1) At the discretion of the court, any party claiming any right, title, or interest in or to any of the National Forest inholdings who files an action against the United States to quiet title and fails to prevail in such action may be required to pay to the Secretary on behalf of the United States, an amount equal to the costs and attorney's fees incurred by the United States in the defense of such action.

(2) As a condition of any transfer of lands to the Counties under this Act, the Counties shall be obligated to reimburse the United States for 50 percent of all costs in excess of $240,000 not reimbursed pursuant to paragraph (1) of this subsection associated with the defense by the United States of any claim or legal action brought against the United States with respect to any rights, title, and interest in or to the National Forest inholdings. Payment shall be made in the same manner as provided in section 6 of this Act.

SEC. 6. REIMBURSEMENT TO THE UNITED STATES.

(a) IN GENERAL.—As a condition of any transfer of lands to the Counties under this Act, in addition to any amounts required to be paid to the United States pursuant to section 5(e), in the event of a final determination adverse to the United States in any action relating to the title to the National Forest inholdings, the United States shall be entitled to receive from the Counties, and the Counties shall provide to the United States, reimbursement equal to the fair market value (as determined by the appraisal used for purposes of this Act) of the lands that are the subject of such final determination.

(b) AVAILABILITY OF FUNDS.—Any money received by the United States from the Counties under section 5(e) or subsection (a) of this section shall be considered money received and deposited pursuant to the Act of December 4, 1967, as amended (and commonly known as the Sisk Act, 16 U.S.C. 484a).

(c) IN-KIND PAYMENT OF LANDS.—In lieu of monetary payments, any obligation for reimbursement by the Counties to the United States under this Act can be fulfilled by the conveyance to the United States of lands having a current fair market value equal to or greater than the amount of the obligation. Such lands shall be mutually acceptable to the Secretary and the Counties.

SEC. 7. WATER RIGHTS.

(a) ALLOCATION AND MANAGEMENT.—The water rights in existence on the date of enactment of this Act in the Mt. Sopris Tree Nursery, which comprise water well and irrigation ditch rights adjudicated under the laws of the State of Colorado, together with the right to administer, maintain, access, and further develop such rights, shall be allocated and managed as follows:

(1) The United States shall retain all such rights associated with the five existing wells on the properties.

(2) Unless the Secretary determines that all water from the five existing wells is necessary to meet water needs of the United States, the United States shall make available to the Counties, without charge, water from the five wells to serve reasonable culinary, sanitary, and domestic uses of the existing buildings conveyed to the Counties.

(3) All federally owned irrigation rights shall be conveyed jointly to the Counties as undivided tenants in common, subject to the condition that of any transfer of lands to the Counties under this Act, if requested by the United States, the Counties shall make every effort to cooperatively provide under the authority of subsection (c) of this section, without charge to the United States, water to serve future needs of the United States, or its successors, heirs, or assigns on tract B to the extent the Counties determine appropriate commensurate with their own needs on tract A. No such provision of water to the United States shall in any way be construed to constitute an abandonment of such water by the Counties.

(b) MODIFICATION OF ALLOCATION.—If the Secretary and the Counties determine the public interest will be better served thereby, they may agree to modify the precise water allocation made pursuant to this section or to enter into cooperative agreements (with or without reimbursement) to use, share, or otherwise administer such water rights and associated facilities as they determine appropriate.

(c) COSTS OF MAINTAINING CERTAIN WELLS AND DISTRIBUTION SYSTEMS.—The Counties shall bear proportionate costs of maintaining the wells and distribution systems as a condition to the water being provided at no cost from the five existing wells pursuant to subsection (a)(2) of this section.

SEC. 8. MISCELLANEOUS PROVISIONS.

(a) TIME REQUIREMENT FOR COMPLETING OF TRANSFER.—If the Counties make a timely offer, pursuant to section 2(a), the transfers of lands authorized and directed by this Act shall be completed no later than one year after the date of enactment of this Act.

(b) BOUNDARY MODIFICATIONS.—The Secretary and the Counties may mutually agree to make modifications of the final boundary between tracts A and B prior to completion of the exchange authorized by this Act if such modifications are determined to better serve mutual objectives than the precise boundaries as set forth in the maps referenced in this Act, so long as such modification does not result in a change of more than five acres in either tract.

(c) TRACT A EASEMENT.—The transfer of tract A to the Counties shall be subject to the existing highway easement to the State of Colorado and to any other right, title, or interest of record.

(d) VALIDITY.—If any provision of this Act or the application thereof is held invalid, the remainder of the Act and application thereof, except for the precise provision held invalid, shall not be affected thereby.

(e) FOREST HEADQUARTERS AND ADMINISTRATIVE OFFICES.—The White River National Forest Headquarters and administrative offices in Glenwood Springs, Colorado, are hereby transferred from the jurisdiction of the United States General Services Administration to the jurisdiction of the Secretary, who shall retain such facilities unless and until otherwise provided by subsequent Act of Congress.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks on the measure now under consideration.

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

There was no objection.

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

Mr. Speaker, H.R. 1182, sponsored by Mr. CAMPBELL of Colorado, would provide for a land exchange between the United States and two counties in western Colorado.

Under the exchange, the two counties would receive about 132 acres of land near the community of El Jebel, outside national forest boundaries, that were once used by the Forest Service as a tree nursery. In return, the counties would transfer to the United States about 1,300 acres of national forest inholdings, including some lands within existing wilderness areas.

The tree-farm lands are located in a part of the valley of the Roaring Fork River, between Aspen and Carbondale, where rapid development is taking place and where many residents commute into Aspen to work. The counties want to use these lands for public recreation and similar public purposes. Under the bill, the counties could not transfer the lands, and the lands would revert to ownership of the National Government if used for any purpose that would significantly reduce their open-space character.

To assure that the National Government will receive fair value in the exchange, the bill provides that the Secretary of Agriculture will complete new appraisals of the values of all the lands involved, and the counties will waive any payments that the United States might otherwise have to make, if the national forest inholdings are more valuable than the lands to be transferred to the counties. On the other hand, under the bill the counties will have to pay—in money or in land—any equalization required if the tree nursery lands are more valuable than the national forest inholdings.

The national forest inholdings were originally patented as mining claims—that is, under the mining law of 1872 they were acquired from the United States for a very low price. But the mining companies that held these lands did not pay the property taxes on them, and the counties acquired them at tax sales.

Recently, the ownership of the lands has been subject to some disputes. Claims have been filed in the State courts, alleging that the counties do not have good title.

To protect the national interest, the bill provides that when appraising the national forest inholdings, the Secretary will deduct $120,000 from their value, as a partial offset against possible costs of defending the title. The bill also provides that any disputes about the title to these inholdings must be resolved in Federal court, and requires the counties to share equally in any litigation costs exceeding $240,000 for which the court does not order reimbursement to the National Government from the party contesting the title. In the event of a successful challenge to the title of any of the national forest inholdings, the counties are required to reimburse the United States, in money or in other lands acceptable to the Secretary of Agriculture.

Mr. Speaker, this is a good bill that will enable the local governments to make appropriate public use of open space lands no longer needed by the National Government and also improve the management of very valuable national forest lands, including important wilderness areas. I want to commend the gentleman from Colorado [Mr. CAMPBELL] for his hard work and persistence as well as that of the other involved parties. They have enabled us to resolve the somewhat complicated details and to bring to the floor a sound measure that properly balances the interests of the National Government, the two Colorado counties, and all others concerned. I urge passage of the bill.

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

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of this proposal. The Republican side supports it as well.

The gentleman from Minnesota [Mr. VENTO] has explained it thoroughly. I think there is a couple of things that are very important. One is it has the effect of providing for local government some lands that are useful to them but not particularly useful to the Federal Government; in this case, the Forest Service.

The other, in exchange for that it locks up lands that are basically inholdings which are very difficult to manage. And after this is over, it will be a benefit to both parties.

H.R. 1182 has been thoroughly reviewed and revised by the Committee on Agriculture as well as the Committee on Interior and Insular Affairs. I believe it is a commonsense exchange and in the best interest of everyone. I urge support for H.R. 1182.

Mr. CAMPBELL of Colorado. Mr. Speaker, I am pleased to have been able to work with my friend Chairman BRUCE VENTO over the past several years on the important legislation before us today. I want to express my sincere appreciation for the dedication and hard work Chairman VENTO has put into this bill.

I introduced H.R. 1182, along with my colleagues in the Colorado congressional delegation, to allow Pitkin and Eagle Counties to acquire 132 acres of the Mount Sopris tree nursery in exchange for 1,307 acres of patented mining claims which are owned by the counties.

The Forest Service several years ago decided the entire Mount Sopris tree nursery property was no longer needed and reached agreement with the counties that would allow the counties to accommodate local public needs.

In exchange, the Forest Service would receive nearly 10 times as much land in the White River National Forest. Over half of the lands the Forest Service would acquire lie within designated wilderness areas. If these lands are not acquired by the Forest Service they have the potential of becoming a severe management problem. In fact, the Forest Service could be potentially responsible for the enormous expense of building roads and supplying utility corridors into many of Colorado's most sensitive areas.

The Forest Service and the counties attempted to complete this exchange administratively for many years. Unfortunately, the cost of clearing that title on every acre of the counties offered land on a timely basis makes an administrative exchange impossible.

Therefore, the bill establishes a process for dealing with claims that might be filed to prevent the United States from gaining quiet title to the patented mining claims it will receive from the counties pursuant to the provisions of the bill. The counties will share in the burden of paying to defeat challenges, if there are any.

H.R. 1182 was reported from both the Agriculture Committee and the Interior Committee with bipartisan support. The current draft is a product of prolonged and intense negotiations between myself, both committees, and the Forest Service. Important improvements have been made in the legislation—improvements that address the Forest Service's remaining concerns.

Under the legislation as it stands, any exchange of lands between Pitkin and Eagle Counties and the United States would occur only after the Secretary of Agriculture completes a new appraisal of the counties national forest inholdings and the Forest Service's tree nursery lands, and deducts $120,000 from the appraised value of the inholdings being offered by the counties to allow for possible costs of defending against adverse title claims.

If the appraisal determines that the tree nursery lands have a higher value than the national forest inholdings, the counties will equalize value by transfer to the United States of additional lands acceptable to the Secretary of Agriculture.

I want to express my sincere appreciation to Chairman VENTO, Chairman VOLKMER, and their staffs for their patience through these negotiations. Our difficulty in pushing forward with this proposal was particularly disconcerting considering the support the Forest Service's regional office has expressed for the transfer. Those familiar with the issue have realized that timely resolution of this transfer is imperative if the inholdings in these wilderness areas are to be protected from future development.

The bill has widespread support, ranging from the Colorado Association of Commerce and industry to the Sierra Club. It is also supported by both Colorado Senators. This bill deserves timely passage and needs to be enacted to save both the Federal Government and the local communities enormous amounts of money.

Mr. THOMAS of Wyoming. Mr. Speaker, I have no further requests for

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time on this land exchange measure, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MCDERMOTT). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 1182, as amended.

The question was taken; and (two-thirds having voted thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

AMENDING THE ACT OF AUGUST 7, 1961, ESTABLISHING THE CAPE COD NATIONAL SEASHORE

Mr. VENTO. Mr. Speaker, I move that the House suspend the rules and pass the bill (H.R. 4085) to amend the Act of August 7, 1961, establishing the Cape Cod National Seashore, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4085

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

SECTION 1. NATIONAL PARK SYSTEM ADVISORY COMMITTEES.

(a) CHARTER.—The provisions of section 14(b) of the Federal Advisory Committee Act (5 U.S.C. Appendix; 86 Stat. 776) are hereby waived with respect to any advisory commission or advisory committee established by law in connection with any national park system unit during the period such advisory commission or advisory committee is authorized by law.

(b) MEMBERS.—In the case of any advisory commission or advisory committee established in connection with any national park system unit, any member of such Commission or Committee may serve after the expiration of his or her term until a successor is appointed.

SEC. 2. MISSISSIPPI NATIONAL RIVER AND RECREATION AREA.

Section 703(i) of the Act of November 18, 1988 entitled "An Act to provide for the designation and conservation of certain lands in the States of Arizona and Idaho, and for other purposes" (Public Law 100-696; 102 Stat. 4602; 16 U.S.C. 460zz-2) is amended by striking "3 years after enactment of this Act" and inserting "3 years after appointment of the full membership of the Commission".

SEC. 3. EXTENSION OF GOLDEN GATE NATIONAL RECREATION AREA ADVISORY COMMITTEE.

Section 5(g) of the Act approved October 27, 1972 (16 U.S.C. 460bb-4(g)), is amended by striking out "twenty years" and inserting in lieu thereof "thirty years".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4085, the bill now under consideration.

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

There was no objection.

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

Mr. Speaker, H.R. 4085 places certain conditions on the operation of Federal advisory committees for National Park System units. H.R. 4085 was introduced by Congressman STUDDS, and approved by the Committee on Interior and Insular Affairs on July 1, 1992.

Public Law 87-126, which established the Cape Cod National Seashore in 1961, included authorization for the Cape Cod National Seashore Advisory Commission. Because the Commission is subject to the Federal Advisory Committee Act, the Department of the Interior must review and approve the Cape Cod National Seashore Advisory Commission's charter every 2 years. Continuing delays in approving the Commission's charter have stalled the Commission's operation for as much as 16 months in the past few years.

H.R. 4085, as introduced, would have waived the provision of the Federal Advisory Committee Act which requires the Department of the Interior to review and approve the Cape Cod National Seashore Advisory Commission's charter every 2 years. This bill would also have allowed members of the Commission to serve after the expiration of their terms until a successor is appointed.

Testimony presented at the hearing on H.R. 4085 indicates that the problems at Cape Cod are common to many of the National Park Service committees and commissions. The delays in approving charters and appointing new members prevent these legislatively established commissions from fulfilling their responsibilities and undermine local support for these units of the National Park System.

H.R. 4085, as reported by the committee substitutes language waiving the 2-year review and approval requirements for the charters of any advisory commission or advisory committee established by law in connection with any National Park System unit. This amendment also allows members of such advisory commissions to serve after the expiration of their terms until a successor is appointed.

Exempting these legislatively established commissions from the time-consuming process of reviewing and approving the charters and allowing their members to continue to serve until successors are named assures their continuous efficient operation. The exemption has been routinely included in recent legislation establishing the National Park System advisory committees and commissions. However, 30-35 of these boards are still required to undergo the 2-year review and approval. Rather than addressing these in 30-35 separate bills, I believe this issue is best resolved through this legislation waiving the provisions of section 14(b) for any such advisory boards established by law.

H.R. 4085 also addresses the Mississippi River Coordinating Commission specifically. The law establishing the Mississippi River Coordinating Commission directed the Commission to submit a comprehensive plan for land and water use within 3 years after enactment. Unfortunately, as in many cases, the Commission's work has been delayed because the Secretary of the Interior took 18 months to appoint the Commission, leaving members with only about half that time to develop an appropriate plan. Section 2 of the bill reported by the committee changes the requirement to 3 years after the appointment of the full membership of the Commission, which allows the Commission adequate time for this purpose.

The bill approved by the committee also extends the Golden Gate National Recreation Area Advisory Committee for an additional 10 years. The Advisory Committee was established in 1972 for a 10-year term, which was extended to 20 years in 1982, and is scheduled to terminate in October 1992. The complex issues and negotiations involved in the transfer of the Presidio from the U.S. Army to the National Park Service require careful planning and significant public input and support. In order to facilitate a smooth transition, the committee has extended the advisory committee's term for an additional 10 years.

Mr. Speaker, I believe H.R. 4085 effectively addresses a problem which has prevented the smooth operation of certain National Park System units, and I urge its adoption.

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

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4085, the bill which would remove certain administrative barriers from the effective operation of the National Park Service Advisory Commissions. Originally introduced by the gentleman from Massachusetts [Mr. STUDDS], the measure would have resolved certain administrative problems which have plagued the operation of the Cape Cod National Seashore Citizens Advisory Commission.

During the hearing the committee became aware that similar problems have impacted the operation of other citizen advisory commissions. Therefore, the committee approved an amendment which would facilitate the commission charter renewal and member reappointments in about 40 National Park Service advisory commissions.

One could argue that it should not be necessary to create the commission in order for park superintendents to seek the views of local persons. We have found that the legislative establishment of these commissions has proven essential in a number of cases. Therefore, I support this bill as an attempt to streamline the administrative burdens of ensuring that these commissions continue to operate and function properly.

I would support the minor site-specific amendments to the Golden Gate and Mississippi River Commissions adopted by the full Committee on the Interior.

Mr. STUDDS. Mr. Speaker, I rise in strong support of this bill H.R. 4085 started life as a bill that I introduced to remedy a problem involving the Cape Cod National Seashore Advisory Commission.

The current law—which requires the National Park Service to approve advisory commission charters every 2 years—has become a bureaucratic nightmare. It has created needless work for the agency and made it difficult for advisory commissions to operate efficiently.

Over the Cape Code Seashore Advisory Commission's 2-year history, there have been seven periods when it either had a no charter, or a charter but no members. In fact, for a total of 59 months—nearly one-quarter of the time it was supposed to be in existence, the Commission was nonfunctional—unable to perform its important function of advising seashore officials on the myriad issues affecting the park.

My bill would have waived the requirement in current law that the charter be filed and approved every 2 years. This was a needless exercise and a waste of the taxpayer's money. It also would have provided that Commissioner would continue to serve after the expiration of their term until successors are chosen. This would at least allow the Commission to function while the Secretary was selecting new Commissions.

Evidently, the chairman of the subcommittee, Mr. VENTO, knew a good idea when he saw one. He has amended the bill to cover all advisory commissions. This is good for the National Park Service, it is good for the advisory commissions, it is good for the taxpayers.

I want to thank the gentleman from Minnesota and the chairman of the full committee, Mr. MILLER, as well as the ranking minority members, the gentlemen from Alaska and Montana, for supporting this legislation and moving it along expeditiously.

Senator EDWARD KENNEDY has introduced an identical bill in the other body and I look forward to its rapid consideration and eventual enactment.

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

Mr. VENTO. Mr. Speaker, I thank the gentleman for his support and participation. I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 4085, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to place certain conditions on the operation of Federal Advisory Committees for National Park System units.".

A motion to reconsider was laid on the table.

MARSH-BILLINGS NATIONAL HISTORICAL PARK ESTABLISHMENT ACT

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2079) to establish the Marsh-Billings National Historical Park in the State of Vermont, and for other purposes, as amended.

The Clerk read as follows:

S. 2079

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Marsh-Billings National Historical Park Establishment Act".

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to interpret the history and evolution of conservation stewardship in America;

(2) to recognize and interpret the contributions and birthplace of George Perkins Marsh, pioneering environmentalist, author of Man and Nature, statesman, lawyer, and linguist;

(3) to recognize and interpret the contributions of Frederick Billings, conservationist, pioneer in reforestation and scientific farm management, lawyer, philanthropist, and railroad builder, who extended the principles of land management introduced by Marsh;

(4) to preserve the Marsh-Billings Mansion and its surrounding lands; and

(5) to recognize the significant contributions of Julia Billings, Mary Billings French, Mary French Rockefeller, and Laurance Spelman Rockefeller in perpetuating the Marsh-Billings heritage.

SEC. 3. ESTABLISHMENT OF MARSH-BILLINGS NATIONAL HISTORICAL PARK.

(a) IN GENERAL.—There is established as a unit of the National Park System the Marsh-Billings National Historical Park in Windsor County, Vermont (hereinafter in this Act referred to as the "park").

(b) BOUNDARIES AND MAP.—(1) The park shall consist of a historic zone, including the Marsh-Billings Mansion, surrounding buildings and a portion of the area known as "Mt. Tom", comprising approximately 555 acres, and a protection zone, including the areas presently occupied by the Billings Farm and Museum, comprising approximately 88 acres, all as generally depicted on the map entitled "Marsh-Billings National Historical Park Boundary Map" and dated November 19, 1991.

(2) The map referred to in paragraph (1) shall be on file and available for public inspection in the appropriate offices of the National Park Service, Department of the Interior.

SEC. 4. ADMINISTRATION OF PARK.

(a) IN GENERAL.—The Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") shall administer the park in accordance with this Act, and laws generally applicable to units of the National Park System, including, but not limited to the Act entitled "An Act to establish a National Park Service, and for other purposes, approved August 25, 1916 (16 U.S.C. 1, 2-4).

(b) ACQUISITION OF LANDS.—(1) Except as provided in paragraph (2), the Secretary is authorized to acquire lands or interests therein within the park only by donation.

(2) If the Secretary determines that lands within the protection zone are being used, or there is an imminent threat that such lands will be used, for a purpose that is incompatible with the purposes of this Act, the Secretary may acquire such lands or interests therein by means other than donation.

(3) The Secretary may acquire lands within the historic zone subject to terms and easements providing for the management and commercial operation of existing hiking and cross-country ski trails by the granter, and the grantor's successors and assigns, such terms and easements shall be in a manner consistent with the purposes of the historic zone. Any changes in the operation and management of existing trails shall be subject to approval by the Secretary.

(c) HISTORIC ZONE.—The primary purposes of the historic zone shall be preservation, education, and interpretation.

(d) PROTECTION ZONE.—(1) The primary purpose of the protection zone shall be to preserve the general character of the setting across from the Marsh-Billings Mansion in such a manner and by such means as will continue to permit current and future compatible uses.

(2) The Secretary shall pursue protection and perservation alternatives for the protection zone by working with affected State and local governments and affected landowners to develop and implement land use practices consistent with this Act.

SEC. 5. MARSH-BILLINGS NATIONAL HISTORICAL PARK SCENIC ZONE.

(a) IN GENERAL.—There is established the Marsh-Billings National Historical Park Scenic Zone (hereinafter in this Act referred to as the "scenic zone"), which shall include those lands as generally depicted on the map entitled "Marsh-Billings National Historical Park Scenic Zone Map" and dated November 19, 1991.

(b) PURPOSE.—The purpose of the scenic zone shall be to protect portions of the natural setting beyond the park boundaries that are visible from the Marsh-Billings Mansion, by such means and in such a manner as will permit current and future compatible uses.

(c) ACQUISITION OF SCENIC EASEMENTS.—Within the boundaries of the scenic zone, the Secretary is authorized only to acquire scenic easements by donation.

SEC. 6. COOPERATIVE AGREEMENTS.

(a) IN GENERAL.—The Secretary may enter into cooperative agreements with such persons or entities as the Secretary determines to be appropriate for the preservation, interpretation, management, and providing of educational and recreational uses for the properties in the park and the scenic zone.

(b) FACILITIES.—The Secretary, through cooperative agreements with owners or operators of land and facilities in the protection zone, may provide for facilities in the protection zone to support activities within the historic zone.

SEC. 7. ENDOWMENT.

(a) IN GENERAL.—In accordance with the provisions of subsection (b), the Secretary is

authorized to receive and expend funds from an endowment to be established with the Woodstock Foundation, or its successors and assigns.

(b) CONDITIONS.—(1) Funds from the endowment referred to in subsection (a) shall be expended exclusively as the Woodstock Foundation, or its successors and assigns, in consultation with the Secretary, may designate for the preservation and maintenance of the Marsh-Billings Mansion and its immediate surrounding property.

(2) No expenditure shall be made pursuant to this section unless the Secretary determines that such expenditure is consistent with the purposes of this Act.

SEC. 8. RESERVATION OF USE AND OCCUPANCY.

In acquiring land within the historic zone, the Secretary may permit an owner of improved residential property within the boundaries of the historic zone to retain a right of use and occupancy of such property for non-commercial residential purposes for a term not to exceed 25 years or a term ending at the death of the owner, or the owner's spouse, whichever occurs last. The owner shall elect the term to be reserved.

SEC. 9. GENERAL MANAGEMENT PLAN.

Not later than 3 complete fiscal years after the date of enactment of this Act, the Secretary shall develop and transmit a general management plan for the park to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 2079, the Senate bill now under consideration.

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

There was no objection.

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

Mr. Speaker, S. 2079 establishes the Marsh-Billings National Historical Park in the State of Vermont. S. 2079 was approved in the Senate on June 4, 1992, and was reported to the House by the Committee on Interior and Insular Affairs on July 1, 1992.

The Marsh-Billings mansion in Woodstock, VT, was the boyhood home of George Perkins Marsh, author of the 1864 book "Man and Nature" which became a basic text of America's early conservation movement. Frederick Billings, lawyer, railroad executive, and philanthropist, bought the home in 1869 and used the Woodstock estate to demonstrate scientific farming and progressive land management following the principles of George Perkins Marsh.

The Mansion, which was designated a national historic landmark in 1967, and the surrounding acres are currently owned by Laurance S. and Mary Rockefeller; Mary Rockefeller is Frederick Billings' granddaughter, and the Rockefellers themselves, especially Laurance, have made significant contributions as private benefactors of national parks and the conservation movement in general. Adjacent to the mansion grounds is the Billings farm and museum which functions both as a dairy operation and an exhibit on rural life in late 19th century Vermont.

S. 2079 establishes the Marsh-Billings National Historical Park to interpret the history and evolution of conservation stewardship in America. The park includes a historic zone of approximately 555 acres, comprised of the Marsh-Billings mansion, surrounding buildings, and the area known as Mount Tom. Also included is a protection zone of approximately 88 acres, including the areas presently occupied by the Billings farm and museum. A scenic zone outside the park boundary, including lands visible from the mansion, is established for the protection of portions of the natural setting.

The mansion and the property in the historic zone will be donated by the Rockefellers to the National Park Service. The Rockefellers have stated their intention to make a grant to the town of Woodstock to provide payments in lieu of taxes after transfer of title to the Federal Government. The Rockefellers would also endow a fund to provide for anticipated maintenance and preservation requirements of the mansion and its immediate surroundings.

The protection zone will continue under private ownership but will be restricted to compatible uses. The scenic zone will also continue under private ownership but will be restricted by the donated conservation easements to the NPS.

The Marsh-Billings National Historical Park will be the first unit of the National Park Service located solely in the State of Vermont. This park will also be one of the only National Park Service units to interpret the history and evolution of conservation in America. The National Park Service supports this legislation, and this is a very generous donation by the Rockefellers which will facilitate the recognition of the importance and trace conservation in American history during the 19th and 20th century.

□ 1450

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

Mr. THOMAS of Wyoming. Mr. Speaker, I rise in support of S. 2079, a bill to establish the Marsh-Billings National Historical Park in Vermont.

Mr. Speaker, Mr. VENTO has already outlined the major elements of this measure. Let me just say that the story of the history of the conservation movement in America is an important one, a story which should be well interpreted within the National Park System. While there remain some questions as to whether the Marsh-Billings property is the best site at which to present that story, I have decided to support this measure.

The generosity of the Rockefeller family toward the preservation of such nationally important sites in this country as Grand Teton National Park is legendary. I note that the generosity of Mr. and Mrs. Rockefeller toward the establishment of this site is no less significant and I commend them for all their contributions in the work of preserving the heritage of this country.

Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I am pleased to yield such time as he may consume to the principal sponsor of this legislation, the gentleman from Vermont, Mr. BERNIE SANDERS, who as I said has been very diligently at work at the local level and with the committee members and myself to perfect and move this measure along.

Mr. SANDERS. Mr. Speaker, I thank my colleague for yielding time to me, and I want to thank Representative VENTO and his excellent staff for their months of hard work leading up to our consideration of this bill today.

Mr. Speaker, this legislation would create the very first national park in the State of Vermont—something which is very exciting and important to the people of our State. Although Vermont is well known for its natural beauty and for its leadership in environmental protection, it happens that today, over a century after the creation of America's first national parks, Vermont is one of a very few States that lacks a national park, and this legislation remedies that situation.

What is extremely exciting to me is that this beautiful homestead of George Perkins Marsh, and the surrounding 550 acres in Woodstock, VT, will be open free of charge to the people of our State and to the people of the entire country. For generations to come, therefore, our children and grandchildren will be able to enjoy this extremely beautiful and scenic site.

What is also very gratifying about this legislation is that in honoring George Perkins Marsh, a Vermonter, we are honoring one of the founders of our country's conservation movement and one of the leading environmentalists of his time. In passing this bill today we will be preserving both his boyhood home and a site for education about the environmental movement which he did so much to inspire.

Mr. Speaker, this legislation has extremely broad support in our State. My

colleagues, Senators LEAHY and JEFFORDS, and I jointly introduced the legislation last November, and the State legislature, the Governor, the town of Woodstock, and such groups as the National Park and Conservation Association have all expressed their support for the project. The administration and the National Park Service support the proposal and have worked closely with us in drafting the legislation. Its development has benefited from broad public involvement, including the participation of such groups as the Woodstock Town Board of Selectmen, the Woodstock Planning Commission, the State government, and private conservation and business groups. This public involvement was exemplified by the meeting in Woodstock last summer at which the Rockefellers presented their idea to the town, and I am pleased that the National Park Service is committed to continuing public involvement in the months and years to come.

Mr. Speaker, when George Perkins Marsh called for a new relationship to our environment in his book, "Man and Nature," a century and a quarter ago, he was a voice crying in the wilderness. But his words inspired the growth of a movement which has become one of the most powerful political forces of our time. I am proud today that we can preserve this birthplace of the environmental movement, which will be a permanent reminder of the need for our society to begin to live in harmony with the natural world.

Once again, I thank my colleague for all his help on this bill.

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

Mr. Speaker, I urge the passage of this new unit in the Park System, the Marsh-Billings Historic Site, a site which largely really has been donated to us by the Rockefeller family. As I said, they have been extraordinarily interested and generous in providing both natural and cultural settings across the country either to expand parks or to establish them, and in this one they are literally donating one of their residences which has a rich history in the State of Vermont, and its ramifications go well beyond the State in terms of our American culture and heritage.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MCDERMOTT). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 2079, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. McCathran, one of his secretaries.

EXTENDING LEASE FOR CERTAIN LANDS FOR ELEMENTARY SCHOOL PURPOSES

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5291) to provide for the temporary use of certain lands in the city of South Gate, CA, for elementary school purposes as amended.

The Clerk read as follows:

H.R. 5291

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

SECTION 1. TEMPORARY USE OF CERTAIN LANDS FOR ELEMENTARY SCHOOL PURPOSES.

Nothwithstanding section 6(f)(3) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-8(f)(3)), the city of South Gate, California, is hereby authorized to extend the existing lease (dated June 8, 1988) between the city of South Gate and the Los Angeles Unified School District on approximately three acres of South Gate Park for temporary elementary school purposes for a period not to exceed 8 years from the date of enactment of this Act in order to allow the School District sufficient time to permanently relocate Tweedy Elementary School.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation presently under consideration.

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

There was no objection.

□ 1500

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

Mr. Speaker, in 1987, a hazardous waste site was discovered adjacent to Tweedy Elementary School in South Gate, CA. Hazardous materials were migrating onto the school property and students had to be evacuated. Temporary school facilities were set up on a 3-acre portion of the 97-acre South Gate Park. The parkland is subject to section 6(f)(3) of the Land and Water Conservation Fund Act, which provides in part that "No property acquired or developed with assistance under this section shall, without the approval of the Secretary, be converted to other than public outdoor recreation uses." The National Park Service in 1988, in light of the extraordinary circumstances involving the health and safety of children, granted approval for a 3-year nonconforming use of the 3-acre South Gate Park property.

The site adjacent to Tweedy Elementary School has been designated a Superfund site. The school can no longer be used and a new site for a new school is being found. Funding and building the new school will take several years, and concern was expressed by the Department of Interior about its authority and ability to continue to approve the use of the parcel in such a manner.

Representative MARTINEZ, in cooperation with the Department of the Interior, drafted legislation which was introduced on May 28, and approved with an amendment by the House Interior Committee on July 8. The legislation authorizes a temporary, 8-year, nonconforming use of the parkland, which would give the Los Angeles School District adequate time to build a new school.

The bill is supported by the Los Angeles School District, and the Department of the Interior. I am not aware of any opposition and urge the bill's immediate adoption.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5291.

The gentleman from Minnesota has laid it out properly.

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

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

Mr. Speaker, I think it is unfortunate that we have to pass legislation in an area such as this. I do not think the land-water conservation fund provisions would be greatly bent if the Secretary of the Interior had, in fact, extended for several years the opportunity to complete the construction of the new facility or school and the use of this land for a short period of time for temporary buildings to house the opportunity for kids to get an education.

But, nevertheless, they were, I guess, prepared to, in fact, fine and/or cite the State of California for violation of the land use agreement under the land-water conservation fund. Ironically, 50 percent of the dollars in that fund are paid for by the State of California.

I would just hope that the Secretary of the Interior would maintain this vigilant view with regard to all of his responsibilities. But, nevertheless, here we are acting today on hopefully what will remain noncontroversial.

But I question really whether the Secretary did not have the authority to act in that matter.

Mr. MARTINEZ. Mr. Speaker, H.R. 5291 provides for temporary use of certain lands in

the city of South Gate, CA for elementary school purposes. It provides the flexibility necessary to meet the needs of elementary school students while protecting recreational resources. This legislation was drafted in close cooperation with, and is supported by the National Park Service and the Department of the Interior. It was passed with strong bipartisan support by the Committee on the Interior on July 8, 1992.

There is clear and urgent need for this legislation. In 1983 the city of South Gate, a low-income community in metropolitan Los Angeles, received two land and water conservation fund subgrants from the California Department of Parks to install a sprinkler system in the city park. As a result of these subgrants, which totaled slightly over $300,000, the entire city park is covered by the Land and Water Conservation Fund Act's protections against conversion of the land to nonrecreational uses.

In April 1986 toxic materials were found at the nearby Tweedy Elementary School. The industrial site which is located next to the school site was subsequently declared a Superfund site in February 1992.

To protect the health of these elementary schoolchildren, the school was moved to temporary facilities in the city park. Utilizing an abandoned archery range and a portion of the parking lot, the school facilities occupied approximately 3 acres of the 97-acre South Gate City Park. This has not significantly affected recreational use of the park.

In view of the serious public health issues involved, the National Park Service approved a temporary conversion of this portion of the park for temporary school use. There were no alternative sites readily available. The city of South Gate is relatively small and is heavily developed for industrial and residential use. Relocating the roughly 650 students of Tweedy Elementary School to other local schools was not a viable option: The area schools were already operating at approximately 50 percent above normal capacity on a year-round basis. Busing the students considerable distances would put these young students—mostly minority students from low income families—at greater risk of failure.

Good faith efforts have been made to permanently relocate the school and there has been substantial progress toward relocation. Tweedy Elementary School is part of the Los Angeles Unified School District. The district has spent approximately $1 million to identify an alternative site and to complete the necessary environmental impact reviews and to meet other requirements. In May 1991 the Los Angeles Unified School District Board of Education approved the construction of a new school. That same month the city of South Gate applied to the California State Allocation Board for funds to purchase the site for a new school to replace Tweedy School. Since the California State Allocation Board had exhausted its currently available resources, funds have not yet been allocated to purchase the site. On June 2, 1992, California voters approved the issue of bonds for school construction. Those funds are expected to become available for procurement of a new site for the school. Under State law, support for actual school construction cannot be sought until a site is obtained.

Requests for an extension of the temporary use of the park have been denied. The Department of the Interior has indicated that it does not have authority under current statute and regulations. In March 1992 the National Park Service denied a request from the city of South Gate for an extension. The Department has indicated that the school must be removed from the park by June 30, 1993, or that the city convert and replace the acreage by that date.

The deadlines are simply unrealistic in view of the school funding realities in California. Due to a serious and sustained economic downturn, California cut education funding by 12 percent in inflation adjusted dollars during the past 3 years—despite the rapid growth of the number of students in California schools.

Last year, Los Angeles Unified School District alone was forced to slash $275 million from its educational budget during the 1991–92 school year, and then in January 1992, it found that an additional $150 million has to be cut to meet additional shortfalls in funding. The current budgetary crisis in California threatens to force yet more cuts in a system that already has some of the highest student-teacher ratios in the Nation and that is eliminating nurses, librarians, counselors, and other vital services. In some cases these cuts have already left local classrooms short of textbooks and other basic instructional materials.

Protecting and enhancing our Nation's recreational and wilderness resources must remain one of our Nation's highest priorities. That is not the issue here. The school district and the city of South Gate have clearly demonstrated their intention to restore this entire city park to recreational use as soon as feasible without putting an unfair burden on these young children.

I urge that my colleagues join me in supporting this legislation which provides the flexibility needed to help these disadvantaged children while funding is obtained to build a new school at a safe site. I yield back the remainder of my time.

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

The SPEAKER pro tempore (Mr. MCDERMOTT). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 5291, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

BOUNDARY MODIFICATIONS: NEW RIVER GORGE NATIONAL RIVER, GAULEY RIVER NATIONAL RECREATION AREA, AND BLUESTONE NATIONAL SCENIC RIVER

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4382) to modify the boundaries of the New River Gorge National River, the Gauley River National Recreation Area, and the Bluestone National Scenic River in West Virginia, as amended.

The Clerk read as follows:

H.R. 4382

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

SECTION 1. BOUNDARY MODIFICATIONS.

(a) NEW RIVER GORGE NATIONAL RIVER.—Section 1101 of the National Parks and Recreation Act of 1978 (16 U.S.C. 460m–15) is amended by striking out "NERI–80,023, dated January 1987" and inserting "NERI–80,028, dated January 1992".

(b) GAULEY RIVER NATIONAL RECREATION AREA.—Section 201(b) of West Virginia National Interest River Conservation Act of 1987 (16 U.S.C. 460ww) is amended by striking out "NRA–GR/20,000A and dated July 1987" and inserting "GARI–80,001 and dated January 1992".

(c) BLUESTONE NATIONAL SCENIC RIVER.—Section 3(a)(65) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)(65)) is amended by striking out "WSR–BLU/20,000, and dated January 1987"; and inserting "BLUE–80,003, and dated January 1992".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4382, the bill now under consideration.

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

There was no objection.

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

Mr. Speaker, H.R. 4382, a bill introduced by my colleague and friend on the Interior Committee, Congressman NICK JOE RAHALL, makes various changes to the boundaries of New River Gorge National River, the Gauley River National Recreation Area, and the Bluestone National Scenic River—three National Park System units in West Virginia. All the lands proposed for addition by the legislation will enhance resources already protected by these parks, including peregrine falcon sites and a Civil War battlefield. They will provide better visitor access to key sites and incorporate uneconomic remnants created by previous National Park Service acquisitions. The 7,000-acre ward property identified in the bill is proposed as a donation.

In hearings before the Subcommittee on National Parks and Public Lands on H.R. 4382, testimony was presented about this area's resources and the need to protect them. This bill also encourages increased cooperation with the State of West Virginia in providing public interpretation and coordinating walking trails between the National

Park Service and the State of West Virginia. H.R. 4382 is supported by the State of West Virginia.

The Committee on Interior and Insular Affairs amended H.R. 4382 with a very minor technical amendment which simply provided a section reference to previous legislation. Otherwise, the bill is unchanged from its introduction. Mr. Speaker, I endorse H.R. 4382 and support its passage.

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

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to H.R. 4382, a bill to expand the New River Gorge National Recreation Area by over 12,000 acres. I find that this measure represents just one more example of an unnecessary and unjustified park boundary expansion bill. While I do not advocate an absolute prohibition on all park expansion proposals, at a time when we cannot afford to adequately operate those parks we have, or have any hope of acquiring in the foreseeable future all the lands we have already authorized for inclusion in park areas, we must carefully scrutinize every expansion bill which is brought before this body.

This measure includes three types of lands: State park lands, uneconomic remnants of previously acquired lands outside the current NPS boundary, and private lands outside the boundary. The reason for including State park lands within the overall Federal boundary is supposedly to improve cooperation between the Federal and State governments. However, I'm aware of no barriers to the State and Federal Governments signing an agreement tomorrow to cooperate in the management of adjoining lands. The NPS also has adequate authority to deal with the uneconomic remnant situation through exchange, minor boundary adjustment or disposal. As for the over 8,000 acres of private lands, they are not known to contain any resources integral to the existing park and are not threatened by any development.

One aspect of the boundary expansion proposal of great concern to me is that use of the area by the recently reintroduced, endangered peregrine falcon is presented as a justification for park expansion. There has been a lot of discussion about reintroduction of the wolf into Yellowstone National Park, and I could envision a similar proposal for future expansion of that park based on this model.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. THOMAS of Wyoming. I am happy to yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, the gentleman from Minnesota [Mr. OBERSTAR] has been advocating the exportation of some of the timber wolves from northern Minnesota. The gentleman still is not interested in them, in having any immigrants from northern Minnesota, is that correct, in the body of timber wolves?

Mr. THOMAS of Wyoming. I thank the gentleman for his suggestion, but I have some other suggestions as to what you might do with your wolves.

The New River Gorge, established only 15 years ago, has already been expanded twice. Yet, over 50 percent of the lands within the current park boundary remain unacquired. While the Congressional Budget Office estimates that this proposal may cost as little as $2 million, that is based on an unproven assumption that 99 percent of the private land will be donated.

I cannot support another unjustified park expansion bill which will place additional private property owners at the end of the multibillion dollar NPS land acquisition backlog list, absent some compelling justification. Therefore, I join with the administration in opposing this bill.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to my friend and colleague, and a great Congressman, the gentleman from West Virginia [Mr. RAHALL], the principal sponsor of this measure and one who has worked long and hard to establish these three units of the National Park System in his service in Congress, and who now knows, of course, that these are really minor modifications.

□ 1510

Mr. RAHALL. Mr. Speaker, I commend the gentleman from Minnesota and thank him for his leadership in allowing us to bring this bill to the floor today. The gentleman from Minnesota [Mr. VENTO], the chairman of the Subcommittee on National Parks and Public Lands of the Committee on the Interior and Insular Affairs has been very patients and diligent in his work, and we in West Virginia owe him a great round of applause and thanks for not only visiting our State and seeing these very valuable lands, but allowing West Virginians to come to Washington and express their opinion on a number of issues.

Mr. Speaker. As the distinguished gentleman from Minnesota has noted, H.R. 4382 would make minor boundary revisions to three units of the National Park Systems in southern West Virginia.

The bulk of the proposed boundary revisions contained in the bill pertain to the New River Gorge National River. Often referred to as the grand canyon of the East, the New River is famous for its whitewater rapids, smallmouth bass fishing, and abandoned coal towns.

This is, however, still very much a developing park unit.

In 1978, we carved out this national river designation along a 55-mile segment of what was primarily privately owned gorge land. Today, 62 percent of the land in the park unit are in Federal ownership and were all, I might add, acquired on a willing seller, willing buyer basis.

The majority of the parcels proposed for inclusion in the New River by this bill are remnants of tracts that already partially lie within the park unit. Most of these tracts have either been acquired, or are pending acquisition. I would further note that to my knowledge the owners of these tracts are agreeable to the boundary modifications.

The pending legislation also would make boundary adjustment to both the Gauley National Recreation Area and the Bluestone National Scenic River, both of which were established in 1988, to include adjacent State lands in order to complement the management of these two park units.

The State of West Virginia has no objection to this proposal. In this regard, I would reiterate what I said during the committee's deliberations of this bill.

When we drew the map for the Bluestone NSR we used a topographic map, as is normal, and simply took in up to the cliff line. We paid no attention to where the Pipestem State Park boundary was.

As such, today, part of the State park is within the scenic river and other portions lie outside of it. The same applies to Carnifex State Park and the Gauley NRA.

What this bill would do makes common sense. It simply would modify the boundary to follow the boundary of Pipestem State Park.

According to the Park Service, this would complement management of the national park units. There has been, and is, no attempt by the State to foist these State park lands on the Park Service.

I commend this legislation to the House.

Mr. THOMAS of Wyoming. Mr. Speaker, will the gentleman yield?

Mr. RAHALL. I yield to the gentleman from Wyoming.

Mr. THOMAS of Wyoming. Mr. Speaker, the gentleman spoke about a minor area. Is there not a 12,000-acre addition envisioned here?

Mr. RAHALL. Mr. Speaker, there is park land that is involved here to the magnitude the gentleman mentioned, but we are not seeking acquisitions of the State park.

Mr. THOMAS of Wyoming. There is no additional land to be acquired, then, under this bill?

Mr. RAHALL. The private lands are pending acquisition.

Mr. THOMAS of Wyoming. What would the cost of those be, does the gentleman know?

Mr. VENTO. Mr. Speaker, will the gentleman yield to me?

Mr. RAHALL. I yield to the gentleman from Minnesota.

Mr. VENTO. I think, Mr. Speaker, this is a case where we have uneconomic remnants, in fact where they have not been surveyed and the landowners are simply selling the land based on these current surveyed amounts, so that there is no access to some of these sites. In other words—they are uneconomic and it is impossible—the cost is probably more to try to subdivide and sell these than these pieces would be worth. Since they are adjacent to the park, they eventually are in the process either under contract or will become part ownership of the park. They are not in the park because the boundary obviously has to be modified to accommodate.

I think one could look at them and could argue from the standpoint of whether or not it is reasonable to include them because they have some administrative problems, but that has not been the tack obviously used.

Mr. THOMAS of Wyoming. It is my understanding, Mr. Speaker, that the uneconomic remedies represent about 800 acres. The State park represents 3,400 acres and private land represents about 8,000 acres.

Mr. VENTO. Mr. Speaker, if the gentleman will yield further, I do not know the amount of the gentleman's numbers, but there is a 7,000-acre donation. The donation of the Ward property that is anticipated to be donated, and that is what is anticipated, that is our intent. That is our understanding.

We do not have an ironclad guarantee, but that is anticipated, and the gentleman's observation is appropriate.

I would just direct the attention of the gentleman, we have made an effort in the report language based on the concerns raised by Congressman HEFLEY concerning the State park lands, that there is no intention, it is not the intent obviously in including these to actually purchase these. In fact, these are important park units to the State of West Virginia. They have no intention of donating them. They are flagship units. They are some of their most outstanding units, and that is simply what we expect.

I would be happy to go through this landowner by landowner, but I think the answer is going to come back pretty much on the basis that I have offered to the bill as an explanation at this point.

I would be happy to respond to further questions.

Mr. RAHALL. Mr. Speaker, in response to the question about costs, the CBO estimates that the Federal Government would spend $1.5 million to $2 million to implement this bill, but again I stress the private lands, as the gentleman from Minnesota has adequately stated, are in the process of negotiation now. They have either already been acquired or are in the process of being acquired through current appropriations. So what we are talking about here is just these minor modifications.

I might add also to the gentleman from Wyoming that the Pipestem State Park that we are adding here to this boundary modification is already the second largest revenue generated in the State park system in the State of West Virginia; so certainly the State of West Virginia has no desire to foist this State park on to the Federal bureaucracy or into the Federal system; so it is not the desire of the State of West Virginia to unload these State parks onto the National Park Service.

Mr. THOMAS of Wyoming. One final question, Mr. Speaker, if the gentleman knows.

There have been several changes in acquisitions and extensions in the last several years. Does this conclude the fund or will we have more changes in this?

Mr. RAHALL. Mr. Speaker, it is our anticipation this pretty much concludes it, yes.

Mr. THOMAS of Wyoming. There is nothing left in West Virginia—I am just kidding.

All right, I thank the gentleman very much.

Mr. VENTO. Mr. Speaker, I think the point here to be made is that while this extends the boundaries, these extensions are logical and basically at no extra cost to the National Park Service, because they are uneconomic remnants and indeed while there are costs involved in purchasing all of these units because we were forced to buy them on the basis of the survey and the actual landownership patterns in the area, other than the fact that we expect, of course, the substantial donation of land that expands the Park. So I think that is what is important. These were not given to us, but the fact is now that we are purchasing them to fulfill the mandate, now that the Park Service is purchasing it to fulfill the mandate of the various laws that were involved in these three units of the park system, it really makes common sense to in fact keep on and hold these lands that are adjacent. Of course, this would conclude it. There is no additional land that is being suggested to be purchased in this bill.

So Mr. Speaker, I would hope Members would go along with this. I think it is a very reasonable proposal.

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

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

The SPEAKER pro tempore (Mr. MCDERMOTT). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 4382, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

ADDITION TO HARRY S. TRUMAN NATIONAL HISTORIC SITE

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3898) to provide for the addition of the Truman Farm Home to the Harry S. Truman National Historic Site in the State of Missouri as amended.

The Clerk read as follows:

H.R. 3898

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

SECTION 1. PROPERTY ACQUISITION.

The first section of the Act entitled "An Act to establish the Harry S. Truman National Historic site in the State of Missouri, and for other purposes", approved May 23, 1983 (97 Stat. 193), is amended by adding at the end the following:

"(c) The Secretary is further authorized to acquire from Jackson County, Missouri, by donation, the real property commonly referred to as the Truman Farm Home located in Grandview, Jackson County, Missouri, together with associated lands and related structures, comprising approximately 5.2 acres.

"(d) The Secretary is authorized and directed to provide appropriate political subdivisions of the State of Missouri with technical and planning assistance for the development and implementation of plans, programs, regulations, or other means for minimizing the adverse effects on the Truman Farm Home of the development and use of adjacent lands.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 3898, the bill now under consideration.

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

There was no objection.

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

Mr. Speaker, H.R. 3898 is legislation introduced by Representative ALAN WHEAT to authorize the Secretary of the Interior to acquire by donation the Truman Farm National Historic Landmark located in Grandview, MO, and add this property to the existing Harry S. Truman National Historic Site. Similar legislation has been introduced in the Senate by Senators BOND and DANFORTH.

Harry Truman, the 33d President of the United States, lived and worked on the Truman farm from 1906 until 1917. During these 11 years he did everything that was required for farm life including plowing, sowing, baling hay, repairing equipment, and building fences and a barn. He kept the books for the farm and experimented with relatively new practices such as crop rotation and soil conservation. Truman was the sole manager of the farm for 3 years after his father died in 1914, and he visited the farm frequently throughout the rest of his life.

The property was listed on the National Register of Historic Places in 1978. The farm was purchased by Jackson County in 1980 and was restored by a local foundation in 1984. The property was designated a National Historical Landmark in 1985, and the National Park Service conducted a study of alternatives on the site in 1990.

The Subcommittee on National Parks and Public Lands received testimony from several prominent historians including the Chief Historian of the National Park Service about the high degree of national significance of the Truman farm home property and the importance of the farm to the development of Truman's values of family and community and to shaping his views on agriculture. Testimony was also provided about the low cost of this proposal which calls for donation of the property by Jackson County and the use of existing National Park Service management resources at the Truman home in nearby Independence.

The Interior Committee adopted an amendment which authorizes the Secretary of the Interior to provide technical assistance to local governments for planning to encourage compatible development outside the Truman farm boundaries. The city of Grandview is receptive to working with the National Park Service to preserve the rural atmosphere of the undeveloped properties surrounding the farm home.

Mr. Speaker, H.R. 3898, as amended, is a very low-cost measure which would preserve a very significant site in the life of one of our greatest Presidents. Its addition to the existing Truman Historic Site would complement the properties already managed by the National Park Service and it would provide an excellent opportunity to interpret Truman's farm years which were so important in shaping the future President's life and values. I urge Members to support this measure.

□ 1520

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

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to H.R. 3898, a bill to expand the Harry S. Truman National Historic Site by authorizing a Federal takeover of the Truman Farm Home. As the administration testified before the Parks Subcommittee in presenting their opposition to this measure, this site fails to pass the first test which all properties must pass in order to be eligible for inclusion in the National Park System, and that is the integrity of the site itself.

When the Park Service studied the site, they found that the 5.2-acre remnant of the former 600-acre Truman Farm did not pass muster because the former farm had been almost entirely engulfed by urban development. During our hearing, we did receive testimony from several historians that the Truman Farm, which former President Truman ran from 1906 to 1917, was important in shaping his understanding of rural life and political skills. I don't disagree with that, but the question we must answer with this measure is whether it is essential for the Federal Government to take over this compromised site in order to interpret the life of this President to the public. Will this site add in any significant way to the story presented to the public at the existing Truman National Historic Site, located just 15 miles away?

To answer that question, I'd like to quote from a National Park Service internal memorandum signed by the Associate Director of Cultural Resources:

> There are other reasons this property is not as suitable for Federal administration as the home in Independence, which was his home from 1919 until his death in 1972. They go beyond the mere strength and length of his associations with Independence, and the fact that Mr. Truman's neighborhood in Independence is also largely intact.
>
> Notably, the Truman farm home is no longer in a farming area; indeed, Truman himself sold the farm for development and it is now a suburban area. Thus, it is impossible to interpret his farm life there in a meaningful way. Additionally, unlike the home in Independence, which was donated to the Government fully intact and completely furnished with Truman belongings, the farm home lacks much curatorial potential.
>
> The primary motivation behind this bill, we suspect, is to free Jackson County from the financial burden of maintaining the property as a public park. We do not believe the Service should accede, for we suspect it will strengthen the pressure for additional Presidential sites of the second rank, as we must suggest this one is; we cannot advocate that the National Park System include all such properties, when other subjects cry out for representation in a system already top-heavy with Presidential sites, as opposed to those representing other great individuals and other aspects of the Nation's history.

The best thing that proponents can say about this measure is that it won't cost much, only about $0.5 million up front and $350,000 annually for eternity. That is a shallow argument, when you consider that the county paid nothing for this property, which they are now so anxious for the Federal Government to take over. In fact, Federal funds were originally used to acquire a 50-percent interest in the property and the balance was donated by the Truman family. These Federal funds were part of a cost-sharing program between the Federal Government and Jackson County, where the Federal Government would provide some up-front money for the site and the county would operate and manage it. Last year, Jackson County allocated just $2,000 of their $5 million park and recreation budget to this site.

I cannot disagree with the priorities of the county and why they have decided not to fund this project, I know there are many projects at all levels of government where we have good intentions to carry them out, but lack the funds. However, if this is not even a priority at the county level, I cannot agree that it should be a priority for the Federal Government and therefore I oppose this measure.

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

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri [Mr. WHEAT], who has been a tireless advocate for the Truman site in Independence and for this very important measure before us today.

Mr. WHEAT. I thank the chairman, the gentleman from Minnesota [Mr. VENTO] for yielding to me.

Mr. Speaker, I rise in support of H.R. 3898, legislation I have introduced to allow the National Park Service to acquire and operate Harry Truman's farm home in Grandview, MO. As Chairman VENTO has described, this bill would allow the National Park Service to acquire the 5.2-acre farm home in Grandview by donation from Jackson County, MO and to operate the site as part of the existing Truman Historic Site 15 minutes away in Independence, MO.

The addition of the Truman farm home will greatly enhance our National Park System by allowing the Park Service to teach the public about a key period in the life of a great national leader. Federal management of this site has been postponed for too long. This bill has broad bipartisan support and has been introduced in the other body by Senators DANFORTH and BOND. According to the Congressional Budget Office, this proposal would not affect direct spending or receipts and would thus not involve any pay-as-you-go scoring under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985. I urge Congress to act today to take long overdue action to authorize the Park Service to take over this important site and preserve it for posterity.

I am proud to represent a region of the country that calls Harry Truman its favorite son. Harry Truman is widely considered by Presidential scholars and citizens alike to be one of our Nation's greatest leaders. Truman is remembered for the Fair Deal—equality

and justice for the average Joe. Historians believe that it was during Harry Truman's life as a working man, especially the 11 years of his early adult life that he spent on this family farm, that he developed the common sense, integrity, and compassion for which he is so famous.

Numerous historians and Truman scholars, including historians from the Park Service, have affirmed the significance of his time on this farm in the development of President Truman's singular character. Harry Truman lived on the original 600-acre farm from 1906 until 1917 when he left Missouri to serve in the First World War. Extensive historical documentation of Truman's day-to-day life on the farm, and reminiscences about his time there, are available through the nearly 1,200 letters that he wrote to his future wife, Bess Wallace, during this period.

The farm and the house, built in 1894, belonged to the Truman's maternal grandparents, Solomon and Harriet Young. When a flood destroyed the rented farm of Truman's father, John Anderson Truman, Harry and his brother, Vivian, quit their banking jobs in Kansas City in order to help their father run their grandparent's farm. From age 22 to age 33, Harry made his living planting, plowing, and generally managing the family farm. The habits of rising early and working hard never left the future President. Truman himself remarked in later years that "I spent the best 10 years of my life on a 600-acre farm south of Kansas City."

Truman never returned to live on the farm but did continue to visit the farm and take an interest in its operations. The family gradually sold off parts of the land due to financial distress.

After the farm fell into disrepair, in 1967 the community began to express its concerns about saving the Truman farm. In 1978 the National Park Service added the farm to the National Register of Historic Places. In 1985, the Park Service designated the farm as a National Historic Landmark. With Federal, State, and local help, volunteers formed the Truman Farm Home Foundation and The Friends of the Truman Farm Home. Together with Jackson County these groups worked to raise funds to purchase, restore and operate the farm home, which was opened for visitors in 1984.

Encroaching commercial development, lack of adequate resources and the need for professional management all combine to make passage of this legislation even more urgent for the future of this important historic site. After 8 years of hard work and struggle, the county and the volunteers are faced with a crisis. Lack of funds to complete a first-rate restoration have resulted in the farm being open to the public only a few days a week in the summer, staffed entirely by a corps of dedicated volunteers.

In 1989, at the behest of Congress, the National Park Service conducted a study of the site and possible management alternatives. The Park Service identified the option embodied in H.R. 3898—a takeover of the farm by the Park Service through donation by Jackson County—as one feasible solution to the management dilemma. Since the study, Jackson County has offered to donate the property to the National Park Service, believing strongly that Federal management of the site would be beneficial, in fact vital, to preserving the farm home for the public.

In Independence and surrounding areas, much of the history of Truman's life is visible. The addition of the Truman farm to the National Historic Site would provide a unique opportunity for the presentation in one region of the entire fabric of a Presidential life story. The farm in Grandview depicts Truman's roots as a common, working man. In Independence, Truman's courthouse office preserves the memory of his early political career. The Truman home, also known as the summer White House, is where he lived before he was elected Vice President and where he returned after his decision not to run for a third term of office. Finally, the Presidential library commemorates and preserves the documents of Truman's Presidency. Preservation of the farm home is necessary to the completion of this comprehensive biography of our 33d President.

Numerous possibilities exist for enhancing the interpretation of Truman's life story with the addition of the farm home to the current National Historic Site. To allow this landmark of Truman's life to deteriorate without proper maintenance, marketing, and interpretation would be to rob thousands of visitors of the opportunity to learn of a truly unique aspect of a President's early development. Further, this landmark represents a theme in American history which should not be ignored—the rich history of our country is built upon the agriculture that was the mainstay of our early economy.

Among other things, Harry S. Truman will most likely be remembered as the last American President to have worked as a farmer. Throughout his Presidency, Truman never lost empathy for the working man. This empathy was ingrained during Truman's own life as a working farmer. Acquiring the farm home would allow for the development and exploration of a complimentary and vital historical theme in the President's life—an important era that is simply indispensable to fully appreciating and understanding a truly great man.

I would like to take the time to specifically address some of the concerns that have been expressed by others in response to this proposal.

Recently, the National Park Service has questioned the historical value of the property. However, I would like to point out that the Park Service, in 1978, itself selected the Truman farm home to be a site listed in the National Register of Historic Places. Stringent criterion regarding the historical integrity of the resource must be met in order to receive this designation. Later, in 1985, the Park Service awarded the farm an even more prestigious designation by selecting it to be a National Historic Landmark. Now, the Park Service says that the Federal Government should not take over the site because it does not have enough historical integrity. Clearly, this new assertion flatly contradicts the Park Service's own findings that the farm home is indeed historically significant.

Further, no historian has disputed the historical value of this site or this period of Truman's life. Even the Chief Historian for the National Park Service emphasized the importance of this period to the development of this future President while testifying at the hearing on this bill. Given the Park Service's two previous designations, I can only assume that the administration's objections to this legislation stem primarily from a broad policy of opposition to most recent additions to our current park system.

Opponents of this legislation like to point out that Truman himself sold much of the farm land for development. They neglect to mention, however, the Truman family was forced to sell much of the land in order to settle the mortgage on the farm. In fact, because of the financial troubles that plagued Truman throughout his life, he lived most of the time in a house owned by his mother-in-law. The current historic site in Independence represents the Wallace family house. The farm home had always belonged to the Truman family.

It is true in this time of strained budgets and shrinking funds for State and local governments, Jackson County has been unable to provide the necessary funds to maintain this site at the level it deserves. However, the historical value of the site mandates that it be placed under the auspices of the National Park Service. No amount of funding support at the local level can make up for the historical, management, and interpretative resources that the National Park Service can and must bring to this nationally significant site.

In a time of Federal budgetary constraints, it is important that any added responsibility for the Park Service be carefully scrutinized, to ensure that it represents the best allocation of severely limited resources. The broad base of support for this legislation by historians, preservationists and by the public, the fact that this property was integral in the life of an American President, and the opportunity afforded to explain and interpret the

compelling life history that took place at this site have coalesced into the broad bipartisan support for this legislation. I urge my colleagues to support H.R. 3898 to preserve Truman's legacy for future generations.

Mr. Speaker, I yield to my cosponsor, the gentleman from Missouri [Mr. EMERSON], who has been so very helpful throughout this entire process both in the writing and supporting of this legislation.

Mr. EMERSON. Mr. Speaker, this measure before the House is an important one for many, many respects.

The gentleman from Wyoming [Mr. THOMAS] referred to a memo, an internal memo sent within the Department of the Interior criticizing this acquisition.

I do not know who it is in the Department of the Interior who sits down and writes memos, one to the other; but I will tell you historians think this was a very important piece of real estate in the life and development of Harry Truman.

We are going, tomorrow, to hear a lecture by historian David McCullough, who has written a new biography, a very, very wonderful biography of President Truman. One would only need to read the chapters relating to the formative years of President Truman to understand the significance of this farm to his life and development.

As a native Missourian, I can conjure up a lot of memories from my own childhood relating to life in rural America that perhaps today others do not share. But I think it is very significant that there are only 5 acres left. I think we should preserve this entity. It is close to the other Truman landmarks in the Jackson County region. I think it fits in very comfortably and very well.

The point has been made that there are not funds to pursue an authorization at this point. I think it is important that we authorize it and that, as funds become available, they be appropriately allocated. But it is important that we authorize this measure now. This is a very significant property associated with the life of President Truman, and it is a national treasure, it truly is.

I think as evidence of that it should be noted that both of Missouri's Senators have sponsored the legislation in the Senate. The gentleman from Kansas City, the gentleman from Missouri [Mr. WHEAT], is a principal cosponsor in the House, joined by Congressmen SKELTON, COLEMAN, and myself. It is a very bipartisan measure that is before us. I would urge all Members to support it and commend my colleague from Kansas City [Mr. WHEAT] for his leadership in bringing this about and thank him again for yielding.

Mr. WHEAT. I would like to thank my friend and colleague, the gentleman from Missouri [Mr. EMERSON], for his strong support throughout this process. Obviously, this bill would not even be coming to the floor if he had not worked so ardently on it.

As he noted, this bill does enjoy broad bipartisan support. It has been introduced in the other body by both of Missouri's Senators. It has received support from historians, preservationists, from the general public. The fact that this property was an integral part in the life of an American President, and the opportunity afforded to explain and interpret the compelling life history that took place at this site have coalesced into the broad bipartisan support.

Mr. Speaker, I urge more Members to support H.R. 3898 to preserve Truman's legacy for future generations.

Mr. THOMAS of Wyoming. I yield myself such time as I may consume.

Mr. Speaker, one final observation: I certainly understand the interest that my colleagues have. I am a little concerned. Is it not Jackson County that has it now? It is owned by that county. It was purchased half with Federal money, to begin with, from the land and water conservation fund. It seems to me a $2,000 expenditure last year out of their $5 million budget was not exactly an overwhelming vote of interest on the part of local folks.

□ 1530

Mr. Speaker, I have no further requests for time.

Mr. VENTO. Mr. Speaker, I would just point out that the County of Jackson is not asking us to purchase the Harry S. Truman farm home. They are giving it back to us, and only 50 percent of the dollars of the land water conservation fund can be utilized to purchase that, besides which they have completely restored the house in a historically and in an appropriate manner consistent with the historic standards of the National Park Service. That is why it is on the register and, I believe, a landmark.

Furthermore, while there was some dissent within the Department of the Interior about the surrounding lands, nobody has attacked the house as being anything but accurate with regard to historic fabric. In fact, the chief historian of the National Park Service, Ed Barrs, testified at the hearing to the historic integrity and significance of this house with the life and formative years of President Harry S. Truman.

Furthermore, the community of Grandville—which surrounds this area—has and will receive some technical assistance from the Park Service to make a commitment to, in fact, develop the area around there in an appropriate manner so it be consistent with the designation that we are making.

I think Harry Truman, maybe his only problem is that he did not have income after he retired, and he had to sell off some of this property, and, Mr. Speaker, I do not think it is an altogether bad quality that he sustained himself in that way rather than some of the other creative methods that I have seen by former Presidents in terms of maintaining themselves.

So, Mr. Speaker, I would ask my colleagues to support this measure. It is a reasonable measure, and it will greatly enhance the Harry S. Truman Historic National Park Site in Independence, and I think there is great interest in it.

Mr. VENTO. Mr. Speaker, I yield back the balance of our time.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MCDERMOTT). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 3898, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

BODIE PROTECTION ACT OF 1992

Mr. RAHALL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4370) to provide for the protection of the Bodie Bowl area of the State of California, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4370

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Bodie Protection Act of 1992".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the historic Bodie gold mining district in the State of California is the site of the largest and best preserved authentic ghost town in the western United States;

(2) the Bodie Bowl area contains important natural, historical, and aesthetic resources;

(3) Bodie was designated a National Historical Landmark in 1961 and a California State Historic Park in 1962, is listed on the National Register of Historic Places, and is included in the Federal Historic American Buildings Survey;

(4) nearly 200,000 persons visit Bodie each year, providing the local economy with important annual tourism revenues;

(5) the town of Bodie is threatened by proposals to explore and extract minerals: mining in the Bodie Bowl area may have adverse physical and aesthetic impacts on Bodie's historical integrity, cultural values, and ghosttown character as well as on its recreational values and the area's flora and fauna;

(6) the California State Legislature, on September 4, 1990, requested the President and the Congress to direct the Secretary of the Interior to protect the ghosttown character, ambience, historic buildings, and scenic attributes of the town of Bodie and nearby areas;

(7) the California State Legislature also requested the Secretary, if necessary to protect the Bodie Bowl area, to withdraw the Federal lands within the area from all forms of mineral entry and patent;

(8) the National Park Service listed Bodie as a priority one endangered National Historic Landmark in its fiscal year 1990 and 1991 report to Congress entitled "Threatened and Damaged National Historic Landmarks" and recommended protection of the Bodie area; and

(9) it is necessary and appropriate to provide that all Federal lands within the Bodie Bowl area are not subject to location, entry, and patent under the mining laws of the United States, subject to valid existing rights, and to direct the Secretary to consult with the Governor of the State of California before approving any mining activity plan within the Bodie Bowl.

SEC. 3. DEFINITIONS.

For purposes of this Act:

(1) The term "Bodie Bowl" means the Federal lands and interests in lands within the area generally depicted on the map referred to in section 4(a).

(2) The term "mining" means any activity involving mineral prospecting, exploration, extraction, milling, beneficiation, processing, and reclamation.

(3) The term "Secretary" means the Secretary of the Interior.

SEC. 4. APPLICABILITY AND MINERAL MINING, LEASING AND DISPOSAL LAWS.

(a) RESTRICATION.—Subject to valid existing rights, after the date of enactment of this Act Federal lands and interests in lands within the area generally depicted on the map entitled "Bodie Bowl" and dated June 12, 1992, shall not be—

(1) open to the location of mining and mill site claims under the general mining laws of the United States;

(2) subject to any lease under the Mineral Leasing Act (30 U.S.C. 181 and following) or the Geothermal Steam Act of 1970 (30 U.S.C. 100 and following), for lands within the Bodie Bowl; and

(3) available for disposal for mineral materials under the Act of July 31, 1947, commonly known as the Materials Act of 1947 (30 U.S.C. 601 and following).

Such map shall be on file and available for public inspection in the Office of the Secretary, and appropriate offices of the Bureau of Land Manegment and the National Park Service. As soon as practicable after the date of enactment of this Act, the Secretary shall publish a legal description of the Bodie Bowl area in the Federal Register.

(b) VALID EXISTING RIGHTS.—As used in the subsection, the term "valid existing rights" in reference to the general mining laws means that a mining claim located on lands within the Bodie Bowl was properly located and maintained under the general mining laws prior to the date of enactment of this Act, was supported by a discovery of a valuable mineral deposit within the meaning of the general mining laws on the date of enactment of this Act, and that such claim continues to be valid.

(c) VALIDITY REVIEW.—The Secretary shall undertake an expedited program to determine the validity of all unpatented mining claims located within the Bodie Bowl. The expedited program shall include an examination of all unpatented mining claims, including those for which a patent application has not been filed. If a claim is determined to be invalid, the Secretary shall promptly declare the claim to be null and void, except that the Secretary shall not challenge the validity of any claim located within the Bodie Bowl for the failure to do assessment work for any period after the date of enactment of this Act. The Secretary shall make a determination with respect to the validity of each claim referred to under this subsection within 2 years after the date of enactment of this Act.

(d) LIMITATION ON PATENT ISSUANCE.—

(1) MINING CLAIMS.—(A) After March 8, 1992, no patent shall be issued by the United States for any mining claim located under the general mining laws within the Bodie Bowl unless the Secretary determines that, for the claim concerned—

(i) a patent application was filed with the Secretary on or before such date; and

(ii) all requirements established under sections 2325 and 2326 of the Revised Statutes (30 U.S.C. 29 and 30) for vein or lode claims and sections 2329, 2330, 2331, and 2333 of the Revised Statutes (30 U.S.C. 35, 36, 37) for placer claims were fully complied with by that date.

(B) If the Secretary makes the determinations referred to in subparagraph (A) for any mining claim, the holder of the claim shall be entitled to the issuance of a patent in the same manner and degree to which such claim holder would have been entitled to prior to the enactment of this Act, unless and until such determinations are withdrawn or invalidated by the Secretary or by a court of the United States.

(2) MILL SITE CLAIMS.—(A) After March 8, 1992, no patent shall be issued by the United States for any mill site claim located under the general mining laws within the Bodie Bowl unless the Secretary determines that, for the claim concerned—

(i) a patent application was filed with the Secretary on or before March 8, 1992; and

(ii) all requirements applicable to such patent application were fully complied with by that date.

(B) If the Secretary makes the determinations referred to in subparagraph (A) for any mill site claim, the holder of the claim shall be entitled to the issuance of a patent in the same manner and degree to which such claim holder would have been entitled to prior to the enactment of this Act, unless and until such determinations are withdrawn or invalidated by the Secretary or by a court of the United States.

SEC. 5. MINERAL ACTIVITIES.

(a) IN GENERAL.—Mineral exploration, mining, benefication, and processing activities on unpatented mining claims within the Bodie Bowl be subject to such regulations prescribed by the Secretary, in consultation with the Governor of the State of California, as the Secretary deems necessary to ensure that such mineral activities are conducted—

(1) in accordance with the rules and regulations promulgated under Public Law 94-429 (16 U.S.C. 1901 et seq.) as they relate to plan of operations, reclamation requirements, and bonding; and

(2) in a manner that does not cause any adverse effect on the historic, cultural, recreational and natural resource values of the Bodie Bowl area.

(b) RESTORATION OF EFFECTS OF MINING EXPLORATION.—As soon as possible after the date of enactment of this Act, visible evidence or other effects of mining exploration activity within the Bodie Bowl conducted on or after September 1, 1988, shall be reclaimed by the operator in accordance with regulations prescribed pursuant to subsection (a).

(c) ANNUAL EXPENDITURES; FILING.—The requirements for annual expenditures on unpatented mining claims imposed by Revised Statute 2324 (30 U.S.C. 28) shall not apply to any such claim located within the Bodie Bowl. In lieu of filing the affidavit of assessment work referred to under section 314(a)(1) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744(a)(1)), the holder of any unpatented mining or mill site claim located within the Bodie Bowl shall only be required to file the notice of intention to hold the mining claim referred to in such section 314(a)(1).

(d) REGULATIONS.—The Secretary shall promulgate the regulations referred to in this section within 90 days after the date of enactment of this Act. For the purposes of this Act, the Bureau of Land Management shall promulgate and administer the rules and regulations referred to in section 5(a).

SEC. 6. STUDY.

Beginning as soon as possible after the date of enactment of this Act, the Secretary of the Interior, through the Director of the National Park Service, shall review possible actions to preserve the scenic character, historical integrity, cultural and recreational values, flora and fauna, and ghost town characteristics of lands and structures within the Bodie Bowl. No later than 3 years after the date of such enactment, the Secretary shall submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a report that discusses the results of such review and makes recommendations as to which steps (including but not limited to acquisition of lands or valid mining claims) should be undertaken in order to achieve these objectives.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from West Virginia [Mr. RAHALL] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from West Virginia [Mr. RAHALL].

GENERAL LEAVE

Mr. RAHALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation presently under consideration.

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

There was no objection.

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

Mr. Speaker, the purpose of the pending legislation is to provide for the protection of a unique and nationally significant historic resource, known as Bodie, in the State of California.

Currently, Bodie is listed as a national historic landmark and is designated as a State historic park.

The significance of Bodie is that it is one of the West's oldest mining towns. At Bodie, visitors can see first hand how people lived in the mining camps that cropped up throughout California in the aftermath of the discovery of gold by John Marshall at Sutters Mill on the American River in 1848; a discovery that gave rise to the world famous California Gold Rush.

Today, at Bodie, such structures as a miner's union hall, a Methodist church,

a general store, and many other historic buildings dating back to the 1800's stand in a state of arrested decay.

While Bodie stands as testament to the mining days of old—and despite its status as a national landmark and State park—the area is in jeopardy from the threat of modern-day mining activities.

In order to extract and process the gold and silver believed to be surrounding Bodie, large-scale mining techniques, such as strip mining, heap-leach piles, cyanide spraying, and waste ponds, most likely would be required.

Moreover, it happens that the company which is engaged in mineral activities in the area has a very poor environmental track record. This very same company is currently in the process of closing down a mine in Summitville, CO, where local rivers and reservoirs were contaminated by cyanide-laced water that seeped from a waste pond. The cost of the Summitville mine cleanup is estimated at $10 million.

Obviously, residents in the Bodie area fear this situation could be repeated.

H.R. 4370, the Bodie Protection Act of 1992, would provide some additional protections to Bodie in order to preserve its historic and visual integrity.

Under the bill, approximately 6,000 acres of BLM land surrounding the Bodie Park would no longer be open to location under the mining law of 1872, subject to leasing under the mineral leasing laws or available for disposal under the Mineral Materials Act.

The legislation would also prohibit the issuance of patents unless the right to a patent had vested as of March 8, 1992, the date of introduction of the measure.

However, the bill fully protects any valid existing rights in the withdrawn land. In other words, mineral activities could proceed on any valid mining claims that were in existence in the Bodie Bowl area prior to the bill's enactment date.

While mineral activities could proceed on valid mining claims, it is also necessary, and in the national interest, to ensure that they be undertaken in a way that does not adversely effect the historic resources at Bodie.

For this reason, the bill would require mining operations to comply with what we view as being reasonable regulations aimed at minimizing any potential adverse effects on Bodie. This is, after all, a State park and a national historic landmark.

Finally, under this measure, the National Park Service would conduct a study on other actions that may be taken to provide for the protection of Bodie and report its findings to the Congress.

Mr. Speaker, I want to commend the gentleman from California [Mr. LEHMAN] for introducing this measure and for all of his hard work on its behalf.

That concludes my explanation of the pending matter. I reserve the balance of my time.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition of H.R. 4370, the Bodie Protection Act. The bill would very likely effect a taking of the private property interests associated with unpatented mining claims in the Bodie Bowl of Mono County, CA. Despite the protestations of the majority to the contrary, there is indeed good reason to believe that imposition of Mining-in-the-Parks Act regulations upon the operator of these claims will make them uneconomic to develop further.

Mr. Speaker, we need only review the history of National Park Service implementation of this very misnamed law to understand that mining is essentially regulated out of existence under the act. I find little comfort in the provision of H.R. 4370 that makes the Bureau of Land Management the administrator of these regulations within the Bodie Bowl. Groups opposed to mining will likely protest every decision of the BLM on plans of operations that they believe could harm the ghost town. This would bring about a not-so-slow strangulation of any effort to mine the 1.25 million ounces of gold and 14 million ounces of silver identified in the claimed area west of Bodie.

Mr. Speaker, I see no inconsistency in allowing modern-day development of the mineral resource adjacent to the State historic park as protected under the terms the BLM has proposed in the pending Bishop resource management plan and as further protected by compliance with the California Surface Mining and Reclaimation Act [SMARA]. This view is supported by the Mono County Board of Supervisors who clearly have the insight into the best interests of their constituents.

Furthermore, because of redistricting the sponsor of H.R. 4370 will not represent the affected area in the 103d Congress. The Member of Congress who, God willing, will represent Mono County opposes this heavy handed approach to saving Bodie Ghost Town.

Last, Mr. Speaker, H.R. 4370 continues the majority's insistence that in order to patent one's mining claim that all the required technical steps in the patenting process had to have been met already—in this case 5 days after the bill was introduced by Mr. LEHMAN of California. This is blatantly confiscatory of private rights. Yes, Congress may change the rules with respect to receiving title to mining claims, but to do so in any manner other than prospectively is to invite serious inverse condemnation argument.

The mining interests in the Bodie Bowl have spent many millions of dollars in exploration of their claims and should not be foreclosed from the opportunity to develop a mine if it can be done within the confines of existing law. If it can't and we still want to bar mining, then let's stop the charade and buy them out. For these reasons the administration and I oppose enactment of H.R. 4370.

Mr. Speaker, I yield back the balance of my time.

□ 1540

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

Mr. Speaker, I would conclude by saying that this legislation is supported by the California State Park and Recreation Commission, hundreds of citizens in the area, the National Trust for Historic Preservation, and numerous local and national environmental groups.

They, as does the Interior Committee, realize that without H.R. 4370, Bodie may become a distant memory.

I would also note that in 1990, the California State Legislature passed a resolution urging Congress to take the type of action that is embodied in this bill.

I urge my colleagues to support this bill.

Mr. LEHMAN of California. Mr. Speaker, today I rise in support of a piece of legislation which will protect the integrity of a very important landmark in the State of California and my congressional district: The Bodie State Historic Park and its surrounding lands.

Bodie, a former gold mine district and preserved authentic ghost town, was designated a national historical landmark in 1961 and a California State historic park in 1962. It is listed on the National Register of Historic Places, and is included in the Federal Historic American Buildings Survey. The National Park Service listed Bodie as a priority 1 endangered national historic landmark in its fiscal year 1990 and 1991 report to Congress entitled "Threatened and Damaged National Historical Landmarks," and recommended protection of the Bodie area.

The legislation that we will vote on today was developed and introduced at the recommendation of a resolution passed by the California State Legislature on September 4, 1990. It will attempt to preserve the ghost town character, ambience, historic buildings, and scenic attributes of the town of Bodie by withdrawing the public lands around the historic park from further mineral entry or patent.

Bodie was settled around 1859, when William Bodey discovered gold at Bodie Bluff. Seeking their fortune, many followed him to Bodie and established a mining town which in the form of the ghost town as it stands today, gives an outlook to the history of old time mining towns and offers reminders of the vibrant characters who made it unique.

The town of Bodie rose to prominence with the decline of mining along the western slope of the Sierra Nevada. Prospectors crossing the eastern slope in 1859 to "see the elephant"—that is, to search for gold—discovered what was to be the Comstock Lode at Virginia

City, and started a wild rush to the surrounding high desert country.

By 1879 Bodie boasted a population of about 10,000 and was second to none for wickedness, badmen, and the "the worst climate out of doors." Killings occurred with monotonous regularity, sometimes becoming almost daily events. Robberies, stage holdups, and street fights provided variety, and the town's 65 saloons offered many opportunities for relaxation after hard days of work in the mines. One little girl, whose family was taking her to the remote and infamous town, wrote in her diary; "Goodbye God, I'm going to Bodie." The phrase came to be known throughout the West.

Only about 5 percent of the buildings Bodie contained during its 1880 heyday still remain. Today, it stands just as time, fire, and the elements have left it—a genuine California gold mining ghost town in a state of arrested decay which courts over 200,000 visitors per year. It is my hope that this legislation will continue to promote, protect, and preserve the integrity of this area and its rich history for generations to come.

I urge my colleagues to support H.R. 4370.

Mr. MILLER of California. Mr. Speaker, H.R. 4370, the Bodie Protection Act merits our support.

Congressman RICHARD LEHMAN and I introduced the Bodie Protection Act, in response to legislation adopted by the California State Legislature in September 1990. The State-passed resolution asked the Congress to withdraw the Federal lands adjacent to the Bodie State Historic Park from the mineral leasing laws, in order to protect Bodie's natural, historic, and aesthetic values.

Located at an elevation of 8,400 feet, Bodie State Park represents the best preserved western ghost town. Many of the buildings along with the furniture, books, and other belongings left by miners from the 19th century remain at the park today. More than 200,000 visitors come to see the ghost town at Bodie each year.

Yet, ironically Bodie is threatened by mining, the activity that made Bodie famous. Galactic Resources, a Canadian company, began exploration activities in 1988 in an area outside and east of the Bodie State Historic Park. In response to the renewed mining interest at Bodie, the Interior Department designated Bodie a priority 1 national historic landmark. According to the Interior Department's 1991 report, "mining would alter and irreparably harm the integrity of the Bodie district."

Under H.R. 4370, valid existing rights are protected. However, new mining claims are prohibited within the Bodie bowl in order to protect the ghost town's natural and historic resources.

Major environmental and historic preservation organizations including the Wilderness Society, Natural Resources Defense Council, and the National Trust for Historic Preservation support H.R. 4370. In addition, the Los Angeles Times, Sacramento Bee, and Sacramento Union have editorialized in support of protecting Bodie. There also is significant support in the local community near Bodie.

The Bodie legislation is very similar to H.R. 2790, the Cave Creek Protection Act which withdrew certain lands in the Coronado National Forest from the mineral leasing laws to protect natural resource values. The House unanimously approved the Cave Creek legislation last year.

I appreciate Congressman LEHMAN's concern for Bodie, and also commend Subcommittee Chairman NICK RAHALL for his efforts in moving H.R. 4370.

I encourage my colleagues to support the Bodie Protection Act.

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

The SPEAKER pro tempore (Mr. MCDERMOTT). The question is on the motion offered by the gentleman from West Virginia [Mr. RAHALL] that the House suspend the rules and pass the bill, H.R. 4370, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

STOCK RAISING HOMESTEAD ACT AMENDMENTS OF 1992

Mr. RAHALL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 450) to amend the Stock Raising Homestead Act to resolve certain problems regarding subsurface estates, and for other purposes, as amended.

The Clerk read as follows:

H.R. 450

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

SECTION 1. MINING CLAIMS ON STOCK RAISING HOMESTEAD ACT LANDS.

(a) MINERAL ENTRY UNDER THE STOCK RAISING HOMESTEAD ACT.—Section 9 of the Act of December 29, 1916, entitled "An act to provide for stock-raising homesteads, and for other purposes (43 U.S.C. 299) is amended by adding the following at the end thereof:

"(b) EXPLORATION; LOCATION OF MINING CLAIMS; NOTICES.—

"(1) IN GENERAL.—(A) Notwithstanding subsection (a) and any other provision of law to the contrary, after the effective date of this subsection no person other than the surface owner may enter lands subject to this Act to explore for, or to locate, a mining claim on such lands without—

"(i) filing a notice of intention to locate a mining claim pursuant to paragraph (2); and

"(ii) providing notice to the surface owner pursuant to paragraph (3).

"(B) Any person who has complied with the requirements referred to in subparagraph (A) may, during the authorized exploration period, in order to locate a mining claim, enter lands subject to this Act to undertake mineral activities related to exploration that cause no more than a negligible disturbance of surface resources and do not involve the use of mechanized equipment, explosives, the construction of roads, drill pads, or the use or toxic or hazardous materials.

"(C) The authorized exploration period referred to in subparagraph (B) shall begin 30 days after notice is provided under paragraph (3) with respect to lands subject to such notice and shall end with the expiration of the 60-day period referred to in paragraph (2)(A) or any extension provided under paragraph (2)(B).

"(2) NOTICE OF INTENTION TO LOCATE A MINING CLAIM.—Any person seeking to locate a mining claim on lands subject to this Act in order to engage in the mineral activities relating to exploration referred to under paragraph (1)(B) may file with the Secretary of the Interior a notice of intention to locate a claim on the lands concerned. The notice shall be in such form as the Secretary shall prescribe. The notice shall contain the name and mailing address of the person filing the notice and a legal description of the lands to which the notice applies. The legal description shall be based on the public land survey or on such other description as is sufficient to permit the Secretary to record the notice on his land status records. Whenever any person has filed a notice under this subparagraph with respect to any lands, during the 60-day period following the date of such filing, no other person (including the surface owner) may—

"(A) file such a notice with respect to any portions of such lands;

"(B) explore for minerals or locate a mining claim on any portion of such lands; or

"(C) acquire any interest in any portion of such lands pursuant to section 209 of the Federal Land Policy and Management Act of 1977 (43 U.S.C. 1719).

"(3) NOTICE TO SURFACE OWNER.—Any person who has filed a notice of intention to locate a mining claim under paragraph (2) for any lands subject to this Act shall provide written notice of such filing by registered or certified mail with return receipt to the surface owner (as evidenced by local tax records) of the lands covered by the notice under paragraph (2). Possession of the return receipt signed by the surface owner shall be necessary prior to entering such lands. The notice shall be provided at least 30 days before entering such lands and shall contain each of the following:

"(A) A brief description of the proposed mineral activities.

"(B) A map and legal description of the lands to be subject to mineral exploration.

"(C) The name, address and phone number of the person managing such activities.

"(D) A statement of the dates on which such activities will take place.

"(4) ACREAGE LIMITATIONS.—The total acreage covered at any time by notices of intention to locate a mining claim under paragraph (2) filed by any person and by affiliates of such person may not exceed 6,400 acres of lands subject to this Act in any one State and 160 acres or one-tenth of any contiguous parcel of land, whichever is greater (except that in no instance shall the total acreage exceed 640 acres), for a single surface owner. For purposes of this paragraph, the term 'affiliate' means, with respect to any person, any other person which controls, is controlled by, or is under common control with, such person.

"(c) CONSENT.—Notwithstanding subsection (a) and any other provision of law, after the effective date of this subsection no person may engage in the conduct of mineral activities (other than those relating to exploration referred to in subsection (b)(1)B)) on a mining claim located on lands subject to this Act without the written consent of the surface owner thereof unless the Secretary has authorized the conduct of such activities under subsection (d).

"(d) AUTHORIZED MINERAL ACTIVITIES.—The Secretary may authorize a person to conduct mineral activities (other than those relating to exploration referred to in subsection (b)(1)(B)) on lands subject to this Act without the consent of the surface owner thereof

if such person complies with the requirements of subsections (e) and (f).

"(e) BOND.—(1) Before the Secretary may authorize any person to conduct mineral activities the Secretary shall require such person to post a bond or other financial guarantee in an amount to insure the completion of reclamation satisfying the requirements of this subsection and subsection (h). The bond or other financial guarantee shall be held for the duration of the mineral activities and for an additional period to cover the responsibility of the person conducting such mineral activities for revegetation under subsection (h)(6). Such bond or other financial guarantee shall also insure—

"(A) payment to the surface owner, after the completion of such mineral activities and reclamation, compensation for any permanent damages to crops and tangible improvements of the surface owner that resulted from mineral activities; and

"(B) payment to the surface owner of compensation for any permanent loss of income of the surface owner due to loss or impairment of grazing, or other uses of the land by the surface owner to the extent that reclamation required by the plan of operations would not permit such uses to continue at the level existing prior to the commencement of mineral activities.

"(2) In determining the bond amount to cover permanent loss of income under paragraph (1)(B), the Secretary shall consider, where appropriate, the potential loss of value due to the estimated permanent reduction in utilization of the land.

"(f) PLAN OF OPERATIONS.—(1) Before the Secretary may authorize any person to conduct mineral activities on lands subject this Act, the Secretary shall require such person to submit a plan of operations. The Secretary shall require that mineral activities and reclamation under such plan be conducted in such a way so as to minimize adverse impacts to the environment. A plan under this subsection shall also include procedures for—

"(A) the minimization of damages to crops and tangible improvements of the surface owner;

"(B) the minimization of disruption to grazing or other uses of the land by the surface owner; and

"(C) payment of a fee equivalent to the loss of income to the ranch operation as established pursuant to subsection (g).

"(2) The Secretary shall provide a copy of the proposed plan of operations to the surface owner at least 60 days prior to the date the Secretary makes a determination as to whether such plan complies with the requirements of this subsection. During such 60-day period the surface owner may submit comments and recommend modifications to the proposed plan of operations to the Secretary.

"(3) The Secretary may approve, require modifications to, or deny a proposed plan of operations. To approve a plan of operations, the Secretary shall make each of the following determinations:

"(A) The proposed plan of operations is complete and accurate.

"(B) The person submitting the proposed plan of operations has demonstrated that reclamation as required under subsection (h) can be accomplished under the plan and would have a high probability of success based on an analysis of such reclamation measures in areas of similar geochemistry, topography and hydrology.

"(C) The person submitting the proposed plan of operations has demonstrated that all other applicable Federal and State requirements have been met.

"(4) Final approval of a plan of operations under this subsection shall be conditioned upon compliance with subsections (e) and (g).

"(g) FEE.—The fee referred to in subsection (f)(2) shall be—

"(1) paid to the surface owner by the person submitting the plan of operations;

"(2) paid in advance of any mineral activities or at such other time or times as may be agreed to by the surface owner and the person conducting such activities; and

"(3) established by the Secretary taking into account the acreage involved and the degree of potential disruption to existing surface uses (including the loss of income to the surface owner and such surface owner's operations due to the loss or impairment of existing surface uses for the duration of the mineral activities).

"(h) RECLAMATION.—Except as provided under paragraphs (5) and (7), lands affected by mineral activities under a plan of operations approved pursuant to subsection (f)(3) shall be reclaimed to a condition capable of supporting the uses to which such lands were capable of supporting prior to surface disturbance. Except as provided under paragraphs (5) and (7), the surface area disturbed by mineral activities shall be backfilled, graded and contoured to its natural topography. Reclamation shall proceed as contemporaneously as practicable with the conduct of mineral activities. For the purposes of such reclamation, the Secretary shall establish reclamation standards which shall include, but not necessarily be limited to, provisions to require each of the following; except that any such standard may be modified only with the consent of the surface owner as part of an approved plan of operations:

"(1) TOPSOIL.—(A) Topsoil removed from lands affected by mineral activities shall be segregated from other spoil material and protected for later use in reclamation. If such topsoil is not replaced on a backfill area within a time-frame short enough to avoid deterioration of the topsoil, vegetative cover or other means shall be used so that the topsoil is preserved from wind and water erosion, remains free of any contamination by acid or other toxic material, and is in a useable condition for sustaining vegetation when restored during reclamation.

"(B) In the event the topsoil from lands affected by mineral activities is of insufficient quantity or of inferior quality for sustaining vegetation, and other suitable growth media removed from the lands affected by the mineral activities are available that shall support vegetation, the best available growth medium shall be removed, segregated and preserved in a like manner as under subparagraph (A) for sustaining vegetation when restored during reclamation.

"(2) STABILIZATION.—All surface areas affected by mineral activities, including spoil material piles, waste material piles, ore piles, subgrade ore piles, and open or partially backfilled mine pits which meet the requirements of paragraph (5) shall be stabilized and protected during mineral activities and reclamation so as to effectively control erosion and minimize attendant air and water pollution.

"(3) EROSION.—Facilities such as but not limited to basins, ditches, streambank stabilization, diversions or other measures, shall be designed, constructed and maintained where necessary to control erosion and drainage of the area affected by mineral activities including spoil material piles and waste material piles prior to the use of such material to comply with the requirements of this subsection, and for the purposes of paragraph (7), and including ore piles and subgrade ore piles.

"(4) HYDROLOGIC BALANCE.—(A) Mineral activities shall be conducted to minimize disturbances to the prevailing hydrologic balance of the area subject to mineral activities and adjacent areas and to the quality and quantity of water in surface and ground water systems in the area subject to mineral activities and adjacent areas.

"(B) Mineral activities shall, to the extent possible, prevent the generation of acid or toxic drainage during the mineral activities and reclamation; and the operator shall prevent the contamination of surface and ground water with acid or other toxic mine drainage and shall prevent or remove water from contact with acid or toxic producing deposits.

"(C) Mineral activities shall be conducted to prevent, to the extent possible, disruption to streamflow, or runoff outside the area covered by the plan of operations, and in no event shall be in excess of requirements set by applicable State or Federal law.

"(D) Reclamation shall, to the extent possible, also include restoration of the recharge capacity of the area subject to mineral activities to approximate premining condition; except that where surface or underground water sources used for domestic or agricultural use have been diminished, contaminated or interrupted as a proximate result of mineral activities, such water resource shall be restored or replaced.

"(5) PIT BACKFILLING/GRADING VARIANCE.—(A) The requirement to backfill, grade and contour land to its natural topography shall not apply with respect to an open mine pit if the Secretary finds that such open. pit or partially backfilled pit would not pose a threat to the public health or safety or have an adverse effect on the environment in terms of surface or ground water pollution.

"(B) In instances where complete backfilling of an open pit is not required, the pit shall be graded to blend with the surrounding topography as much as practicable and revegetated in accordance with paragraph (6).

"(6) REVEGETATION.—(A) Except in such instances where the complete backfill of an open mine pit is not required under paragraph (5), the area affected by mineral activities, including any excess spoil material pile and excess waste pile, shall be revegetated in order to establish a diverse, effective and permanent vegetative cover of the same seasonal variety native to the area affected by mineral activities, capable of self-regeneration and plant succession and at least equal in extent of cover to the natural revegetation of the surrounding area.

"(B) In order to insure compliance with subparagraph (A), the period for determining successful revegetation shall be for a period of 5 full years after the last year of augmented seeding, fertilizing, irrigation or other work, except that such period shall be 10 full years where the annual average precipitation is 26 inches or less.

"(7) EXCESS SPOIL AND WASTE.—(A) Excess spoil material and excess waste material shall be transported and placed in approved areas, in a controlled manner in such a way so as to assure long-term mass stability and to prevent mass movement. In addition to the measures described under paragraph (3), internal drainage systems shall be employed, as may be required, to control erosion and drainage. The design of such excess spoil material piles and excess waste material piles shall be certified by a qualified professional engineer.

"(B) Excess spoil material piles and excess waste material piles shall be graded and contoured to blend with the surrounding topography as much as practicable and revegetated in accordance with paragraph (6).

"(8) SEALING.—All drill holes, and openings on the surface associated with underground mineral activities, shall be sealed when no longer needed for the conduct of mineral activities to ensure protection of the public, wildlife and the environment.

"(9) STRUCTURES.—All buildings, structures or equipment constructed, used or improved during the mineral activity shall be removed, unless the Secretary determines that the buildings, structures or equipment shall be of beneficial use in accomplishing the post-mining uses or for environmental monitoring.

"(i) STATE LAW.—(1) Nothing in this Act shall be construed as affecting any reclamation, bonding, inspection, enforcement, air or water quality standard or requirement of any State law or regulation which may be applicable to mineral activities on lands subject to this Act to the extent that such law or regulation is not inconsistent with this title.

"(2) Nothing in this Act shall be construed as affecting in any way the right of any person to enforce or protect, under applicable law, his interest in water resources affected by mineral activities.

"(j) INSPECTIONS.—(1) The Secretary shall make such inspections of mineral activities under a plan of operations approved under subsection (f) so as to ensure compliance with the terms and conditions of such plan. The Secretary shall establish a frequency of inspections for mineral activities conducted under such an approved plan of operations, but in no event shall such inspection frequency be less than one complete inspection per calendar quarter.

"(2) Any surface owner of land subject to this Act has reason to believe that they are or may be adversely affected by mineral activities due to any violation of the terms and conditions of a plan of operations approved under subsection (f), such surface owner may request an inspection. The Secretary shall determine within 10 days of the receipt of the request whether the request states a reason to believe that a violation exists, except in the event the surface owners alleges and provides reason to believe that an imminent danger, as provided in subsection (k)(2), exists the 10 day period shall be waived and the inspection conducted immediately. When an inspection is conducted under this paragraph, the Secretary shall notify the surface owner and such surface owner shall be allowed to accompany the inspector on the inspection.

"(k) ENFORCEMENT.—(1) If the Secretary or the authorized representative of the Secretary determines, on the basis of an inspection that the operator is in violation of the terms and conditions of a plan of operations approved under subsection (f), the Secretary or his authorized representative shall issue a notice of violation to the operator describing the violation and the corrective measures to be taken. The Secretary or his authorized representative shall provide such operator with a reasonable period of time to abate the violation. If, upon the expiration of time provided for such abatement, the Secretary or his authorized representative finds that the violation has not been abated he shall immediately order a cessation of all mineral activities or the portion thereof relevant to the violation.

"(2) If the Secretary or his authorized representative determines, on the basis of an inspection, that any condition or practice exists with respect to mineral activities conducted on lands subject to this Act, or that an operator is in violation of the surface management requirements established pursuant to this section, and such condition, practice or violation is causing, or can reasonably be expected to cause—

"(A) an imminent danger to the health or safety of the surface owner of land subject to this Act, or

"(B) significant, imminent environmental harm to land, air or water resources,

the Secretary or his authorized representative shall immediately order a cessation of such mineral activities or the portion thereof causing such condition, practice or violation.

"(3)(A) A cessation order by the Secretary or his authorized representative pursuant to paragraph (1) or (2) shall remain in effect until the Secretary or his authorized representative determines that the condition, practice or violation has been abated, or until modified, vacated or terminated by the Secretary or his authorized representative. In any such order, the Secretary or his authorized representative shall determine the steps necessary to abate the violation in the most expeditious manner possible, and shall include the necessary measures in the order. The Secretary shall require appropriate financial assurances to insure that the abatement obligations are met.

"(B) Any notice or order issued pursuant to paragraph (1) or (2) may be modified, vacated or terminated by the Secretary or his authorized representative. An operator, or person conducting mineral activities under section 201(b)(2), issued any such notice or order shall be entitled to a hearing on the record.

"(4) If, after 30 days of the date of the order referred to in paragraph (3)(A), the required abatement has not occurred the Secretary shall take such alternative enforcement action against the responsible parties as will most likely bring about abatement in the most expeditious manner possible. Such alternative enforcement action shall include, but is not necessarily limited to, seeking appropriate injunctive relief to bring about abatement.

"(5) In the event an operator conducting mineral activities under a plan of operations approved under subsection (f) is unable to abate a violation or defaults on the terms of the plan of operation the Secretary may cause forfeiture of the bond or other financial guarantee for the plan of operations to the extent necessary to ensure abatement and reclamation.

"(l) COMPLIANCE.—The Secretary may request the Attorney General to institute a civil action for relief, including a permanent or temporary injunction or restraining order, in the district court of the United States for the district in which the mineral activities are located whenever an operator: (A) violates, fails or refuses to comply with any order issued by the Secretary under subsection (k); or (B) interferes with, hinders or delays the Secretary in carrying out an inspection under subsection (j). Such court shall have jurisdiction to provide such relief as may be appropriate. Any relief granted by the court to enforce an order under clause (A) shall continue in effect until the completion or final termination of all proceedings for administrative review of such order, unless the district court granting such relief sets it aside or modifies it.

"(m) PENALTIES.—(1) Any operator who fails to comply with the terms and conditions of a plan of operations approved under subsection (f) shall be liable for a penalty of not more than $5,000 per violation. Each day of continuing violation may be deemed a separate violation for purposes of penalty assessments. No civil penalty under this subsection shall be assessed until the operator charged with the violation has been given the opportunity for a hearing.

"(2) An operator who fails to correct a violation for which a cessation order has been issued under subsection (k) within the period permitted for its correction shall be assessed a civil penalty of not less than $1,000 per violation for each day during which such failure continues, but in no event shall such assessment exceed a 30-day period.

"(n) DAMAGES FOR FAILURE TO COMPLY.—(1) Whenever the surface owner of any land subject to this Act has suffered any permanent damages to crops or tangible improvements of the surface owner, or any permanent loss of income due to loss or impairment of grazing, or other uses of the land by the surface owner, the surface owner may bring an action in the appropriate United States district court for treble damages, and the court may award such damages if such damages or loss results—

"(A) from any mineral activity undertaken without the consent of the surface owner under subsection (c) or an authorization by the Secretary under subsection (d); or

"(B) from the failure of a person conducting mineral activities on lands subject to this Act approved under subsection (f) to abate a violation under subsection (k).

"(2) The surface owner of any land subject to this Act may also bring an action in the appropriate United States district court for treble damages against any person undertaking any mineral activities on lands subject to this Act in violation of any requirement of subsection (b).

"(3) Treble damages awarded by the court under this subsection shall be reduced by the amount of any compensation which the surface owner has received (or is eligible to receive) pursuant to the bond or financial guarantee required under subsection (e).

"(o) PAYMENT OF DAMAGES.—The surface owner of any land subject to this Act may petition the Secretary for payment of all or any portion of a bond or other financial guarantee required under subsection (e) as compensation for any permanent damages to crops and tangible improvements of the surface owner, or any permanent or temporary loss of income due to loss or impairment of grazing, or other uses of the land by the surface owner. Pursuant to such a petition, the Secretary may use such bond or other guarantee to provide compensation to the surface owner for such damages and to insure the required reclamation.

"(p) BOND RELEASE.—The Secretary shall release the bond or other financial guarantee required under subsection (e) upon the successful completion of all requirements pursuant to a plan of operations approved under subsection (f).

"(q) CONVEYANCE TO SURFACE OWNER.—(1) The Secretary may convey interests owned by the United States (including mineral interests) in lands subject to this Act to the surface owner pursuant to the provisions of section 209 of the Federal Land Policy and Management Act of 1976 without regard to the requirements contained in such provisions that findings be made under subsection (b) of such section.

"(2) The Secretary shall take such actions as may be necessary to simplify the procedures which must be complied with by surface owners of lands subject to this Act who

apply to the Secretary to obtain title to interests in such lands owned by the United States.

"(3) Notwithstanding any other provision of law, the Secretary may not convey mineral interests in lands subject to this Act to any person other than the surface owner of such lands without obtaining the consent of such surface owner.

"(r) DEFINITIONS.—For the purposes of subsections (b) through (q)—

"(1) The term 'mineral activities' means any activity for, related to or incidental to mineral exploration, mining, and beneficiation activities for any locatable mineral on a mining claim. When used with respect to this term—

"(A) The term 'exploration' means those techniques employed to locate the presence of a locatable mineral deposit and to establish its nature, position, size, shape, grade and value;

"(B) The term 'mining' means the processes employed for the extraction of a locatable mineral from the earth; and

"(C) The term 'beneficiation' means the crushing and grinding of locatable mineral ore and such processes are employed to free the mineral from other constituents, including but not necessarily limited to, physical and chemical separation techniques.

"(2) The term 'mining claim' means a claim located under the general mining laws of the United States (which generally comprise 30 U.S.C. chapters 2, 12A, and 16, and sections 161 and 162) subject to the terms and conditions of subsections (b) through (q) of this section.

"(s) MINERALS COVERED.—Subsections (b) through (q) of this section apply only to minerals not subject to disposition under—

"(1) the Mineral Leasing Act (30 U.S.C. 181 and following);

"(2) the Geothermal Steam Act of 1970 (30 U.S.C. 100 and following); or

"(3) the Act of July 31, 1947, commonly known as the Materials Act of 1947 (30 U.S.C. 601 and following).".

(b) FEES.—The Secretary may establish such user fees as may be necessary to reimburse the United States for expenses incurred in administering this section.

(c) TECHNICAL CONFORMING AMENDMENT.—Section 9 of the Act of December 29, 1916, entitled "An Act to provide for stock-raising homesteads, and for other purposes" (43 U.S.C. 299) is amended by inserting "(a) GENERAL PROVISIONS.—" before the words "That all entries made".

(d) EFFECTIVE DATE.—The amendments made by this Act shall take effect 180 days after the date of enactment.

(e) REGULATIONS.—The Secretary of the Interior shall issue final regulations to implement the amendments made by this Act not later than the effective date of this Act. Failure to promulgate these regulations by reason of any appeal or judicial review shall not delay the effective date as specified in paragraph (d).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from West Virginia [Mr. RAHALL] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from West Virginia [Mr. RAHALL].

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

Mr. Speaker, the Stock Raising Homestead Act of 1916 was one of the last western settlement initiatives through which individuals could gain title from the Federal Government to the surface of public lands in the West.

The pending measure, H.R. 450, seeks to address a longstanding dispute which not only predates the enactment of this act, but a controversy that this 76-year-old law originally sought to resolve.

This is the conflict that arises when those interested in the raising of livestock, and those engaged in the occupation of mineral exploration and development, seek to gain the use of the same parcel of land.

Throughout the Western States there are approximately 70 million acres of land on which title to the surface is held by private individuals as a result of the Stock Raising Homestead Act.

However, the mineral estate to these lands was not made part of the title. It continues to be owned by the United States and is subject to the various mining laws.

Today, the increased interest in gold exploration and development in States like California and Nevada has aggravated the inherent conflicts of this type of split estate land ownership.

In effect, enactment of this measure could avert a modern day range war between the cowboys and the miners, especially as gold fever continues to sweep through the Western States.

H.R. 450 seeks to strike a balance between the rights of the surface owner, and those interested in the underlying locatable minerals, by providing a procedure for gaining access to, and undertaking mining activities on, Stock Raising Homestead Act lands that takes into account the interest of the private surface owner.

This would be accomplished by requiring that miners give notice to the surface owner before entering the land for mineral exploration activities and the location of mining claims.

After this point, if the claim holder wants to then mine the claim, the preferable course would be that it be done with the consent of the surface owner.

However, in the event consent is not forthcoming, this legislation would require that the claim holder have a plan of operation approved by the Secretary of the Interior, fully reclaim damaged areas, and provide compensation to the surface owner for any loss of income or damage that results.

In this regard, I would note that this bill is supported by the National Cattlemen's Association. I include their letter of support for the RECORD.

NATIONAL CATTLEMEN'S ASSOCIATION,
Washington, DC, June 10, 1992.

Hon. NICK JOE RAHALL,
Chairman, Subcommittee on Mining and Natural Resources, House Committee on Interior and Insular Affairs, House of Representatives, Washington, DC.

DEAR CHAIRMAN RAHALL: The National Cattlemen's Association supports your substitute amendment to H.R. 450 offered on behalf of Congressman Richard Lehman. We believe this amendment provides important protection for the surface owner's land use and land value. Yet it also allows continued exploration and mining of the subsurface.

Four basic provisions in the bill establish a sound process for balancing the property rights of the surface owner with the prospecting and mining interests of the subsurface owner or leasee. Prospectors must give notice before entering a surface owner's operation, they must have a plan of operation approved by the Secretary of the Department of the Interior, they must fully reclaim damaged areas, and they must compensate for the loss of surface use and the disruption of the surface operation.

We appreciate your and Representative Lehman's commitment to enacting law necessary to protect the livelihoods of many landowners in a split estate situation.

Sincerely,

JIMME L. WILSON,
President.

Mr. Speaker, that concludes my explanation of the pending matter.

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

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to H.R. 450 as amended by the Committee on Interior and Insular Affairs. I am saddened to report that once again, the Interior Committee subverted the legislative process and marked up a bill upon which not one person testified, nor was any administration comment sought. This blatant disregard for the views of our affected constituents is becoming routine. Let me explain.

Mr. Speaker, H.R. 450 began life as the same bill which passed this body by voice vote in the 101st Congress. The Mining Subcommittee held a field hearing in Fresno, CA, in July 1989, to take testimony from Stock Raising Homestead Act surface owners and the Bureau of Land Management. H.R. 737, as amended, was a compromise that all parties could support. At issue then, as now, was the relative rights of the surface owner and the holder of the rights to the mineral estate, which is reserved to the United States in Stock Raising Homestead Act deeds.

It has been the policy of the Federal Government since 1916 that the so-called hardrock minerals beneath such lands are available for disposition under the Mining Law, except as modified by the 1916 act. In other words, prospectors and miners can locate mining claims on these lands, and may operate on such mining claims upon receiving permission from the surface owner and providing compensation for damages to the surface estate.

However, under current law, if a surface owner refuses such permission to renter the lands, the miner has the option of proffering a bond to the BLM for the estimated damages to the surface estate and operating without the surface owner's consent. This step is necessary if the mineral estate reserved to the United States is to be ac-

cessible, but few legitimate mining interests will ever choose to exercise it because an harmonious relationship with the landowner is always better.

Mr. Speaker, the bill we passed last Congress tightened up some requirements on miners for advance notice and reclamation but it did not make the reserved mineral estate off limits. The substitute to H.R. 450 adopted in the Interior Committee would do so. Again, let me emphasize to my colleagues, neither the Mining Subcommittee, nor the full Interior Committee, held a hearing on this substitute. It was brought to a markup in subcommittee 1 week after its release to the Members—1 week. The only views solicited by the majority were those of the California Cattleman's Association. They persuaded the national association to support the substitute as well, despite the group's earlier support of the Bingaman-Wallop bill in the Senate, S. 1187.

The substitute goes far beyond the original bill which had broad support, including that of the administration. The substitute would unduly restrict the right and ability to prospect for minerals that are strategic and critical to our Nation's needs. How would it do this? By imposing standards that ignore regional differences in soils, climate and vegetation in dictating the manner in which mining and reclamation must occur before a plan of operations would be approved by the Bureau of Land Management. This is contrary to the conclusions reached by the Committee on Surface Mining and Reclamation [COSMAR] of the National Academy of Sciences in the 1979 report to Congress, "Surface Mining of Non-Coal Minerals." This panel was convened under a mandate in the Surface Mining Control and Reclamation Act of 1977 [SMCRA] to assess whether or not the national standards dictated for coal mining and reclamation should be applied to hardrock mining. COSMAR concluded national standards were unworkable and I know of no study since which concludes otherwise.

Mr. Speaker, further it seems to me that this is one that really deals with the question of preemption, State preemption, which means a great deal to me. I think it is very important in our system. Also State rights. It has something to do with private rights in the private decision to do something with the surface which is owned by private individuals, not by the Federal Government. It also has to do with overregulation, and God knows we have plenty of that.

One of the problems in this place is that in the cookie cutter one fits all propositions, designed to fit in Maryland, Wyoming, West Virginia, and it does not work.

Mr. Speaker, H.R. 450 would bar mineral activities where rigid environmental standards could not be met, even if the surface owner agreed otherwise. In other words, the Bureau of Land Management would now be in the business of dictating how a private landowner may or may not be impacted by a mining proposal. Furthermore, decisions concerning water quantity that heretofore have been the sole domain of the States in the arid Western States now would be a decision for the Federal Government's authorized officer. My friends, this is dangerous precedent. But, since we had no hearing on the substitute there was no one to sound the alarm.

In summary, Mr. Speaker, H.R. 450, as adopted by the Interior Committee, ignores proper procedures and is substantively flawed as well. The administration and I urge my colleagues to vote "no."

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

Mr. Speaker, I would conclude by saying that those of us from the Appalachian Region of this country certainly have had some experience with the conflicts that can arise between surface owners and those who hold the rights to the coal.

Under what are known as broad form deeds entered into during the late 1800's and early part of this century, at one time the owner of the coal could strip the land at will, without the surface owner's consent.

This situation has been remedied over the years by the courts. Today, the coal owner can no longer strip mine without the consent of the surface owner.

In a similar fashion, with respect to federally owned coal underlying privately held land in the Western States, the Congress in the Surface Mining Control and Reclamation Act of 1977 required the consent of the surface owner before this coal could be leased.

I would note that this action, as with the pending measure, was taken primarily to protect farming and ranching operations.

Finally, I would say that the Subcommittee on Mining and Natural Resources conducted a hearing in Fresno, CA, on the predecessor bill to H.R. 450. The House subsequently approved the bill during September 1989, but no action was taken by the other body.

Mr. Speaker, I daresay that if we had another hearing today on the pending matter, that we would have perhaps myself and the gentleman from California to once again be the only ones to show up, and I think it worthy to save the taxpayers' money and the trouble of going through this exercise, by rather relying upon the transcript of previous hearings on this legislation.

This year, however, I believe we will be in a better position to resolve this matter and I would thank the bill sponsor, the gentleman from California, [Mr. LEHMAN], for his tenacious efforts in this matter.

Mr. LEHMAN of California. Mr. Speaker, today I rise in support of H.R. 450, the Homestead Stockraising Act. This legislation addresses an ongoing problem that exists in the West with regard to lands with a split estate. That is, lands where title of the surface is held by a private land owner and the title of the mineral interest is held by the United States.

This bill which is supported by the National Cattlemen's Association and the California Cattlemen's Association, and many others, strikes a balance between the rights of private surface owners and those with interest in gaining access to the lands for mining.

The bill provides for four basic provisions to establish a sound process. First, prospectors must give a 30-day notice to surface owners, second, prospectors must have a plan of operation approved by the Secretary of the Interior, third, prospectors must fully reclaim damaged areas, and fourth, prospectors must compensate for the loss of surface use and the disruption of the surface operation.

I have worked very closely with cattlemen who have been affected by this type of situation in order to craft a piece of legislation which they feel adequately meets their concerns.

I urge immediate passage of this bill.

□ 1550

Mr. RAHALL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MCDERMOTT). The question is on the motion offered by the gentleman from West Virginia [Mr. RAHALL] that the House suspend the rules and pass the bill, H.R. 450, as amended.

The question was taken.

Mr. THOMAS of Wyoming. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

SETTLEMENT IMPLEMENTING BETWEEN THE PUEBLO DE COCHITI AND U.S. ARMY CORPS OF ENGINEERS

Mr. RAHALL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4437) to authorize funds for the implementation of the settlement agreement reached between the Pueblo de Cochiti and the U.S. Army Corps of Engineers under the authority of Public Law 100-202.

The Clerk read as follows:

H.R. 4437

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

SECTION 1. GENERAL AUTHORIZATION.

The Secretary of the Interior and the Secretary of the Army are authorized and directed to implement the settlement agreement negotiated under the authority of Public Law 100-202 by the Pueblo de Cochiti of New Mexico, a federally recognized Indian Tribe, and the United States Army Corps of Engineers, as set forth in the report of the

Corps of Engineers entitled "Report on Investigations, Wet Field Solution", dated July 24, 1990, addressing seepage problems at the Cochiti Dam on tribal lands.

SEC. 2. DUTIES OF THE SECRETARY OF THE INTERIOR.

In accordance with the settlement agreement and pursuant to the trust relationship between the United States Government and the Pueblo de Cochiti of New Mexico, upon completion of construction of the drainage system, the Secretary of the Interior, acting through the Bureau of Indian Affairs, shall be responsible for its maintenance, repair, and replacement, as provided in the settlement agreement.

SEC. 3. DUTIES OF THE SECRETARY OF THE ARMY.

In accordance with the settlement agreement, the Secretary of the Army is authorized and directed to construct the underground drainage system necessry to correct the high ground water problem at the Pueblo de Cochiti and to carry out all other provisions of the settlement agreement, except those specifically assigned to the Secretary of the Interior under the provisions of this Act.

SEC. 4. APPROPRIATIONS AUTHORIZED.

There are authorized to be appropriated such sums as are necessary to carry out the provisions of this Act, and the settlement agreement.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from West Virginia [Mr. RAHALL] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from West Virginia [Mr. RAHALL].

GENERAL LEAVE

Mr. RAHALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the bill under consideration.

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

There was no objection.

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

Mr. Speaker, H.R. 4437 is sponsored by Congressman RICHARDSON. The bill authorizes the Secretary of the Interior and the Secretary of the Army to implement the settlement agreement between the Pueblo de Cochiti and the U.S. Army Corps of Engineers to address the seepage problems at the Cochiti Dam. The settlement agreement provides for the construction of an underground drainage system, the restoration of the agricultural lands, the establishment of a fund for the operation and maintenance of the system, and for damages to the Pueblo.

Construction of Cochiti Dam has brought great hardship to the Pueblo. It has resulted in the loss of tribal lands, the destruction of important cultural and religious sites, and the flooding of tribal agricultural lands. This legislation resolves this longstanding dispute and compensates the Pueblo for their losses.

This bill enjoys the support of the Pueblo, the Department of Justice, and the Army Corps of Engineers. This measure has bipartisan support and I urge my colleagues to support it.

Mr. Speaker, I would like to include in the RECORD at this time, a letter from the chairman of the Committee on Interior and Insular Affairs, Robert A. Roe, regarding the agreement between our two committees concerning the consideration of this bill.

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON PUBLIC WORKS
AND TRANSPORTATION,
Washington, DC, July 24, 1992.

Hon. GEORGE MILLER,
Chairman, Committee on Interior and Insular Affairs,
U.S. House of Representatives, Washington, DC.

Dear Mr. CHAIRMAN: I am writing with regard to your letter requesting our agreement to the consideration of H.R. 4437, a bill to authorize funds for the implementation of the settlement agreement reached between the Pueblo de Cochiti and the U.S. Army Corps of Engineers, under suspension of July 27th. As you note, this legislation was jointly referred to our two committees.

Our Committee has reviewed this legislation and in recognition of the need for expeditious Floor action on the bill, I have no objection to its consideration under suspension of July 27th. This decision should, however, in no context be construed as a waiver of our Committee's jurisdiction over the subject matter of H.R. 4437, or of our inclusion in any conference thereon. I am pleased to be of assistance in this matter.

Warmest personal regards.

Sincerely,

ROBERT A. ROE,
Chairman.

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

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4437, A bill to authorize funds for the implementation of the settlement agreement reached between the Pueblo deCochiti and the Army Corps of Engineers. The gentleman from West Virginia has adequately explained the bill's provisions, so I will keep my comments very brief.

The pueblo has long suffered from the construction of the Cochiti Dam in 1978. The dam and resulting reservoir occupy more than 10,000 acres of the pueblo's ancestral lands. Moreover, water seeping under the dam has flooded much of the pueblo's agricultural acreage, rendering it useless. This bill brings to a successful close the lengthy settlement process between the pueblo and the Army Corps of Engineers, and will enable the pueblo to return the affected land to beneficial use.

The administration fully supports this legislation, and I urge my colleagues to do the same.

Mr. RICHARDSON. Mr. Speaker, today the House will consider under suspension of the rules an historic bill that is critical to the Pueblo deCochiti Indian tribe in my district in New Mexico. I want to thank my colleague, Chairman MILLER of the Committee on Interior, for his interest and support in bringing this legislation to the floor.

For years, the Pueblo deCochiti has suffered from the adverse effects of a sever seepage problem at the federally constructed Cochiti Dam on the pueblo's lands. Today, the House will consider H.R. 4437, legislation I introduced to resolve this longstanding problem. H.R. 4437 authorizes the Secretary of the Interior and the Secretary of the Army to meet the terms of a settlement agreement negotiated by the Pueblo deCochiti and the Army Corps of Engineers.

The cultural life of the people of the Pueblo deCochiti is deeply rooted in agricultural and religious uses of pueblo lands. For hundreds of years the Cochitis have cultivated traditional crops such as maize, beans, and squash. In addition, the Cochiti people often preform sacred ceremonies and worship at religious sites on pueblo lands. This heritage has been severely compromised by the excessive ground water flow under Cochiti Dam.

Cochiti Dam, which was built in 1970, began to exhibit signs of extensive seepage from under the dam which elevated the water table and literally turned the Pueblo deCochiti fields into ponds and marshlands. Small scale drainage measures were undertaken by the Army Corps of Engineers to mitigate the damage caused by the seepage, to no avail.

In 1985, the Pueblo deCochiti filed suit against the Corps of Engineers to recover damages for the destruction of the agricultural lands and to force the corps to develop a solution to the seepage problem. The suit is still pending.

In 1988, Congress passed legislation which provided a means for the pueblo and the Corps of Engineers to resolve the issue outside of court. Under Public Law 100–202, the Army Corps of Engineers and the Pueblo deCochiti were directed to formulate a structural solution to the problem, and funding was provided for design and engineering. The legislation further provided that both parties would negotiate, and, if appropriate, submit to Congress a settlement that is acceptable to both parties.

I am pleased that the Pueblo deCochiti and the Army Corps of Engineers have reached a settlement agreement. The agreement includes provisions for the construction of a suitable underground drainage system to restore the traditional agricultural lands, compensation for past damages to the pueblo, and an operating fund for the drainage system.

Mr. Speaker, passage of H.R. 4437 will help the Pueblo deCochiti to restore the integrity of its land and return to its traditional and religious land use practices. I urge my colleagues to support this critical measure.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield back the balance of my time.

Mr. RAHALL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from West Virginia [Mr. RAHALL] that the House suspend the rules and pass the bill, H.R. 4437.

The question was taken; and (two-thirds having voted in favor thereof)

the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

ZUNI RIVER WATERSHED ACT OF 1992

Mr. RAHALL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4026) to formulate a plan for the management of natural and cultural resources on the Zuni Indian Reservation, on the lands of the Ramah Band of the Navajo Tribe of Indians, and the Navajo Nation, and in other areas within the Zuni River watershed and upstream from the Zuni Indian Reservation, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4026

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Zuni River Watershed Act of 1992".

SEC. 2. FINDINGS.

Congress finds that—

(1) over the past century, extensive damage has occurred in the Zuni River watershed, including—

(A) severe erosion of agricultural and grazing lands;

(B) reduced productivity of renewable resources;

(C) loss of nonrenewable resources; and

(D) loss of water;

(2) the portion of the Zuni River watershed that is upstream from the Zuni Indian Reservation includes—

(A) Federal land;

(B) State land;

(C) Zuni Indian Trust land;

(D) Navajo Indian Tribal Trust and fee land;

(E) Ramah Band of the Navajo Tribe of Indians Trust land;

(F) individual Indian allotment lands; and

(G) private land;

(3) the Department of Agriculture, the Bureau of Indian Affairs, the Zuni Indian Tribe, the Ramah Band of the Navajo Tribe of Indians, and the Navajo Nation agree that corrective measures are required to prevent continued degradation of natural and cultural resources throughout the Zuni River watershed;

(4) with the passage of the Zuni Land Conservation Act of 1990 (Public Law 101-486), the Zuni Indian Tribe has the ability to take these corrective measures within the Zuni Indian Reservation;

(5) the implementation of a watershed management plan within the Zuni Indian Reservation will be ineffective without the implementation of a corresponding plan for the management of the portion of the Zuni River watershed that is upstream from the Zuni Indian Reservation;

(6) most of the portion of the Zuni River watershed that is upstream from the Zuni Indian Reservation is within the Cibola National Forest or Indian Trust lands;

(7) the Secretary of Agriculture, acting through the Chief of the Forest Service and the Chief of the Soil Conservation Service, the Secretary of the Interior, acting through the Assistant Secretary for Indian Affairs, and the Tribes, have the technical expertise to formulate a plan for the management of the portion of the Zuni River watershed that is upstream from the Zuni Indian Reservation on Federal, State, Indian, and private lands;

(8) an effective watershed management plan for the Zuni River watershed requires voluntary cooperation among the—

(A) Soil Conservation Service;

(B) Forest Service;

(C) Bureau of Indian Affairs;

(D) Zuni Indian Tribe;

(E) Ramah Band of the Navajo Tribe of Indians;

(F) Navajo Nation;

(G) State of New Mexico; and

(H) private landowners;

(9) all persons living within the Zuni River watershed will benefit from a cooperative effort to rehabilitate and manage the watershed.

SEC. 3. STUDY, PLAN, AND REPORT.

(a) STUDY AND PLAN.—

(1) IN GENERAL.—The Secretary of Agriculture, acting through the Chief of the Soil Conservation Service and the Chief of the Forest Service, the Secretary of the Interior, acting through the Assistant Secretary for Indian Affairs, and the Tribes, shall—

(A) conduct a study of the portion of the Zuni River watershed that is upstream from the Zuni Indian Reservation, as depicted on the map entitled "Zuni River Watershed" which shall be on file and available for public inspection in the—

(i) New Mexico State Office of the Soil Conservation Service;

(ii) Albuquerque Area Office of the Bureau of Indian Affairs; and

(iii) tribal offices;

(B) prepare a plan for watershed protection and rehabilitation on both public and private lands.

(2) PLAN COMPONENTS.—The plan required by paragraph (1)(B) shall include—

(A) a watershed survey describing current natural and cultural resource conditions;

(B) recommendations for watershed protection and rehabilitation on both public and private lands;

(C) management guidelines for maintaining and improving the natural and cultural resource base on both public and private lands;

(D) a system for monitoring natural and cultural resource conditions that can be coordinated with the system developed by the Zuni Indian Tribe;

(E) proposals for voluntary cooperative programs, that implement and administer the plan required by paragraph (1)(B), among—

(i) the Department of Agriculture;

(ii) the Department of the Interior;

(iii) the Zuni River Tribe;

(iv) the Ramah Band of the Navajo Tribe of Indians;

(v) the Navajo Nation;

(vi) the State of New Mexico;

(vii) private landowners within the portion of the Zuni River watershed that is upstream from the Zuni Indian Reservation; and

(viii) other public or private agencies;

(F) a project plan that—

(i) outlines tasks necessary to implement the plan required by paragraph (1)(B);

(ii) recommends completion dates; and

(iii) estimates the costs of the tasks; and

(G) a monitoring plan that—

(i) outlines tasks for monitoring and maintaining the watershed; and

(ii) estimates the annual cost of performing the tasks.

(b) REPORT.—Not later than 4 years after the date that funds are made available for the study and the preparation of the plan as required by subsection (a)(1), the Secretary of Agriculture, the Secretary of the Interior, and the Tribes shall submit to the Select Committee on Indian Affairs of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives a written report containing—

(1) the full text of the study and the plan; and

(2) an executive summary of the study and the plan.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from West Virginia [Mr. RAHALL] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from West Virginia [Mr. RAHALL].

GENERAL LEAVE

Mr. RAHALL. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks on the bill under consideration.

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

There was no objection.

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

Mr. Speaker, H.R. 4026 is sponsored by Representative RICHARDSON of New Mexico. The Zuni Watershed Act will help the Zuni Pueblo, Ramah Navajo Tribe, and the Navajo Nation to plan to restore severely damaged trust lands in the Zuni River watershed. This legislation will institute a comprehensive and effective plan for the proper management of the watershed, based on a cooperative collaboration of the Zuni Ramah, and Navajo Tribes, the State of New Mexico, private landholders and Federal agencies. H.R. 4026 is critical for the restoration and protection of important natural and cultural resources in the watershed.

This legislation is necessary for the implementation of the Zuni Conservation Act which passed in the last Congress. The act which passed in the last Congress was to protect the lands on the Zuni Reservation. This bill is to plan to protect the part of the Zuni watershed upstream from the reservation.

The bill has the support of the administration and I urge my colleagues to support it.

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

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I fully support enactment of H.R. 4026, the Zuni River Watershed Act. I will only add to the statements of the gentleman from West Virginia by noting that the bill is endorsed by both the Bureau of Indian Affairs and the administration.

Mr. RICHARDSON. Mr. Speaker, extensive runoff of water from the Zuni River in New Mexico continues to erode the tribal lands of the Zuni Pueblo Indians, the Ramah Navajo Tribe, and the Navajo Nation. Severe damage to trust lands in this area have occurred for decades, destroying natural resources and significant archeological sites.

Today, the House will consider H.R. 4026, legislation I introduced that will institute an effective plan for the proper management of the Zuni watershed. The plan is based on a cooperative collaboration of the Zuni Tribe, the Ramah Band of the Navajo Tribe, the Navajo Nation, the State of New Mexico, the Soil Conservation Service, the Forest Service, the Bureau of Indian Affairs, private landholders, and other residents living within the Zuni watershed.

The plan takes a comprehensive approach to rehabilitating and managing the watershed and is comprised of several components, including a study of the portion of the Zuni River which is upstream from the Zuni Indian Reservation; recommendations for watershed protection and rehabilitation on both public and private lands; management guidelines for maintaining and improving the natural and cultural resource base on public and private lands; a system for monitoring natural and cultural resource conditions that can be coordinated with the system developed by the Zuni Tribe; and proposals for voluntary cooperative programs to implement and administer the plan.

This legislation also requires that the Secretaries of Agriculture and Interior and the tribes submit a report on the study and plan to Congress within 4 years after enactment.

Mr. Speaker, passage of H.R. 4026 is a critical step toward the restoration of the Zuni River watershed—a step that will help all residents living in the watershed. I urge my colleagues to join me in support.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield back the balance of my time.

Mr. RAHALL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from West Virginia [Mr. RAHALL] that the House suspend the rules and pass the bill, H.R. 4026, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

INDIAN TRIBAL JUSTICE ACT

Mr. RAHALL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4004) to assist in the development of tribal judicial systems, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4004

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indian Tribal Justice Act".

SEC. 2. FINDINGS.

The Congress finds and declares that—

(1) there is a government-to-government relationship between the United States and each Indian tribe;

(2) Congress, through statutes, treaties, and the exercise of administrative authorities, has recognized the self-determination, self-reliance, and independence of Indian tribes;

(3) Indian tribes possess the inherent authority to establish, empower, control, and supervise tribal justice systems;

(4) tribal justice systems are essential to self-government and integral to the fulfillment of the Federal Government's policy of self-determination;

(5) tribal justice systems are inadequately funded and the lack of adequate funding impairs their ability to administer justice effectively;

(6) each Indian tribe is free to establish its own institutions and form of government; and

(7) tribal government involvement in and commitment to improving tribal justice systems is essential to the accomplishment of the goals of this Act.

SEC. 3. DEFINITIONS.

For purposes of this Act:

(1) The term "Bureau" means the Bureau of Indian Affairs of the Department of the Interior.

(2) The term "Courts of Indian Offenses" means the courts established pursuant to part 11 of title 25, Code of Federal Regulations.

(3) The term "Indian tribe" means any Indian tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native entity which administers justice, which is recognized as eligible for the special programs and services provided by the United States to Indian tribes because of their status as Indians.

(4) The term "judicial personnel" means any judge, magistrate, court counselor, court clerk, court administrator, bailiff, probation officer, officer of the court, dispute resolution facilitator, or other official, employee, or volunteer within the tribal justice system.

(5) The term "Office" means the Office of Tribal Justice Support of the Bureau of Indian Affairs established under section 101.

(6) The term "Secretary" means the Secretary of the Interior.

(7) The term "tribal justice system" means the entire justice system of an Indian tribe, including but not limited to traditional methods and forums for dispute resolution, lower courts, appellate courts, alternative dispute resolution systems, and circuit rider systems, established by inherent tribal authority whether or not they constitute a court of record, and the employees thereof.

TITLE I—TRIBAL JUSTICE SUPPORT

SEC. 101. OFFICE OF TRIBAL JUSTICE SUPPORT.

(a) ESTABLISHMENT.—There is hereby established within the Bureau, the Office of Tribal Justice Support. The purpose of the Office shall be to further the development, operation, and enhancement of tribal justice systems.

(b) TRANSFER OF EXISTING FUNCTIONS AND PERSONNEL.—All functions performed before the date of the enactment of this Act by the Branch of Judicial Services of the Bureau and all personnel assigned to such Branch as of the date of the enactment of this Act are hereby transferred to the Office of Tribal Justice Support. Any reference in any law, regulation, executive order, reorganization plan, or delegation of authority to the Branch of Judicial Services is deemed to be a reference to the Office of Tribal Justice Support.

(c) FUNCTIONS.—In addition to the functions transferred to the Office pursuant to subsection (b), the Office shall perform the following functions:

(1) Develop and conduct programs of continuing education and training for personnel of tribal justice systems.

(2) Provide funds to Indian tribes for the development, enhancement, and continuing operation of tribal justice systems.

(3) Provide technical assistance and training to Indian tribes, tribal organizations, and inter-tribal consortia upon request.

(4) Study and conduct research concerning the operation of tribal justice systems.

(5) Promote cooperation and coordination between tribal justice systems, the Federal judiciary, and State judiciary systems.

(6) Oversee the continuing operations of the Courts of Indian Offenses.

(d) NO IMPOSITION OF STANDARDS.—Nothing in this section shall be deemed or construed to authorize the Office to impose justice standards on Indian tribes.

(e) ASSISTANCE TO TRIBES.—(1) The Office shall provide training and technical assistance to any Indian tribe upon request. Technical assistance and training which may be provided by the Office shall include, but is not limited to, assistance for the development of—

(A) tribal codes and rules of procedure;

(B) tribal court administrative procedures and court records management systems;

(C) methods of reducing case delays;

(D) methods of alternative dispute resolution;

(E) tribal standards for judicial administration and conduct; and

(F) long-range plans for the enhancement of tribal justice systems.

(2) Technical assistance and training provided pursuant to paragraph (1) may be provided through direct services, by contract with independent entities, or through grants to Indian tribes and tribal organizations.

(f) INFORMATION CLEARINGHOUSE ON TRIBAL JUSTICE SYSTEMS.—The Office shall establish an information clearinghouse (which shall include an electronic data base) on tribal justice systems, including, but not limited to, information on tribal judicial personnel, funding, model tribal codes, tribal justice activities, and tribal judicial decisions.

SEC. 102. SURVEY OF TRIBAL JUSTICE SYSTEMS.

(a) IN GENERAL.—Not later than one year after the date of the enactment of this Act, the Office shall conduct a survey of conditions of tribal justice systems and Courts of Indian Offenses to determine the resources and funding needed to provide for expeditious and effective administration of justice. The Office shall annually update the information and findings contained in the survey required under this section.

(b) LOCAL CONDITIONS.—In the course of any annual survey, the Office shall document local conditions on each reservation, including but not limited to—

(1) the reservation size and population to be served;

(2) the levels of functioning and capacity of the tribal justice system;

(3) the volume and complexity of the case loads;

(4) the facilities and program resources available;

(5) funding levels and personnel staffing requirements for the tribal justice system;

(6) the experience and qualifications of judicial personnel of the tribal justice system; and

(7) the training and technical assistance needs of the tribal justice system.

(c) CONSULTATION WITH INDIAN TRIBES.—The Office shall actively consult with Indian tribes in the development of the survey of conditions of tribal justice systems. Indian tribes shall have the opportunity to review and make recommendations regarding the findings of the survey prior to final publication of the survey. After Indian tribes have reviewed and commented on the results of the survey, the Office shall report its findings to the Secretary, the Select Committee on Indian Affairs of the Senate, and the Committee on Interior and Insular Affairs of the House of Representatives.

SEC. 103. BASE SUPPORT FUNDING FOR TRIBAL JUSTICE SYSTEMS.

(a) IN GENERAL.—The Secretary is authorized (to the extent provided in advance in appropriation Acts) to enter into contracts, grants, or agreements with Indian tribes, tribal organizations, or inter-tribal consortia pursuant to the Indian Self-Determination Act for the development, enhancement, and continuing operation of tribal justice systems on Indian reservations.

(b) PURPOSES FOR WHICH FINANCIAL ASSISTANCE MAY BE USED.—Financial assistance provided through contracts, grants, or agreements entered into pursuant to this section may be used for—

(1) planning for the development, enhancement, and operation of tribal justice systems;

(2) the employment of judicial personnel;

(3) training programs and continuing education for tribal judicial personnel;

(4) the acquisition, development, and maintenance of a law library or computer assisted legal research capacities;

(5) the development, revision, and publication of tribal codes, rules of practice, rules of procedure, and standards of judicial performance and conduct;

(6) the development and operation of a records management system;

(7) the construction or renovation of facilities for tribal justice systems;

(8) membership and related expenses for participation in national and regional organizations of tribal justice systems and other professional organizations; and

(9) the development and operation of other innovative and culturally relevant programs and projects, including programs and projects for—

(A) alternative dispute resolution;

(B) tribal victims assistance or victims services;

(C) tribal probation services or diversion programs;

(D) multidisciplinary investigations of child abuse; and

(E) tribal traditional justice systems or traditional methods of dispute resolution.

(c) FORMULA.—(1) Not later than 180 days after the date of the enactment of this Act, the Secretary, with the full participation of Indian tribes, shall establish and promulgate by regulations, a formula which establishes base support funding for tribal justice systems. In the development of regulations for base support funding for tribal justice systems, the Secretary shall consult with and receive the recommendations of Indian tribes.

(2) The Secretary shall develop appropriate case load standards and staffing requirements for tribal justice systems that take into account unique reservation conditions. In the development of these standards, the Secretary shall work cooperatively with Indian tribes and shall refer to comparable relevant standards developed by the Judicial Conference of the United States, the Administrative Office of United States Courts, the National Center for State Courts, and the American Bar Association.

(3) Factors to be considered in the development of the base support funding formula shall include, but are not limited to—

(A) the case load standards and staffing requirements developed under this paragraph;

(B) the reservation size and population to be served;

(C) the volume and complexity of the case loads;

(D) the projected number of cases per month;

(E) the projected number of persons receiving probation services or participating in diversion programs; and

(F) any special circumstances warranting additional financial assistance.

(4) In developing the formula for base support funding for tribal judicial systems under this section, the Secretary shall ensure equitable distribution of funds.

SEC. 104. AUTHORIZATION OF APPROPRIATIONS.

(a) OFFICE.—There are authorized to be appropriated to carry out the provisions of sections 101 and 102 of this Act $7,000,000 for each of the fiscal years 1993, 1994, 1995, 1996, and 1997.

(b) BASE SUPPORT FUNDING.—There are authorized to be appropriated to carry out the provisions of section 103 of this Act $50,000,000 for each of the fiscal years 1993, 1994, 1995, 1996, and 1997.

TITLE II—JUSTICE GRANT PROGRAM

SEC. 201. JUSTICE GRANT PROGRAM.

Section 803 of the Native American Programs Act of 1974 (42 U.S.C. 2991b) is amended by adding at the end thereof the following new subsection:

"(e)(1) The Secretary shall make grants to Indian tribes and Indian organizations for the purpose of funding 80 percent of the costs of planning, developing, and implementing programs designed to improve the capability of the governing body of the Indian tribe to administer justice on Indian reservations.

"(2) The purposes for which funds provided under paragraph (1) may be used include, but are not limited to—

"(A) the enhancement of tribal justice systems through the advancement of tribal self-determination;

"(B) the training and education of tribal judges, court administrators, court clerks, probation officers, officers of the court, and other employees of tribal courts;

"(C) the development and revision of tribal codes, rules of procedure, and other judicial standards;

"(D) the development and implementation of traditional justice systems and forms of dispute resolution;

"(E) the development of programs to assist tribal victims of crime or victims assistance programs;

"(F) the development of new and innovative diversion programs for tribal offenders;

"(G) the development of tribal court reporting systems and publication of tribal court decisions; and

"(H) the establishment of innovative local and national programs for the advancement of tribal justice systems.

"(3) Notwithstanding the second sentence of subsection (b), the 20 percent of the costs of planning, developing, and implementing a program for which a grant is awarded under paragraph (1) required to be contributed by a grant recipient may be made in cash or through the provision of property or services, fairly evaluated, from any source (including any Federal agency) other than a program, contract, or grant authorized under this title.

"(4) Grants shall be awarded under paragraph (1) on the basis of applications that are submitted by Indian tribes and Indian organizations to the Secretary in such form as the Secretary shall prescribe.".

SEC. 202. AUTHORIZATION OF APPROPRIATIONS.

Section 816 of the Native American Programs Act of 1974 (42 U.S.C. 2992d) is amended—

(1) by striking out "sections 803(d) and 803A" each place it appears and inserting in lieu thereof "sections 803(d), 803(e), and 803A"; and

(2) by adding at the end thereof the following new subsection:

"(e) There are authorized to be appropriated $10,000,000 for each of the fiscal years 1993, 1994, 1995, 1996, and 1997, for the purpose of carrying out the provisions of section 803(e).".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from West Virginia [Mr. RAHALL] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from West Virginia [Mr. RAHALL].

GENERAL LEAVE

Mr. RAHALL. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks on the bill under consideration.

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

There was no objection.

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

Mr. Speaker, H.R. 4004 is the Indian Tribal Justice Act of 1992. The bill establishes an Office of Tribal Justice Support within the Bureau of Indian Affairs to provide funds for the development and continuing operation of tribal justice systems. In addition, the Office will provide training and technical assistance to tribes and function as an information clearinghouse. The bill also provides for grants to tribal organizations through the Administration for Native Americans. Under these ANA grants, tribes can enhance their justice systems and get supplemental assistance to improve the quality of justice. The committee took a great deal of testimony on the concept of Indian tribes forming their own judicial conference similar to those in States and the Federal Government. It is the committee's position that if tribes choose to form such a conference, this ANA funding will allow them the flexibility to do so. That way, the conference will emanate from the inherent sovereignty of tribes as opposed to a congressional delegation of this authority.

The committee supports the inherent right of tribes to maintain their own unique forms of justice systems. It is the committee's position that these tribal systems of justice should be al-

lowed to flourish, but at the same time the civil rights of Indian people need to be protected. The Indian Civil Rights Act passed in 1968. It guarantees similar rights to Indian people as are guaranteed under the Bill of Rights. Since then, tribal courts have been forced to modernize at a rapid pace. After 5 years of hearings, the U.S. Civil Rights Commission concluded last year that the tribal courts had problems, but these problems all stemmed from a lack of funding. The Commission also recommended that tribal courts retain their independence from the Federal courts and be allowed to grow with additional funding. The bill will accomplish those objectives.

This measure has bipartisan support and I urge my colleagues to support it.

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

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4004, the Indian Tribal Justice Act, as amended by the committee. The gentleman from West Virginia has adequately explained the bill's provisions, so I will simply address some of the important policy considerations underlying the substitute.

It is clear that there is a real need for the increase in both the financial and technical support afforded to Indian tribal justice systems by the substitute. Most tribal justice systems are woefully underfunded and, as a result, understaffed. Consequently, their ability to serve adequately the needs of the tribes and to uphold justice is undermined. Caseloads increase, backlogs develop, and enforcement of tribal laws and regulations lags.

As an example, the 1991 Report of the U.S. Commission on Civil Rights noted that inadequate funding seriously compromises the tribes' ability to comply with the Indian Civil Rights Act—the law guaranteeing to Indian residents of the reservations the same vital rights guaranteed to us by the Constitution. The substitute increases both funding and support for tribal justice systems to alleviate these problems.

The substitute also seeks to address the concerns raised by many tribes that a federally created tribal judicial conference, as envisioned in the bill as introduced, could intrude upon tribal sovereignty by imposing non-Indian concepts of justice on the tribes. The authority of each tribal court comes directly from the inherent sovereign power of each individual Indian tribe. While tribal justice systems are essential to the proper execution and enforcement of tribal laws, each tribe must determine for itself the structure and authority of its system. In eliminating a federally created tribal judicial conference and its attendant offices, the substitute avoids possible encoachment on the tribes' rights. Instead, the tribes are free, if they wish, to form their own conference or similar entity.

In addition, the substitute is more sensitive to those tribes with traditional, non-Anglo-American justice systems. Many tribes—such as the Pueblos of New Mexico and the Navajo—have justice systems based on traditional formats of dispute resolution. The language of the substitute reflects the committee's desire that these historic forms retain equal footing with the newer, nontraditional systems.

Finally, I note that the objectives of H.R. 4004 enjoy the support of the Department of the Interior.

For these reasons, I urge my colleagues to support passage of H.R. 4004 as amended by the committee.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield back the balance of my time.

Mr. RAHALL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from West Virginia [Mr. RAHALL] that the House suspend the rules and pass the bill, H.R. 4004, as amended.

The question was taken: and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

ALASKA LAND STATUS TECHNICAL CORRECTIONS ACT OF 1992

Mr. RAHALL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3157) to provide for the settlement of certain claims under the Alaska Native Claims Settlement Act, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3157

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Alaska Land Status Technical Corrections Act of 1992".

SEC. 2. FORT DAVIS NATIVE ALLOTMENT.

Section 905(a)(1) of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1634(a)(1)) is amended—

(1) by inserting "(A)" after "(1)";

(2) by inserting "or within Fort Davis (except as provided in subparagraph (B))" after "Naval Petroleum Reserve No. 4)"; and

(3) by adding at the end the following new subparagraph:

"(B) The land referred to in subparagraph (A) with respect to Fort Davis—

"(i) shall be restricted to—

"(I) the allotment applications named in the decision published at 96 IBLA 42 (1987) and to the acreage involved in those applications; or

"(II) the heirs of an applicant who made an application described in subclause (I); and

"(ii) shall be subject to valid existing rights and an easement for the Iditarod National Historic Trail established by section 5(a)(7) of the National Trails System Act (16 U.S.C. 1244(a)(7)), but pending final determination of the trail's location, the easement shall be located on an interim basis by the Secretary, in consultation with the Iditarod Historic Trail Advisory Council.".

SEC. 3. NATIVE ALLOTMENT RELOCATION.

Section 18 of the Alaska Native Claims Settlement Act (43 U.S.C. 1617) is amended by adding at the end the following new subsection:

"(c)(1)(A) Notwithstanding any other provision of law, an allotment applicant, who had a valid application pending before the Department of the Interior on December 18, 1971, and whose application remains pending as of the date of enactment of this subsection, may amend the land description in the application of the applicant (with the advice and approval of the responsible officer of the Bureau of Indian Affairs) to describe land other than the land that the applicant originally intended to claim if—

"(i) the application pending before the Department, either describes land selected by, tentatively approved to, or patented to the State of Alaska or otherwise conflicts with an interest in land granted to the State of Alaska by the United States prior to the filing of the allotment application;

"(ii) the amended land description describes land selected by, tentatively approved to, or patented to the State of Alaska of approximately equal acreage in substitution for the land described in the original application; and

"(iii) the Commissioner of the Department of Natural Resources for the State of Alaska, acting under the authority of State law, has agreed to reconvey or relinquish to the United States the land, or interest in land, described in the amended application.

"(B) If an application pending before the Department of the Interior as described in subparagraph (A) describes land selected by, but not tentatively approved to or patented to, the State of Alaska, the concurrence of the Secretary of the Interior shall be required in order for an application to proceed under this section.

"(2)(A) The Secretary shall accept reconveyance or relinquishment from the State of Alaska of the land described in an amended application pursuant to paragraph (1)(A), except where the land described in the amended application is State-owned land within the boundaries of a conservation system unit as defined in the Alaska National Interest Lands Conservation Act. Upon acceptance, the Secretary shall issue a Native Allotment certificate to the applicant for the land reconveyed or relinquished by the State of Alaska to the United States.

"(B) The Secretary shall adjust the computation of the acreage charged against the land entitlement of the State of Alaska to ensure that this subsection will not cause the State to receive either more or less than its full land entitlement under section 6 of the Act entitled 'An Act to provide for the admission of the State of Alaska into the Union', approved July 7, 1958 (commonly referred to as the 'Alaska Statehood Act'), and section 906 of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1635). If the State retains any part of the fee estate, the State shall remain charged with the acreage.".

SEC. 4. GIFT OF STOCK TO SIBLINGS.

Section 7(h)(1)(C)(iii) of the Alaska Native Claims Settlement Act (43 U.S.C. 1606(h)(1)(C)(iii)) is amended by striking "or nephew" and inserting "nephew, or (if the holder has reached the age of majority as de-

fined by the laws of the State of Alaska) brother or sister".

SEC. 5. SHAREHOLDER HOMESITE.

Section 21(j) of the Alaska Native Claims Settlement Act (43 U.S.C. 1620(j)) is amended—

(1) by striking "prior to December 18, 1991,"; and

(2) by striking "*Provided*, That" and inserting "*Provided*, That alienability of the Settlement Common Stock of the Corporation has not been terminated pursuant to section 37: *Provided further*, That".

SEC. 6. CHUGACH NATIONAL FOREST BOUNDARY CHANGE.

(a) BOUNDARY ADJUSTMENT.—The boundary of the Chugach National Forest, Alaska, is modified to include the approximately 9,300 acres as generally depicted on the map entitled "Official Map, Boundary Modification, Chugach National Forest" and dated September 1988. The map shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

(b) ADMINISTRATION.—Subject to valid existing rights, all Federal lands brought within the boundary of the Chugach National Forest by subsection (a) are added to and shall be administered as part of the Chugach National Forest.

(c) TERMS AND CONDITIONS.—(1) Nothing in this Act shall be construed to affect the validity of, or the terms and conditions of, any right-of-way, easement, lease, license, or permit on lands transferred by this section that is in existence on the date of enactment of this Act.

(2) Notwithstanding any other provision of law, the Secretary of the Interior shall delegate, as necessary, to the Secretary of Agriculture the authority to renew or reissue the authorizations described in paragraph (1). The change of administrative jurisdiction over these lands resulting from subsection (a) shall not constitute a ground for the denial of renewal or reissuance of the authorizations described in paragraph (1).

(d) LAND AND WATER CONSERVATION FUND ACT.—For purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-9), the boundary of the Chugach National Forest, as modified by this section, shall be treated as if it were the boundary of the Chugach National Forest as of January 1, 1965.

SEC. 7. RABBIT CREEK LIONS CLUB.

(a) CONVEYANCE.—Pursuant to the Act entitled "An Act to authorize acquisition or use of public lands by States, counties, or municipalities for recreational purposes", approved June 14, 1926 (43 U.S.C. 869 et seq.) (commonly referred to as the "Recreation and Public Purposes Act"), and other laws of the United States, the Secretary of the Interior shall, upon payment to the Secretary of an amount equal to the fair market value of the lot, convey lot 253, Township 12 North, Range 3 West, Seward Meridian, Alaska, containing .93 acres, to the Rabbit Creek Lions Club. The conveyance shall—

(1) preserve valid existing rights-of-way and easements; and

(2) reserve all minerals to the United States.

(b) APPRAISAL.—The appraisal to determine the fair market value of the lot shall be conducted in accordance with the Uniform Appraisal Standards for Federal Land Acquisitions and shall not include any improvements currently on the lot.

SEC. 8. ISSUANCE OF NEW STOCK.

Section 7(g)(1)(B)(i)(I) of the Alaska Native Claims Settlement Act (43 U.S.C. 1606(g)(1)(B)(i)(I)) is amended by adding at the end the following: "and, at the further option of the Corporation, descendants of Natives born after December 18, 1971,".

SEC. 9. UNIVERSITY OF ALASKA.

Notwithstanding any other provision of law, the Secretary of the Interior shall convey to the University of Alaska, by quitclaim deed and without consideration, all the right, title, and interest of the United States in and to—

(1) the lands of the University of Alaska Agricultural Experiment Station, consisting of approximately 16 acres, including improvements on the lands, located at Palmer and Matanuska, Alaska; and

(2) the lands of the University of Alaska Fur Farm Experiment Station, consisting of approximately 37 acres, including improvements on the lands, located at Petersburg, Alaska, subject to the terms of—

(A) the lease between the Forest Service and the University of Alaska dated March 29, 1978; and

(B) the agreement between the parties listed in subparagraph (A) dated March 2, 1983.

SEC. 10. MINORITY BUSINESS.

Section 29(e) of the Alaska Native Claims Settlement Act (43 U.S.C. 1626(e)) is amended by inserting "and economically disadvantaged" after "minority" each place it appears in paragraphs (1) and (2).

SEC. 11. SHAREHOLDER HIRE.

Section 29(g) of the Alaska Native Claims Settlement Act (43 U.S.C. 1626(g)) is amended—

(1) by striking "defined in" and inserting "of entities excluded from the definition of 'employer' by"; and

(2) by striking "section 701(b)" and inserting "section 701(b)(1)".

SEC. 12. ALASKA NATIVE ALLOTMENTS.

Section 905 of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1634) is amended by adding at the end the following new subsection:

"(f)(1)(A) Notwithstanding paragraphs (1) and (6) of subsection (a), and subject to subparagraph (B), each Alaska Native allotment application made pursuant to the Act entitled 'An Act authorizing the Secretary of the Interior to allot homesteads to the natives of Alaska', approved May 17, 1906 (34 Stat. 197), that—

"(i) was pending before the Department of the Interior on or before December 18, 1971; and

"(ii) describes lands within the National Petroleum Reserve-Alaska that have been selected, interim conveyed, or patented to a Village Corporation or Regional Corporation,

is reinstated only for the purpose of this section, subject to this section.

"(B) The reinstatement under subparagraph (A) shall be carried out regardless of whether the application was—

"(i) relinquished by the applicant; or

"(ii) denied by the Department of the Interior, if the denial was based solely on the grounds that land within the National Petroleum Reserve-Alaska was unavailable.

"(2)(A) To the extent that the application describes lands (or any interest in the lands) that have been selected, interim conveyed, or patented to a Village Corporation or Regional Corporation, the Secretary is authorized to accept from the Village Corporation or Regional Corporation the reconveyance or relinquishment of the lands (or any interest in the lands).

"(B)(i) To the extent that the application describes lands (or any interest in the lands) that a Village Corporation is not willing to reconvey or relinquish pursuant to subparagraph (A), the applicant may relinquish any claim to any portion of the lands (or any interest in the lands) or may, with the consent of the affected Village Corporation, amend the application to exclude the lands and include in lieu thereof a description of lands selected by, interim conveyed to, or patented to the Village Corporation of an acreage that is not to exceed the amount of land relinquished.

"(ii) The Secretary is authorized to accept the reconveyance or relinquishment of the lands (or any interest in the lands) described in the amended application from the Village Corporation or Regional Corporation in lieu of the lands (or any interest in the lands) described in the initial application.

"(C) If a Village Corporation or Regional Corporation reconveys lands (or any interest in the lands) to the United States under subparagraph (A) or (B), the Secretary shall reduce the acreage charged against the entitlement of the Village Corporation or Regional Corporation.

"(D) The authority of the Secretary to accept the reconveyance or relinquishment of lands (or any interest in the lands) under this paragraph shall terminate on the date that is 6 years after the date of enactment of this subsection.

"(3)(A) Subject to any valid existing rights, to the extent that the application describes lands that are authorized to be reconveyed or relinquished to the United States under paragraph (2), the Village Corporation shall file with the Secretary, not later than 3 years after the date of enactment of this subsection, the name of the applicant and the land description of each allotment proposed to be reconveyed or relinquished.

"(B) Upon receipt of the land description, the Secretary shall immediately notify the State of Alaska and all interested parties of the land description proposed to be reconveyed or relinquished, and any such party shall have 60 days following notification in which to file with the Department of the Interior a protest as provided in subsection (a)(5).

"(C) The Secretary shall then either—

"(i) if no protest is filed, approve the application; or

"(ii) if a protest is filed, adjudicate the legal sufficiency of any protest timely filed; and—

"(I) if the protest is legally insufficient, approve the application; or

"(II) if the protest is valid, issue a decision that closes the application and that is final for the Department.

"(D) The Secretary shall, with respect to each allotment approved pursuant to this subsection—

"(i) survey the allotment; and

"(ii) following reconveyance or relinquishment, issue a Native allotment certificate to the applicant or heirs of the applicant.

"(4)(A) To the extent a Village Corporation or a Regional Corporation reconveys lands (or any interest in the lands) to the United States pursuant to paragraph (2) and the conveyance results in a reduction in the acreage charged against the entitlement of the Village Corporation or Regional Corporation under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), the Village Corporation or Regional Corporation shall be entitled to make selections in lieu of the reconveyed lands (or any interest in the lands).

"(B)(i) The quantity of acreage of the surface estate reconveyed pursuant to paragraph (2) shall be added to the quantity of

acreage of underselection, if any, for the Village Corporation. The Secretary shall provide for the selection of lands for replacement in accordance with the procedures for withdrawals and selections under section 22(j)(2) of the Alaska Native Claims Settlement Act (43 U.S.C. 1621(j)(2)).

"(ii)(I) A Village Corporation described in clause (i) shall be entitled to select lands for replacement from the lands that have been withdrawn for selection by the Village Corporation pursuant to section 11(a)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1610(a)(1)).

"(II) In any case in which the lands described in subclause (I) are no longer in Federal ownership and the Village Corporation is entitled to make a selection pursuant to this subparagraph, the Secretary shall withdraw, and the Village Corporation shall select, Federal lands that are compact and contiguous with lands previously conveyed to the Village Corporation.

"(C) Lands (or any interests in the lands) in the replacement of lands (or interests in the lands) reconveyed by the Regional Corporation to the United States under this subsection shall be selected by the Regional Corporation from lands that are—

"(i) compact and contiguous with other lands previously conveyed to the Regional Corporation within the National Petroleum Reserve–Alaska; and

"(ii) beneath the surface estate of lands selected and conveyed to a Village Corporation.

"(D) The Secretary shall convey the lands selected pursuant to this paragraph in accordance with this subsection.

"(5)(A) Each Native allotment certificate issued to an applicant or the heirs of the applicant pursuant to paragraph (3) shall be subject to any existing easement or other right that had been reserved, conveyed, transferred, or recognized by the United States prior to the issuance of the certificate.

"(B) Each conveyance by the Secretary to any applicant or to the heirs of the applicant under this subsection shall reserve to the United States—

"(i) except as provided in subparagraph (C), all interests in oil, gas, and coal in the conveyed lands, and the right of the United States, or a lessee or assignee of the United States, to enter on lands conveyed to the applicant or to the heirs of the applicant, to drill, explore, mine, produce, and remove the oil, gas, or coal; and

"(ii) all other rights reasonably incident to the mineral reservations described in clause (i).

"(C)(i) If the oil, gas, or coal described in subparagraph (B)(i) was previously conveyed to the Regional Corporation and the Regional Corporation reserves those interests in a reconveyance to the United States, the Secretary shall reserve from the reconveyance to the applicant or to the heirs of the applicant for the benefit of the Regional Corporation the same rights and privileges that would have been reserved for the United States.

"(ii) With respect to a reconveyance of lands (or any interest in the lands) by the Regional Corporation to the United States that does not convey the entire mineral estate, the Regional Corporation shall not be entitled—

"(I) to a reduction of the acreage charged against the entitlement under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.); or

"(II) to select mineral interests to replace the acreage.

"(6) The United States shall not be subject to liability for the presence of any hazardous substance in land or an interest in land solely as a result of any reconveyance to and transfer by the United States of the land or interest pursuant to this subsection.".

SEC. 13. POINT HOPE TOWNSITE.

(a) DEFINITIONS.—As used in this section:

(1) The term "Act" means the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

(2) The terms "Native" and "descendant of a Native" have the meanings provided the terms in subsections (b) and (r), respectively, of section 3 of the Act (43 U.S.C. 1602).

(3) The term "North Slope Borough surveys" means those lands within sections 11 and 14 of Township 34 North, Range 35 West, Kateel River Meridian, Alaska, that have been surveyed by the North Slope Borough, Alaska, in surveys identified as—

(A) "North Slope Borough Survey Plat of New Point Hope," dated December 1975, covering 137.49 acres;

(B) "Addition Number One" to the survey described in subparagraph (A), dated April 1978, covering 12.50 acres;

(C) "Addition Number Two" to the survey described in subparagraph (A), dated September 1980, covering 12.50 acres; and

(D) "Addition Number 3" to the survey described in subparagraph (A), dated March 1983, covering 30.374 acres.

(4) The term "Regional Corporation" means Arctic Slope Regional Corporation, the Native Regional Corporation established pursuant to section 7(d) of the Act (43 U.S.C. 1606(d)) by the Native residents of the North Slope of Alaska.

(5) The term "Secretary" means the Secretary of the Interior.

(6) The term "Village Corporation" means Tigara Corporation, the Native Village Corporation established pursuant to section 8(a) of the Act (43 U.S.C. 1607(a)) by the Native residents of the Village of Point Hope, Alaska.

(b) RECONVEYANCE.—(1) Subject to paragraph (2), the Secretary is authorized to accept reconveyance from the Village Corporation and the Regional Corporation of interests in specific, individual lots identified in the North Slope Borough surveys in any case in which the land (or any interest in the land) of the lots had been previously interim conveyed or patented to the Village Corporation and the Regional Corporation.

(2)(A) In making any reconveyance to the United States pursuant to paragraph (1), the Village Corporation shall—

(i) designate the individual to receive title to the specific lot; and

(ii) certify to the Secretary that the individual is a resident of Point Hope and an Alaska Native or descendant of a Native.

(B) Each reconveyance to the United States under this section shall be completed not later than 5 years after the date of enactment of this section.

(c) ISSUANCE OF DEEDS.—(1)(A) Subject to paragraphs (2) and (3), upon receipt of the reconveyance, identification, and certification described in subsection (b), the Secretary shall transfer each lot to the individual identified by the Village Corporation, by issuing—

(i) a restricted deed pursuant to subparagraph (B); or

(ii) an unrestricted deed pursuant to subparagraph (C).

(B) A restricted deed may be issued under this paragraph subject to the following conditions:

(i) The deed shall provide that the title conveyed is inalienable (except upon approval of the Secretary).

(ii) After the issuance of the restricted deed, the lot shall not be subject to taxation, to levy and sale in satisfaction of debts, contracts, or liabilities of the patentee, or to any claims of adverse occupancy or law of prescription.

(iii) The approval by the Secretary of the sale by an individual of a lot deeded under this section shall vest in the purchaser a complete and unrestricted title beginning on the date of approval, except that if the purchaser is an Alaska Native or a descendent of a Native, the purchaser shall receive a deed subject to the same restrictions as applied to the initial grantee.

(C)(i) Upon a finding by the Secretary that the individual identified by the Village Corporation is competent to manage the property and has petitioned the Secretary for an unrestricted deed, the Secretary shall issue the unrestricted deed in accordance with clauses (ii) and (iii).

(ii) Except as provided in clause (iii), if the Secretary issues an unrestricted deed, all restrictions as to sale, encumbrance, or taxation of the land subject to the deed shall be removed.

(iii) Except with respect to any obligation owed to the United States, the land subject to the deed shall not be liable to the satisfaction of any debt as a result of a contract in effect prior to issuance of the deed.

(2) Any interest in any lot conveyed by the Secretary pursuant to this subsection shall be subject to all valid existing rights.

(3) The aggregate amount of acreage of all lots conveyed under this subsection shall not exceed 195 acres.

(d) ALLOTMENTS.—(1)(A) If any lot identified pursuant to this section in the North Slope Borough surveys encompasses land (or any interest in the land) that—

(i) is the subject of a valid Alaska Native allotment application made pursuant to the Act entitled "An Act authorizing the Secretary of the Interior to allot homesteads to the natives of Alaska", approved May 17, 1906 (34 Stat. 197); and

(ii) includes land that has been interim conveyed or patented to the Village Corporation and the Regional Corporation,

the applicant for the allotment may, with the consent of the Village Corporation, submit an amended application that describes land that had been interim conveyed or patented to the Village Corporation and Regional Corporation (in lieu of the land described in the initial application) in an acreage that is equal to the acreage of the land described in the initial application.

(B) The Secretary shall accept the reconveyance of the land (or any interest in the land) described in subparagraph (A) from the Village Corporation or the Regional Corporation, in lieu of the land (or any interest in the land) described in the original application.

(2)(A) To the extent the Secretary accepts a reconveyance of land (or any interest in the land) pursuant to paragraph (1), the Secretary shall approve the amended application for the land reconveyed, and adjudicate the remainder of the allotment application. The approval of an amended application under this paragraph shall be a final and conclusive determination of the validity of the allotment.

(B) The Secretary shall—

(i) survey each allotment approved pursuant to this paragraph; and

(ii) issue a Native allotment certificate to the applicant or to the heirs of the applicant.

(3)(A) Each Native allotment certificate issued to an applicant or the heirs of the applicant pursuant to paragraph (2)(B) shall be subject to any existing easements or any other right that had been reserved, conveyed, transferred, or recognized by the United States prior to the issuance of the certificate.

(B) Each conveyance by the Secretary to any applicant, or to the heirs of the applicant under this subsection shall reserve to the United States—

(i) except as provided in subparagraph (C), all interests in oil, gas, and coal in the land, and the right of the United States, or a lessee or assignee of the United States, to enter upon land conveyed to the applicant or to the heirs of the applicant, to drill, explore, mine, produce, and remove the oil, gas, or coal; and

(ii) all other rights reasonably incident to the mineral reservations described in clause (i).

(C) If the oil, gas, or coal described in subparagraph (B)(i) was previously conveyed to the Regional Corporation and the Regional Corporation reserves those interests in any conveyance to the United States, the reconveyance by the Secretary to the applicant or to the heirs of the applicant shall reserve from the conveyance for the benefit of the Regional Corporation the same rights and privileges that would have been reserved for the United States.

(4) With respect to any reconveyance of land (or any interest in the land) by the Regional Corporation to the United States that does not convey the entire mineral estate, the Regional Corporation shall not be entitled either—

(A) to a reduction of the acreage charged against the entitlement under the Act; or

(B) to select mineral interests to replace the acreage.

(e) REDUCTION IN CHARGED ACREAGE.—(1) Except as provided in subsection (d)(4), if the Village Corporation and the Regional Corporation reconvey land (or any interest in the land) to the United States under the authority of subsection (b) or (d)(1), the Secretary shall reduce the acreage charged against the entitlement of the Village Corporation and the Regional Corporation pursuant to the Act.

(2)(A) To the extent that the reconveyance to the United States of land, or interests in land, by the Village Corporation and the Regional Corporation under this section results in a reduction in the acreage charged against the entitlement of the Village Corporation and Regional Corporation under paragraph (1), the Village Corporation shall be entitled to make selections in lieu of the reconveyed land (or any interest in the land).

(B) The amount of any acreage reconveyed by the Village Corporation under this section shall be added to the amount of other acreage computed as underselection, if any, for the Village Corporation.

(C) The Secretary shall withdraw and the Village Corporation shall select replacement acreage under this paragraph pursuant to the authority in section 22(j)(2) of the Act (43 U.S.C. 1621(j)(2)).

(D) Except as provided in subsection (d)(4), in any case in which a Village Corporation receives an interim conveyance or patent to the surface estate selected pursuant to section 12(a) of the Act (43 U.S.C. 1611(a)), the Regional Corporation shall receive an interim conveyance or patent to the subsurface estate.

(f) CONGRESSIONAL INTENT.—Nothing in this section shall be construed as satisfying, relieving, or otherwise affecting the requirements of section 14(c) of the Act (43 U.S.C. 1613(c)).

(g) LIABILITY FOR HAZARDOUS SUBSTANCES.—The United States shall not be subject to liability for the presence of any hazardous substance in land or an interest in land solely as a result of any reconveyance to and transfer by the United States of the land or interest pursuant to this section.

SEC. 14. LAPSED MINING CLAIMS.

Section 22(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1621(c)) is amended—

(1) by inserting "(1)" after "(c)"; and

(2) by adding at the end the following new paragraph:

"(2)(A)(i) Subject to valid existing rights, an unpatented mining claim or location, or portion thereof, under the general mining laws that is situated outside the boundaries of a conservation system unit (as such term is defined in the Alaska National Interest Lands Conservation Act) and within the exterior boundaries of lands validly selected by a Village or Regional Corporation pursuant to section 12 or section 14(h) and that lapses, is abandoned, relinquished, or terminated, declared null and void, or otherwise expires, after August 31, 1971, because of failure to comply with requirements of the general mining laws (including the mining laws of the State of Alaska), is deemed to be null and void for the purposes of this paragraph. The Secretary shall promptly determine the validity of such claims or locations within conservation system units.

"(ii) Subject to valid existing rights and to subparagraph (B), the lands outside a conservation system unit included in a mining claim or location described in clause (i) shall—

"(I) be considered part of the lands selected pursuant to sections 12 and 14(h) by the Village or Regional Corporation described in clause (i); and

"(II) be eligible for conveyance pursuant to this Act unless specifically identified and excluded from an initial selection application.

"(iii) Subject to valid existing rights and to subparagraph (B), any portion outside a conservation system unit of a mining claim or location described in clause (i) that is situated within the exterior boundaries of lands conveyed prior to the date of enactment of this paragraph from selections under section 12 or section 14(h) shall be conveyed pursuant to this Act.

"(B) No lands shall be conveyed pursuant to this subsection if the conveyance would result in the receipt of title to lands in excess of an acreage entitlement under this Act.".

SEC. 15. HAIDA CORPORATION ACCOUNT.

The Haida Land Exchange Act of 1986 (Public Law 99-664) is amended—

(1) in section 2(a)—

(A) in paragraph (9)—

(i) by striking "as of January 1, 1995"; and

(ii) by striking "on January 1, 1995"; and

(B) by adding at the end the following new paragraph:

"(13) The term 'agency' includes—

"(A) any instrumentality of the United States;

"(B) any element of an agency; and

"(C) any wholly owned or mixed-owned corporation of the United States Government identified in chapter 91 of title 31, United States Code."; and

(2) by adding at the end the following new section:

"SEC. 13. HAIDA CORPORATION ACCOUNT.

"(a) DEFINITION.—As used in this section, the term 'property' has the same meaning as is provided the term in section 12(b)(7) of Public Law 94-204 (43 U.S.C. 1611 note), as amended.

"(b) ESTABLISHMENT.—(1) Notwithstanding any other provision of law, except as provided in subsection (e), on October 1, 1996, the Secretary of the Treasury, in consultation with the Secretary of the Interior, shall establish a Haida Corporation Account.

"(2) Beginning on October 1, 1996, the balance of the account shall—

"(A) be available to the Haida Corporation for bidding on and purchasing property sold at public sale, subject to the conditions described in paragraph (3); and

"(B) remain available until expended.

"(3)(A) The Haida Corporation may use the account established under paragraph (1) to bid as any other bidder for property (wherever located) at any public sale by an agency and may purchase the property in accordance with applicable laws and regulations of the agency offering the property for sale. Notwithstanding any other provision of law, the Haida Corporation may assign without restriction any or all of the accounts upon written notification to the Secretary of the Treasury and the Secretary of the Interior.

"(B) In conducting a transaction described in subparagraph (A), an agency shall accept, in the same manner as cash, any amount tendered from the account established by the Secretary of the Treasury under paragraph (1). The Secretary of the Treasury shall adjust the balance of the account to reflect the transaction.

"(C) The Secretary of the Treasury, in consultation with the Secretary of the Interior, shall establish procedures to permit the account established under paragraph (1) to—

"(i) receive deposits;

"(ii) make deposits into escrow when an escrow is required for the sale of any property; and

"(iii) reinstate to the account any unused escrow deposits in the event sales are not consummated.

"(c) AMOUNT.—(1) The initial balance of the account established in subsection (b) shall be determined by multiplying—

"(A) the average value per acre of the surface estate of the lands exchanged to the Haida Corporation pursuant to section 12(b)(3); by

"(B) the number of acres of selection rights that the Haida Corporation possesses as of October 1, 1996.

"(2) The average value per acre of the lands referred to in paragraph (1) shall be determined by dividing—

"(A) the fair market value of the surface estate of the lands exchanged to the Haida Corporation pursuant to section 12(b)(3); by

"(B) the quantity of acres of the lands referred to in subparagraph (A).

"(3) The fair market value of the surface estate of lands shall be determined as of March 1, 1993, pursuant to subsection (d).

"(d) APPRAISAL.—(1)(A) As soon as possible after the date of enactment of this section, but not later than January 1, 1994, the Secretary of Agriculture shall commence an appraisal of the surface estate of the lands exchanged to the Haida Corporation pursuant to section 12(b)(3). In conducting the appraisal, the Secretary shall include, among other uses of the lands, the value of the timber on the land (on a conversion return basis applicable for southeast Alaska within region 10 of the National Forest System) utilizing the markets then available to the Haida Corporation. The appraisal shall be based on the Uniform Appraisal Standards for Federal Land Acquisitions.

"(B) The Haida Corporation shall have the opportunity to present evidence of value to the Secretary of Agriculture. The Secretary shall provide the Haida Corporation with a preliminary draft of the appraisal. The Haida Corporation shall have a reasonable and sufficient opportunity to comment on the appraisal. The Secretary shall give consideration to the comments and evidence of value submitted by the Haida Corporation under this subparagraph.

"(2) The Secretary of Agriculture shall complete the valuation of the surface estate of the lands exchanged to the Haida Corporation pursuant to section 12(b)(3) not later than January 1, 1996. On completion of the valuation, the Secretary of Agriculture shall submit the valuation to the Secretary of the Interior for certification. The Secretary of the Interior shall forward a certified copy of the valuation to the Haida Corporation.

"(3) If the Haida Corporation disputes the final valuation, the Secretary of Agriculture and the Haida Corporation may mutually agree to employ a process of bargaining or some other process of dispute resolution to determine the value of the lands in question.

"(4) The Secretary of Agriculture and the Haida Corporation may mutually agree to suspend or modify any of the deadlines under this subsection.

"(e) ELECTION.—(1) Not later than 120 days after receipt of a certified copy of the final valuation from the Secretary of the Interior pursuant to subsection (d)(2), the Haida Corporation shall make an irrevocable election between the remaining selection rights of the Haida Corporation under section 10 and the account described in subsection (b), and shall notify the Secretary of the Interior of the election.

"(2) If the Haida Corporation—

"(A) elects to utilize the remaining selection rights described in paragraph (1); or

"(B) fails to notify the Secretary of the Interior of any such election in a timely manner,

the account described in subsection (b) shall not be established, the Haida Corporation shall permanently waive any right to the establishment of the account, and the selection rights of the Haida Corporation under section 10 shall remain unimpaired.

"(3) If the Haida Corporation elects to utilize the account described in subsection (b), the Haida Corporation shall waive any selection rights under section 10 as of the date the Haida Corporation notifies the Secretary of the Interior of the election.

"(f) TREATMENT OF AMOUNTS FROM ACCOUNT.—(1) The Secretary of the Treasury shall deem as cash receipts any amount tendered from the account established pursuant to subsection (b) and received by agencies as proceeds from a public sale of property, and shall make any transfers necessary to allow an agency to use the proceeds in the event an agency is authorized by law to use the proceeds for a specific purpose.

"(2)(A) Subject to subparagraph (B), the Secretary of the Treasury and the heads of agencies shall administer sales pursuant to this section in the same manner as is provided for any other Alaska native corporation authorized by law as of the date of enactment of this section (including the use of similar accounts for bidding on and purchasing property sold for public sale).

"(B) Amounts in an account created for the benefit of a specific Alaska native corporation may not be used to satisfy the property purchase obligations of any other Alaska native corporation.".

SEC. 16. LOCAL HIRE.

Section 1308(a) of the Alaska National Interest Lands Conservation Act (Public Law 96-487) is amended—

(1) by striking "a conservation system unit" and inserting in lieu thereof "public lands"; and

(2) by striking "such unit" each place it occurs and inserting in lieu thereof "public lands".

SEC. 17. SEALASKA CORPORATION AGREEMENT.

(a) IN GENERAL.—(1) Subject to paragraph (2), the November 26, 1991, agreement entered into between the Sealaska Corporation and the Forest Service of the Department of Agriculture, entitled "Sealaska Corporation/United States Forest Service Split Estate Land Exchange Agreement", is hereby ratified as a matter of Federal law.

(2) The agreement described in paragraph (1) may be modified or amended, without further action by Congress, upon—

(A) the written agreement of all parties to the agreement described in paragraph (1); and

(B) notification in writing to the appropriate committees of Congress.

Any such modification may not take effect until 60 days after such notification.

(b) CONDITIONS.—Any conveyance of subsurface acreage to Sealaska Corporation pursuant to this section shall—

(1) be deemed a conveyance of land pursuant to section 14 of the Alaska Native Claims Settlement Act (43 U.S.C. 1613);

(2) extinguish the entitlements of Sealaska Corporation under the Haida Land Exchange Act of 1986 (16 U.S.C. 3195 note);

(3) be subject to valid existing rights; and

(4) be in partial fulfillment of the entitlement of the Sealaska Corporation under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

SEC. 18. HAIDA SUBSURFACE EXCHANGE AMENDMENT.

The Haida Land Exchange Act of 1986 (Public Law 99-664) is amended by adding at the end the following new section:

"SEC. 14. OFFER.

"(a)(1) For and in consideration of the relinquishment and conveyance to the United States of all Haida Corporation's right, title, and interest in Lots 2, 3, 4, 5, and 6 of section 18, T. 77S. R. 84 E., C.R.M., and, in addition, all Haida Corporation's right, title, and interest in a road easement to be specified by the Secretary 100 feet in total width across Lot 1 of section 18, T. 77S. R. 84 E., C.R.M., from section 7 of T. 77 S. R. 84 E. C.R.M. to the cooperative information and education branch site, there are hereby offered to Haida Corporation the following lands and interests in lands: All right, title, and interest in the subsurface estate of the Haida Traditional Use Sites.

"(2) Any conveyance of the offered lands and interests described in paragraph (1) shall be subject to valid existing rights, and shall except and reserve to the United States the perpetual easements identified in paragraph 18 of the agreement executed September 8, 1988, entitled 'Agreement between United States of America and Haida Corporation Regarding Implementation of the Haida Traditional Use Sites Exchange Pursuant to §3(a) the Haida Land Exchange Act of 1986, Pub. L. No. 99-664'. Without limitation to any other rights reserved under the terms of said easements, any such conveyance shall also except and reserve the rock, sand, and gravel occurring within said easement boundaries.

"(b) Haida Corporation shall have 90 days from the date of enactment of this section within which to accept the offer provided in this section by providing to the Secretary a properly executed and certified corporate resolution binding upon the corporation with respect to the relinquishment and conveyance of all the corporation's right, title, and interest in the lands specified in subsection (a).

"(c) This section shall be ineffective, and no conveyances shall be made under this section, if the Secretary of Agriculture, on or before the date 60 days after the date of enactment of this section, determines implementation of this section would result in receipt by the United States of lands less in value than the value of the lands offered for conveyance to the Haida Corporation.".

SEC. 19. AHTNA GROUP SETTLEMENT.

(a) WITHDRAWAL OPPORTUNITY.—As an offer of settlement, within one year after enactment of this section, any or all of the Ahtna Group Corporations of Lower Tonsina, Twin Lakes, Little Lake Louise, Slana, and Nebesna may withdraw by resolution transmitted to the Secretary of the Interior (hereafter in this Act referred to as the "Secretary") a pending application for group eligibility under section 14 of the Alaska Native Claim Settlement Act (43 U.S.C. 1613) (as amended and supplemented). Such resolution shall preclude the corporation concerned from any administrative or judicial review of its entitlement to land and money under such Act, and such withdrawal of application shall be construed as a dismissal with prejudice of such corporation's action before the United States District Court for Alaska, Civ. No. A86-035 and shall be binding upon the corporation and its members.

(b) OFFER.—In addition to those rights granted in section 1 of Public Law 94-204, for each Ahtna Group Corporation specified in subsection (a) which adopts a timely resolution to withdraw its section 14 application or group eligibility, there shall be a period of 180 days following transmittal of such resolution to the Secretary, during which each member of such Ahtna Group Corporation shall have the right to file with the Secretary an application for conveyance of up to 160 acres of land from the United States to such individual member as if it were an application for a primary place of residence under section 14(h)(5) of the Alaska Native Claim Settlement Act (43 U.S.C. 1613(h)(5)), regulations for such application, and subject to the following provisions:

(1) the availability of land subject to selection by the applicant shall be determined as of the date of the individual application: *Provided, however* That if the application is for lands selected by Ahtna Regional Corporation or the State of Alaska after the date of selection by the Group Corporation, then the subsequent selections shall not attach to the lands selected by the Group Corporation until after the deadline for filing an application for primary place of residence: and *Provided further*, That if the lands relinquished by the Group Corporation or the Ahtna Regional Corporation lie within the boundaries of a conservation system unit, as defined in the Alaska National Interest Land Conservation Act, and such selections are relinquished in order to permit the filing of an application for primary place of residence, the withdrawal of the conservation system unit shall not prevent the filing, adjudication, and conveyance of those lands subject to the application for primary place of residence: and *Provided further*, That any acreage granted to an applicant for primary place of residence shall be charged to the share of the Ahtna Regional Corporation under 45 CFR 2653;

(2) the eligibility of the applicant shall be determined as if the application is an application for a primary place of residence filed with the Secretary of the Interior on or before December 18, 1973; and

(3) any State selection filed after the date on which the relevant Ahtna Group Corporation filed its application for section 14 eligibility shall not attach to lands segregated for the benefit of such Ahtna Group Corporations until the applications of individual Ahtna Group members herein authorized have been identified, adjudicated, and conveyed.

(c) EXPEDITING.—In order to secure the rapid and certain resolution of Native lands claims, the United States shall endeavor to reach a final decision regarding each Ahtna Group member's application for primary place of residence within one year of its filing and shall otherwise complete the redetermination process for each Ahtna Group member as required by Public Law 94–204, as amended, provided that revenues distributed or subject to distribution under section 7(i) of the Alaska Native Claim Settlement Act (43 U.S.C. 1606(i)), shall not be retroactively affected by any change in enrollment occasioned by said redetermination.

SEC. 20. GOLD CREEK SUSITNA ASSOCIATION, INCORPORATED ACCOUNT.

(a) DEFINITIONS.—As used in this section, the following terms have the following meanings:

(1) The term "agency" includes—

(A) any instrumentality of the United States;

(B) any element of an agency; and

(C) any wholly owned or mixed-owned corporation of the United States Government identified in chapter 91 of title 31, United States Code.

(2) The term "conservation system unit" has the same meaning as in the Alaska National Interest Lands Conservation Act.

(3) The term "Gold Creek" means the Gold Creek Susitna Association, Incorporated, an Alaska Native Group corporation, organized pursuant to section 1613(h) of the Settlement Act.

(4) The term "property" has the same meaning given such term by section 12(b)(7) of Public Law 94–204 (43 U.S.C. 1611), as amended.

(5) The term "Region" means Cook Inlet Region Incorporated, an Alaska Native Regional Corporation which is the appropriate Regional Corporation for Gold Creek under section 1613(h) of the Settlement Act.

(6) The term "Settlement Act" means the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601 et seq.).

(b) ESTABLISHMENT.—(1) Notwithstanding any other provision of law, except as provided in subsection (e), on October 1, 1996, the Secretary of the Treasury, in consultation with the Secretary of the Interior, shall establish a Gold Creek account.

(2) Beginning on October 1, 1996, the balance of the account shall—

(A) be available to the Gold Creek for bidding on and purchasing property sold at public sale, subject to the conditions described in paragraph (3); and

(B) remain available until expended.

(3)(A) The Gold Creek may use the account established under paragraph (1) to bid as any other bidder for property (wherever located) at any public sale by an agency and may purchase the property in accordance with applicable laws and regulations of the agency offering the property for sale.

(B) In conducting a transaction described in subparagraph (A), an agency shall accept, in the same manner as cash, any amount tendered from the account established by the Secretary of the Treasury under paragraph (1). The Secretary of the Treasury shall adjust the balance of the account to reflect the transaction.

(C) The Secretary of the Treasury, in consultation with the Secretary of the Interior, shall establish procedures to permit the account established under paragraph (1) to—

(i) receive deposits;

(ii) make deposits into escrow when an escrow is required for the sale of any property; and

(iii) reinstate to the account any unused escrow deposits in the event sales are not consummated.

(c) LAND EXCHANGE.—No later than one year after the date of enactment of this section, the Secretary of the Interior shall enter into negotiations to attempt to conclude, under the authority of section 22(f) of the Settlement Act, a land exchange to acquire surface estate in lands not within any conservation system unit from the State of Alaska to enable Gold Creek to select public lands at Gold Creek, Alaska, as identified by Gold Creek but in no case to exceed 480 acres.

(d) AMOUNT.—(1) The initial balance of the account established in subsection (b) shall be determined by multiplying—

(A) the average value per acre by

(B) the 3,520 acre Gold Creek entitlement.

(2) If a conveyance is made to Gold Creek pursuant to subsection (c), paragraph (1), the account shall be reduced by the amount of the actual acres conveyed by the average value per acre. In order to make such adjustment, the conveyance must be made by the Secretary of the Interior by October 1, 1996.

(3) The average value per acre of the lands referred to in paragraphs (1) and (2) of this subsection shall be determined by dividing—

(A) the fair market value as found by the Secretary of the Interior in subsection (e), paragraph (1) by

(B) the 3,520 acre Gold Creek entitlement.

(4) The fair market value of the surface estate of lands shall be determined as of the date of enactment of this section pursuant to subsection (e).

(e) APPRAISAL.—(1)(A) As soon as possible after the date of enactment of this section, but not later than January 1, 1994, the Secretary of the Interior shall find the amount to be credited to the Gold Creek account by appraising the 3,520 acre Gold Creek entitlement by only considering parcels 320 acres or less in size, the access to which is secure and the subsurface to which is in separate ownership, which lie within 50 miles of Gold Creek and which have been sold since January 1, 1989, and by taking into consideration other land ownership conditions under the Settlement Act.

(B) Gold Creek shall have the opportunity to present evidence of value to the Secretary of the Interior. The Secretary of the Interior shall provide Gold Creek with a preliminary draft of the appraisal. Gold Creek shall have a reasonable and sufficient opportunity to comment on the appraisal. The Secretary of the Interior shall give consideration to the comments and evidence of value submitted by Gold Creek under this subparagraph.

(2) The Secretary of the Interior shall complete the valuation not later than 9 months after the passage of this Act. The Secretary of the Interior shall forward a certified copy of the valuation to Gold Creek.

(3) Gold Creek shall have the right to appeal the certified valuation by the Secretary of the Interior so long as any such appeal is filed no later than 60 days after the date of such finding to the Office of Hearings and Appeals. In the event Gold Creek files such a timely appeal, the Gold Creek account shall be immediately established for the amount set by the Secretary subject to subsequent upward adjustment pursuant to the outcome of the appeal process. If Gold Creek is not satisfied with the decision of the Office of Hearings and Appeals, it may appeal that decision within one year to the United States District Court.

(4) The Secretary of the Interior and Gold Creek may mutually agree to suspend or modify any of the deadlines under this subsection.

(f) IMPLEMENTATION.—(1) Notwithstanding any other provision of law, Gold Creek may assign without restriction any or all of the account upon written notification to the Secretary of the Treasury and the Secretary of the Interior. Notwithstanding the provisions of subsection (g)(1)(B) of this section, in the event such assignment is to the Region on notice from Gold Creek to the Secretary of the Treasury and the Secretary of the Interior, the amount of such assignment shall be added to or made a part of the Region's Property Account in the Treasury established pursuant to section 12(b) of Public Law 94–204 as amended, and may be used in the same manner as that account.

(2) Upon certification by the Secretary of the Interior of the value of the account, or following the completion of Gold Creek's appeal of valuation pursuant to subsection (e), paragraph (3), Gold Creek shall be deemed to have accepted the terms of this section in lieu of any other land entitlement it would have received pursuant to the Settlement Act and such acceptance shall satisfy any and all claims Gold Creek had against the United States on the date of this enactment.

(3) Any land Gold Creek shall receive from the United States pursuant to subsection (c), paragraph (1) shall be deemed to have been conveyed pursuant to the Settlement Act.

(g) TREATMENT OF AMOUNTS FROM ACCOUNT.—(1) The Secretary of the Treasury shall deem as cash receipts any amount tendered from the account established pursuant to subsection (b) and received by agencies as proceeds from a public sale of property, and shall make any transfers necessary to allow an agency to use the proceeds in the event an agency is authorized by law to use the proceeds for a specific purpose.

(2)(A) Subject to subparagraph (B), the Secretary of the Treasury and the heads of agencies shall administer sales pursuant to this section in the same manner as is provided for any other Alaska Native corporation authorized by law as of the date of enactment of this section (including the use of similar accounts for bidding on and purchasing property sold for public sale).

(B) Amounts in an account created for the benefit of a specific Alaska Native corporation may not be used to satisfy the property purchase obligations of any other Alaska Native corporation.

SEC. 21. IGIUGIG AIRPORT.

The Administrator of the Federal Aviation Administration shall execute such instruments as may be necessary to release the condition on lands conveyed pursuant to Quitclaim Deed dated November 1, 1961, recorded on January 2, 1962, in the Iliamna Recording District, Book 1, Pages 54 through 60, that such lands revert to the United States in the event that such lands are not developed, or cease to be used, for airport purposes: *Provided*, That the State of Alaska shall first notify the Administrator what

lands are sought to be diverted from airport use and the Administrator shall then determine which lands may be diverted without adversely affecting the safety, efficiency, or utility of the airport, and shall confine the release of the reverter authorized by this section to those lands that may be so diverted.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from West Virginia [Mr. RAHALL] will be recognized for 20 minutes, and the gentleman from Alaska [Mr. YOUNG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from West Virginia [Mr. RAHALL].

□ 1600

GENERAL LEAVE

Mr. RAHALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3157, the bill now under consideration.

The SPEAKER pro tempore (Mr. MCDERMOTT). Is there objection to the request of the gentleman from West Virginia?

There was no objection.

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

Mr. Speaker, it is a distinct privilege for me to stand here today in solidarity with the gentleman from Alaska [Mr. YOUNG], my dear friend, the sponsor of this bill.

Mr. Speaker, H.R. 3157 was carefully developed over the course of many months in close cooperation with the Alaska Native community, the State of Alaska, the administration, and other parties in Alaska.

In this regard, the committee has made a special effort to avoid environmental conflicts or other controversies.

By way of explanation, H.R. 3157 contains 20 provisions to resolve issues that have arisen in the implementation of the 1971 Alaska Native Claims Settlement Act and the 1980 Alaska National Interest Lands Conservation Act.

While the legislation makes primarily minor or technical changes to existing statutes, its provisions are significant for the affected individuals and entities, especially Alaska Natives.

When Congress passed the Claims Act in 1971, it took a unique approach to the settlement of aboriginal land claims of American Indians. The act established over 200 native-owned corporations to manage the land resources and money provided in that historic settlement.

It also restricted the sale of stock in the native corporations for 20 years, a date which Congress has extended to July 16, 1993.

Today, in this legislation, we renew our commitment to making the Claims Act work for the benefit of all Alaska Natives.

In this regard, I would compliment the gentleman from Alaska, the ranking Republican member of the Interior Committee, for introducing this legislation; which is cosponsored by Committee chairman GEORGE MILLER.

Mr. Speaker, that concludes my explanation of the pending matter. I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 3157, the Alaska Land Status Technical Corrections Act of 1992. This bill is the result of a 3½-year effort of the State of Alaska, the Alaska Federation of Natives, the administration. Chairman MILLER, and the staff from both the majority and minority of the Interior Committee.

I want to especially thank the State of Alaska, the Alaska Federation of Natives, the Departments of Agriculture and Interior, Mr. MILLER and committee staff for their efforts to bring forth a noncontroversial Alaska lands technical corrections bill.

H.R. 3157 makes a number of technical changes to the Alaska Native Claims Settlement Act of 1971 [ANCSA] and the Alaska National Interests Land Conservation Act [ANILCA]. The bill also makes a number of substantive additions which address issues not anticipated at the time of passage of the acts.

Alaska is a young State, and many laws have been passed since statehood. This requires occasional changes to make the laws fit together, and react to changing situations.

This bill would make it possible for 18 Native allotment applicants at Fort Davis, AK to obtain their land under the Allotment Act. Under the 1906 statute, Natives who could prove family use of public land that was vacant, unappropriated and unreserved could apply for an allotment of up to 160 acres. Fort Davis, near Nome, was returned to the Interior Department in 1921 but the land designation was never changed to public land use from military. Unfortunately, BLM did not discover this until it was too late for these 18 applicants to apply for land elsewhere. This provision would approve the 18 allotment applicants at Fort Davis, AK.

Another provision would allow an adult shareholder to transfer settlement common stock to their brothers and sisters. The 1991 amendments provided for transfer of stock to a child, grandchild, great-grandchild, niece, or nephew. This provision takes it a bit further with the option of redistributing stock to brothers and sisters within the same family.

Section 5 of this bill would amend ANCSA to extend the deadline for the establishment of a shareholder homesite program by an Alaska Native corporation from 1991 until such time that shareholders vote to sell their stock on the open market. The shareholder homesite program allows corporations to transfer up to 1.5 acres to each shareholder for single family residency. Due to delays in receiving selected lands, some corporations have not had time to properly develop and implement a homesite program for their shareholders.

Another provision in this bill would provide an option for a native corporation to issue settlement common stock to descendants of Natives—lineal or adoptee—born after December 18, 1971. ANCSA originally provided that only those Natives who were living on December 18, 1971, were eligible to become shareholders in Alaska Native Corporations. "Native" was defined as those people with a minimum of one-fourth degree of Alaska Indian, Eskimo, or Aleut blood. This provision would allow a corporation, at their option, to issue common settlement stock to descendants of their original shareholders regardless of the degree of blood quantum.

Section 16 of H.R. 3157 amends section 1308(a) of ANILCA (Public Law 96-487) to expand the local hire program that was established for conservation system units in Alaska. The original program gave Federal agencies the opportunity to hire local residents who live near a conservation system unit and who have special knowledge or expertise concerning the natural or cultural resources of the unit. The expanded program will allow Federal agencies to hire individuals with special knowledge of specific public lands in Alaska. This section is specifically intended to encourage the hiring of Alaskans.

Mr. Speaker, this bill is purely a noncontroversial technical bill which addresses some of the unresolved land issues which have arisen since the passage of the Alaska Native Claims Settlement Act and the Alaska National Interest Lands Conservation Act. Chairman MILLER of the Interior Committee and I introduced this bill in July 1991, the Interior Committee held a hearing on October 24, 1991, and the committee held a markup of the bill on July 8, 1992. This bill is noncontroversial and I urge that this body vote for passage of H.R. 3157. I thank the gentleman for the time to clarify some of the major provisions of this bill, and I urge its adoption.

Mr. Speaker, I yield back the balance of my time.

Mr. RAHALL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from West Virginia [Mr. RAHALL] that the House suspend the rules and pass the bill, H.R. 3157, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS SPONSOR OF H.R. 5405

Mr. JOHNSON of South Dakota. Mr. Speaker, I ask unanimous consent that my name be removed as a sponsor of H.R. 5405.

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

There was no objection.

ANNUAL REPORT OF NATIONAL SCIENCE FOUNDATION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Science, Space, and Technology:

To the Congress of the United States:

In accordance with 42 U.S.C. 1863(j)(1), I transmit herewith the annual report of the National Science Foundation for Fiscal Year 1991.

GEORGE BUSH.

THE WHITE HOUSE, *July 27, 1992.*

THE POLITICIZATION OF SCIENCE

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include extraneous matter.)

Mrs. SCHROEDER. Mr. Speaker, the front-page article in the New York Times today unfortunately says what so many of us feared, and that is the continual politicization of science in this country.

I have never seen us politicize science before, and I think it will harm this country greatly, because we will see much more research move offshore. Today's front-page article got memos from internal documents in the National Institutes of Health, and those memos point out that what the administration said about fetal-tissue banks being adequate was wrong. They will not be adequate if the administration plans to do them and, therefore, people with Alzheimer's and Parkinson's diseases are not going to see those kinds of research projects done in this country because of that kind of restriction. I find that very tragic.

Tomorrow the House is going to be looking at another area where science has been politicized, and that is the denial of allowing RU-486 into this country for research in the areas of such important things as brain tumors, breast cancer, and so forth. I find this shocking.

We first saw politicization of the courts. We now see it of science, and I think that we will pay very heavily if we do not get this turned around.

Mr. Speaker, I am including at this point in the RECORD the article from the New York Times of today as follows:

FETAL-TISSUE BANK NOT VIABLE OPTION, AGENCY MEMO SAYS CALCULATIONS ARE SKEWED—HEALTH OFFICIALS SAY SUPPLY OF FETAL TISSUE IS NOT ENOUGH FOR PROGRAM TO SUCCEED

(By Philip J. Hilts)

WASHINGTON, July 25—In May, when the Bush Administration announced a plan to collect fetal tissue for medical research into Alzheimer's and Parkinson's diseases and other ailments, officials stated that they could supply all that would be needed without using tissue from induced abortions.

But newly obtained memorandums from officials at the National Institutes of Health show that the Administration greatly exaggerated the amount of fetal tissue that its storage bank could obtain from miscarriages and from ectopic pregnancies, in which the fertilized egg develops outside the uterus.

Since 1988 the Administrations of Ronald Reagan and President Bush have barred Federal financing of research using fetal tissue, on the ground that it could potentially encourage abortions.

ROUNDED TO UPPER LIMIT

When the tissue-bank plan was put forth in May, in the heat of a political battle over abortion issues, Dr. James O. Mason, head of the Public Health Service, said that a storage bank could initially collect usable tissue from 1,500 fetuses a year and that eventually the figure would rise to 2,000.

A spokeswoman for the Department of Health and Human Services said this week that medical experts remained confident that the tissue bank would fully meet researchers' needs.

But a top N.I.H. official who spoke on condition of anonymity said that the estimates of how much tissue could be collected had been misrepresented by senior H.H.S. officials.

"The numbers we used were rounded upward, and upper-limit estimates were always used because we were under a great deal of pressure to use the absolute outer-limits numbers," he said. "What we came up with—1,500 or 2,000 fetuses could be harvested—is literally the absolute maximum if you capture every single specimen throughout the entire country in every circumstance with a SWAT team of highly trained professionals in every bedroom and every hospital in the United States.

FLAWS ARE SEEN IN FETAL-TISSUE PLAN

"No one but the ardent pro-lifers believes those numbers," he said.

But the Administration is going ahead with plans to set up fetal tissue banks at six hospitals. "We really intend to make a good-faith effort to determine if such a bank is at all feasible," the N.I.H. official said. "We can gain a lot of knowledge in the process, and if it actually succeeds somehow, so much the better."

Experiments over the last decade indicate that transplanting of fetal organs or cells could help patients with intractable diseases like Parkinson's or Alzheimer's. Transplant recipients can tolerate fetal cells better than adult cells, and preliminary research found that cells from healthy fetuses, usually 7 to 16 weeks, can take over the functions of diseased cells.

When Congress voted earlier this year to lift the ban, President Bush vetoed the measure. The Administration's plan was offered as a way of meeting the needs of medical researchers without compromising the President's long-standing opposition to abortion and abortion rights. Critics derided it as a maneuver to find votes to uphold the veto. Last month, the House fell 14 votes short of the two-thirds majority required to override.

The President's Democratic challenger, Gov. Bill Clinton of Arkansas, has said he favors lifting the ban.

OFFICIALS' PRIVATE MISGIVINGS

The question in the fierce debate on Capitol Hill became this: How much usable uncontaminated fetal tissue could be harvested if dedicated tissue banks were set up by the Government?

Administration officials said there would eventually be tissue from 2,000 fetuses available for transplant each year, more than enough to meet the need. But privately, N.I.H. officials expressed misgiving about the estimates at the time.

In a memorandum written in March, Dr. Jay Moskowitz, the associate director for science policy and legislation of the N.I.H., told higher officials of the Department of Health and Human Services: "The cells and tissues from spontaneous abortions and ectopic pregnancies are generally of poor quality because they a) may represent inherently abnormal tissue b) have been subject to diminished blood supply c) exist in a poor in-vivo environment d) may have been retained in the body for five to eight weeks prior to expulsion. The state of disintegration of these tissues is another factor affecting viability."

Dr. Moskowitz added: "In the future, ectopic pregnancies as a potential source of fetal tissue will be further diminished because invasive surgical treatments are being replaced by pharmacological approaches."

HUGE SHORTAGES PREDICTED

Data from the medical centers, the memo continued, indicated that the amount of tissue from spontaneous abortions, or miscarriages, "would not be sufficient."

DOUBTS GROW THAT CRITICAL TESTS CAN BE CARRIED OUT WITH BUSH'S PLAN.

"Obtaining an adequate supply of tissue from ectopic pregnancies, as previously indicated, is more problematic," the memorandum states.

Taking into account the doubts expressed by N.I.H. officials, the staff of the House Subcommittee on Human Resources and Intergovernmental Relations estimated the number of fetuses that could be collected at 24 for the entire nation in a year. A separate estimate of about 1.4 fetuses per hospital per year, or about 8 if the bank starts at the six hospitals, was made by the head of a fetal transplant group at Yale University, Dr. D. Eugene Redmond, who has spoken against the ban.

These numbers are far short of what might be necessary, Dr. Redmond said. He estimates that if the ban is lifted, at least a half a dozen scientific teams will want to carry out 20 fetal tissue transplants each in the first year and more as research progresses. Because of the varying quality of the tissue, each transplant can require dozens of fetal samples, he said. Even samples from 2,000 fetuses a year would not meet the need.

In fact, 2,000 samples could be obtained through a tissue bank only if these assumptions prove accurate:

Every hospital in the United States will participate, with each creating four teams of surgeons and specialists to collect the material on an emergency basis around the clock,

365 days a year, according to N.I.H. memos and interviews with agency officials.

All women admitted to the hospital for a miscarriage will actually have them in the hospital. In fact, many abort at home and go to the hospital afterward for treatment of bleeding and infection, memos from Dr. Moskowitz say.

Fifty-five percent of the fetuses will be free of infection. But because miscarriages and ectopic pregnancies are unexpected emergencies, it is unlikely that that many will be uninfected, Dr. Moskowitz's memos say. Other estimates say 60 to 75 percent will be infected.

The Administration will be willing to spend hundreds of millions of dollars a year to maintain the system. The Administration estimated that it would cost $3 million in the first year and $24 million in the first five years, but this is only for feasbility studies. To make the bank work nationally, each hospital would probably have to spend $500,000 or more in salaries for the emergency collection teams alone. For the 6,600 hospitals in the United States, that cost alone would be $330 million per year, N.I.H. officials said.

All women who are asked will be willing to donate the fetal tissue. Currently, 20 percent refuse to donate tissue for transplants for privately financed research at Yale University, doctors say. In addition, the women would have to agree to be tested for hepatitis, H.I.V. and other diseases. Another 20 to 30 percent are likely to decline on those grounds, doctors say.

Even if these assumptions were correct, quality control could be assured only if the tissue bank expended as many of its fetuses in testing as it sent to researchers, N.I.H. officials said.

Researchers would have an ample supply if they were to use fetuses from induced abortions: of the 1.5 million abortions a year, roughly half would provide usable cells. Though such fetuses are being used in privately financed experiments, many scientists are unable or unwilling to proceed without Federal money.

"It is profoundly disturbing that the N.I.H. Revitalization Amendments were vetoed on the basis of smoke and mirrors masquerading as hope for victims of Parkinson's disease, Alzheimer's, juvenile diabetes and other devastating illnesses," said Representative Weiss, chairman of the House Subcommittee on Human Resources and Intergovernmental Relations, who has investigated the Administration's statements.

Alixe Glen, a spokeswoman for Health and Human Services, said "Our commitment to establish a fetal tissue bank is totally supported by medical experts who confirm that this bank would provide sufficient tissue to meet research needs."

She added that the Federal Government was exploring areas in addition to current, privately financed fetal tissue research. "We are doing a lot of other promising research in Parkinson's, Alzheimer's and diabetes, but opponents have tried to frame the debate as though, without research from induced-abortion fetuses, cures for these disease will never be realized," she said. "Not true."

"One thing lost during this debate," Ms. Glen said, "is the extension of appropriations and budget authority for N.I.H. is being held up with these political shenanigans."

Paradoxically, the Administration's tissue-bank proposal may be turned into a vehicle to overturn the fetal-tissue ban. Representative Henry A. Waxman, Democrat of California, chairman of the House Subcommittee on Health and the Environment, has introduced an amendment to the N.I.H. reauthorization bill that is expected to come up for a vote in the House by the end of August.

It would continue the ban on Federal financing of fetal-tissue research and proceed with the tissue bank, but if the bank did not produce all the tissue needed for research within one year, scientists would be permitted to use tissue from induced abortions. Scientists would be required, however, to go to the tissue bank first and to use all the tissue obtainable there before going to induced abortions.

Ms. Glen said: "Mr. Waxman is trying to circumvent our good-faith commitment to the tissue bank. His one-year deadline has absolutely no scientific basis whatsoever. This measure does not represent a compromise but an attempt to promote Federal funding for abortion research."

HUGH MERRITT RECEIVES BRONZE STAR MEDAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi [Mr. MONTGOMERY] is recognized for 5 minutes.

Mr. MONTGOMERY. Mr. Speaker, I want to share with my colleagues a very pleasant experience I had this morning. I was honored and proud to be able to award the Bronze Star Medal to Henry Hugh Merritt, Jr. for meritorious service during the period December 7, 1941 to May 6, 1942 in the Republic of the Philippines.

On December 7, 1941, Hugh Merritt was a torpedoman's mate second class on the U.S.S. *Canopus*. The *Canopus*, a submarine tender, was under the command of Comdr. E. L. Sackett and stationed in the Philippines. After the Japanese attacked Pearl Harbor, they also launched an attack against the U.S. bases in the Philippines. Soon after the Japanese attack, the *Canopus* began supporting allied troops ashore with supplies, water and other aid. The *Canopus* also re-equipped motor launches as light armored attack boats. A short time later the *Canopus* was disabled and was hidden as "a" bombed-out derelict in a cove on the tip of Bataan.

Most of the crew along with other naval personnel formed the nucleus of the 4th Battalion, 4th Marines. After formation, this "Naval battalion" went ashore to fight as infantry. They dyed their white navy uniforms with coffee grounds to make them look khaki. This "Naval battalion" joined forces with U.S. Marines, U.S. Army, and Philippine scouts under the overall command of Gen. Jonathan Wainwright. A total 2,800 Navy and 200 Marine personnel were reassigned to the Army for the defense of the Philippines.

Hugh Merritt was assigned as a squad leader and his squad fought in actions in the James Ravine and other areas. These converted infantrymen were not skilled, trained, nor equipped as a regular infantry unit, but that did not daunt their courage or their tenacity. They fought gallantly and bravely until the bitter end when Corregidor fell on May 10, 1942.

However, the ordeal was not over for these defenders of the Philippines. Hugh Merritt was imprisoned in two different POW camps in the Philippines. Later, he was sent to Japan on one of several transport ships known as Hell Ships. Upon arrival he was put to work as a laborer in the copper mines.

Of all the prisoners taken in the Pacific Theater, less than 10 percent survived the POW and/or labor camps. Hugh Merritt was a survivor due to his determination and grit. He displayed courage and devotion to duty and now 50 years later, with pride and admiration, I presented to him on behalf of his grateful Nation, the Bronze Star Medal.

BUSH ADMINISTRATION HAD ACUTE KNOWLEDGE OF IRAQ'S MILITARY INDUSTRIALIZATION PLANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, last week I showed that this administration, President Bush's administration, deliberately and not inadvertently helped to arm Iraq by allowing United States technology to be shipped to the Iraqi military and to the Iraqi weapons factories. Throughout the course of the Bush administration, United States and foreign firms were granted export licenses to ship United States technology directly to Iraqi weapons facilities, despite ample evidence showing that these factories were producing weapons.

□ 1610

I also showed how the President misled the Congress and the public about the role United States firms played in arming Iraq.

Today I will show that the highest levels of the Bush administration, including the President himself, had specific knowledge of Iraq's military industrialization plans, and despite that knowledge, the President mandated the policy of coddling Saddam Hussein as spelled out in National Security Directive 26 (NSD–26) issued in October 1989. This policy was not changed until after the Iraqi invasion of Kuwait, by which time the Bush administration had sent Saddam Hussein billions of dollars in United States financial assistance, technology and useful military intelligence information.

I will also show how the President's policy of appeasing Saddam Hussein was at odds with those in the administration who saw Iraq as a major proliferation threat. This will help set the stage for next week's report which will discuss Iraq's clandestine technology procurement network and the Italian bank agency in Atlanta's role in funding that network.

We will bring out the very intricate system which up to now has not been elaborated upon other than through the great alarm sounded by the Commodity Credit Corporation's extension of guarantees through the letters of credit that were issued by this bank.

But it was more intricate, it was a lot more elaborate, and it was very well thought out by these overseas students or system, and its gaps, and its failures, which is the reason that I am here today and have from the beginning spoken out, that is on the vulnerability of our financial banking system to these external forces.

I would like to emphasize, however, that the administration knew about the procurement network, and I indicated some of that last week, and decided to go ahead and tolerate it.

From the beginning of the Bush administration Iraq received billions in United States financial assistance and sophisticated United States technology, what actually had started under President Reagan's first term in 1983 when the President took Iran off of the list of nations that he had listed as terrorist nations.

As is well known, the largest financial aid program for Iraq was the Commodity Credit Corporation and their export guarantee program. Between 1983 and the invasion of Kuwait in 1990, Iraq received $5 billion in CCC guarantees that allowed them to purchase United States agricultural products on credit. Over half of that program or $2.6 billion was authorized during the first 2½ years of this administration, the Bush administration.

The CCC program was the single largest chunk of financial assistance that Iraq received from what we call the West. It helped to feed the people of Iraq, and it freed up scarce resources that were first used to purchase weapons to fight the war against Iran, and later, during the Bush administration, it freed up resources, and those that were freed up were ploughed into Iraq's military industrialization program.

There have been many allegations, and there are still ongoing investigations that are attempting to determine if Iraq was diverting CCC guaranteed commodities to purchase weapons. And as I said from the beginning when I first started out on this 2 years ago exactly this month of July, there is not and never has been any attempt to verify the end use of the guarantees, that is the loan guarantees and the commodities as they were supposed to have been delivered. But there is still some investigation.

When we started ours, as it was in the beginning, has been and will continue to be, my single-minded purpose was the shoring up of the most vulnerable aspects of our national interest, and that is the banking and financial oversight or regulatory which is full of just absolute gaps, and loopholes, and we have been better analyzed by people all the way from Asia to Europe and the Middle East who have studied these vulnerabilities for years and are still making ample use.

As I have said repeatedly, my most worrisome problem is that there is no telling how many of these BNL's, how many of these BNL-like, how many of these guarantee programs are still being fed into international places that tomorrow can very well be listed as menaces or enemies, and all guaranteed by the U.S. taxpayer. This has been extremely bothersome to me, because I sat on a committee that has jurisdiction through such subcommittees as the Housing and Community Development Subcommittee, which I also happen to chair and have since 1981. And I hope my colleagues, those who were here then, and those who were not, would try to understand my travail as I have seen billions and hundreds of billions of dollars sanctioned through this committee for private gain for the bankers and the financial manipulators, both domestic as well as foreign, hoarding through greedy accumulation billions of dollars while we have to fight and fight and fight to try to get our communities, 65 percent of which now are strapped financially, taken care. It was in the name of the Subcommittee on Housing and Community Development and the full committee that I went to Rhode Island on May 25 last year, and it was a result of our action and our committee that we were able to get a feeble guarantee for that State to enable it and its government to be able to pay out the thousands of poor fellow Americans in Rhode Island who had all of their life savings, their little proceeds that had enabled some of the retirees to live from their pension funds all frozen in the Rhode Island S&L's and banks. Thank goodness, and thanks to the great efforts of Representatives, particularly JOHN REED who brought it to my attention, I responded and we went there. We got the legislation 1 month later in the June 28 Banking Act that the Committee on Banking, Finance and Urban Affairs approved.

But what about California today? The State of California is paying, to my pain, and I am a Depression era kid. I can recall when our schoolteachers, and when our public employees were being paid in script. Sometimes the bankers and the merchants would honor them at a discount. They would have to pay for that as if it were interest. Sometimes not. And I swore that if the Lord permitted me to ever be in a position where that could be avoided, I would do everything in my power to avoid it. So I cannot begin to describe the pain I felt as I looked into the eyes of those thousand or more Rhode Islanders that turned out to our hearings in Providence. I cannot begin to tell you the pain I felt, because it made me recall those haunting years of the Depression which I hoped and prayed and did everything within my power in between to try to eliminate, the horrible, real, excruciating, deathly poverty that existed, watching even relatives die slowly of tuberculosis where my city was known as the tuberculosis capital of the United States.

□ 1620

Then later even after the war, areas there that were called the death triangle because they had the greatest rate of infant diarrhea deaths of any anywhere, and, yes, we are better off and, yes, I have had great privilege serving on the local level.

I was able to work between 1950 and 1953 for the San Antonio Public Housing Authority and see in that very death triangle the elimination and the destruction of earth-floor shocks with pit privies, all within a quarter of a mile of downtown San Antonio.

I was later elected to the city council, and my greatest, greatest satisfaction was to be able to work and change the system of self-perpetuating city water board. Those things had not happened since the rotten borough of England in the 1930's, and here we had them, and I was able to lead the fight. It took 3 years. It was mean. It was tough. But we changed that system, and for families within a quarter of a mile of city hall who had to buy water in barrels at 40 cents and 50 cents a barrel with wiggle worms in them, we were able to change that in less than 1 year after that forum, the city water board, came about, so when I speak to you, my colleagues, I speak as a man privileged under our system to work on every level of legislative representation our country has to offer, the local, and 5 years in the State Senate of Texas, and now I have been privileged to have served here for 30 years and 8 months in this great and august body, and I have the same determination.

So I hope those of you who have at first ridiculed and then slowly and by the dint, force, of circumstances have admitted that I have had a cause and that I have spoken out responsibly will realize the pain I feel to even get up now and have to reveal these things where I am just as much respectful of the institution of the Presidency as anybody, and maybe even more, and it is not that I love the system less. It is that I love it more. For without it, I would not have anyplace in the world that would have been able to duplicate the very actions I am taking today. And I know it.

So I bring these factors in to give you the background of how it pains me to see these quickly enacted billions of dollars of subsidies to the richest of the rich, the strongest corporations through tax giveaway. It pains me to see the housing programs that were structured by the Congress after many years of debate and hearings and which have served our country for 40 years; they housed America between 1940 and 1980. All of a sudden in the name of economy and budget exigency, they are faced with extinction or diminution to the point of extinction while billions

and billions, much more than we have meekly offered since 1981 and 1982 and have not had, but watch these other billions just go through as fast as they could slip through a congressional process.

Do you think that makes me feel good or proud? Of course not. But it is the truth, and it is a fact of life, and when we see that a whole country has been raised to the point of war fever and a war psychosis, suddenly discovering that a man is a monster, a Hitler in the President's words, only to discover sadly that this same individual had been backed up, supported, and at the cost of taxpayers' liability, given billion of dollars.

We have to examine that, because I look around and see now where our Government has been extending similar guarantees backed by the taxpayer to other countries that just a few years ago we had them as a list of bitter enemies.

Now I say whether a nation and its people, above all, in the words written down in one of the halls here in our Congress, in our House of Representatives, when a people forget their hard beginnings, they are in for trouble, and they are in danger of losing maybe perhaps not directly forsaken, but certainly ending up in forsaking the heritage of freedom which is what is at stake today.

I will tell you why, and I am going to bring this out in separate addresses and messages to you, my colleagues, and that is that we have become accustomed and have lived in a state of emergency since 1932, the bank closing or the bank holiday edict issued by President Franklin Roosevelt.

Do my colleagues know that we are still living under emergencies? In fact, last week, last Tuesday, just before I got up to give the last special order, a message came from the President. It was lost sight of because there were three messages in a row, but the middle one said, "This will extend our state of emergency with respect to the crisis in the Persian Gulf and Iraq for another year." We ought to go into that, my friends, because we like to look down on countries that we consider lesser than us by saying, "Oh, look at the turmoil, and they have government by decree."

My colleagues, because Congresses have delegated that constitutional power and only because of that can the President issue that kind of emergency decree as we have been living under since 1942. In fact, I will go even before that and go to the National Espionage Act of 1917 most of which has never been returned to the Congress and which President Wilson asked for in time of war. And it has been a President's resorting to that one that has brought some very, very, I think, draconian actions against American individuals including some who have been charged with actual espionage under that act.

When Iraq invaded Kuwait in August 1990, it defaulted on $2 billion of the CCC credits advanced during the Bush administration. But the CCC Program was not the only financial benefit bestowed upon Iraq during the Bush administration.

As I have reported elsewhere, the Bush administration also authorized a $200 million credit program through the Export-Import Bank [Eximbank] that allowed Iraq to import various equipment and raw materials. The Eximbank Program was one of the largest of its type among the Western industrialized nations. This credit not only permitted Iraq to purchase United States equipment, it also freed up scarce resources for cash strapped Iraq, and was granted despite Iraq's shaky finances, under pressure from the highest levels of the administration.

Not to be overlooked is BNL-Atlanta's $5 billion in supposedly unauthorized loans to Iraq—well over $1 billion in commercial loans which were issued during the Bush administration. While the intelligence community has remained silent on what it knew about BNL's activities prior to the raid on BNL-Atlanta in August 1989, it is safe to assume that it would have been highly unusual for our intelligence community not to have noticed thousands of communications between Iraq's highest profile military organizations and BNL in Atlanta, GA. The same can be said of Iraq's front company in Ohio called Matrix-Churchill.

□ 1630

This is actually British-based and apparently British-controlled in London.

At a minimum, the Bush administration looked the other way and allowed BNL's and Matrix-Churchill's activities to continue. We must not forget the CIA has a history of neglecting to inform law enforcement officials about nefarious activities when those activities just happen to facilitate the administration's policy. The recent Bank of Credit and Commerce International [BCCI] and International Signal and Control [ISC] cases provide vivid examples of that phenomenon, or problem where the intelligence agency is totally controlled by the political program at that particular moment of the administration in power.

Later on I will add details to this particular phase.

During the period 1985–90, the Reagan and Bush administrations approved 771 export licenses for Iraq—as I brought out last week—239 of these approvals came from the Bush administration. Much of the equipment shipped to Iraq under these licenses ended up considerably enhancing Iraq's military capability. For example, licenses for the Iraqi Armed Forces and Iraqi weapons factories were routinely approved. As I showed last week, and provided the documentation, this was not done inadvertently; it was a written, but never publicly stated, Bush administration policy to help arm Iraq itself through the export licensing process, as we are again with other countries, as I will bring out in future special orders.

Given the administration's refusal to accept responsibility for facilitating the arming of Iraq, it is important to understand the context in which the billions in United States financial assistance and sophisticated technology flowed to Iraq. Once you understand the context of the decision to provide financial assistance and technology to Iraq, you will understand that it was United States policy to accommodate Saddam Hussein's military ambitions.

The Bush administration was acutely aware of Iraq's intentions, and knew that the financial assistance it was providing to Iraq facilitated Saddam Hussein's ambitious military industrialization effort.

GOAL OF IRAQ'S MILITARY INDUSTRIALIZATION EFFORT

To understand the Iraqi military industrialization effort, one must understand that since the 1970's the goal of Iraq was to become militarily self-sufficient.

It seems to me incredible that a Deputy Secretary of State, like Mr. Eagleburger, would come before the committee, and every one of them from the Secretary of State on down and the President act as if they did not know that ever since 1948 a state of war has existed between Iraq and Israel.

Now, Iraq, let me disabuse my colleagues of any conclusion they might have formed through our war propaganda that Saddam Hussein is looked upon especially in the Muslim-Arab world as a villain. He is a hero.

I brought out the special orders that I took when we returned after the break in August and Labor Day in September 1990, I laid out here before my colleagues, it is all in the RECORD, that Saddam Hussein had and still has the largest and most expensive news disseminating TV and radio network in all the Middle East and that particular portion of Asia.

He is a hero because he is considered the only one who stood up to what the Arabs feel has been an attempt to liquidate them.

I brought out, and it is in the RECORD, when Saddam Hussein properly was excoriated for having been charged with using poison gas against some of his own citizens at the time, the Kurds, but I pointed out that the first one to use chemical warfare, that is gas, was Winston Churchill in 1921 and 1923 against the Arabs, what he called the recalcitrant Arabs.

Who do you think they were? They were the Arabs where Iraq is today.

We must never forget also that we are talking about a country that is now

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named Iraq, but which has been the fountain place or the birth place of western civilization, Mesopotamia.

When we bombed and carpetbag bombed Baghdad, we destroyed artifacts of civilization that are priceless.

Now, if we once understand this, we will then understand why Iraq stood out as the only Arab nation that did not in the opinion of these Arab minds kowtow to Israel and the Western powers.

He was also anxious to get away from relying on the Russians, or the Soviet source of aid.

So he, unlike every other Arab nation, then decided to be the leading Arab military power. That goes back to early and even before the beginning of the Iraq-Iran war.

We must also never forget that Iran is not an Arabic nation. It is non-Arabic.

We must never forget that Syria under Assad was the only Arab nation that went against Iraq in the Iraq-Iranian war, and were it not for the great divisions that have existed among these Arab peoples and we are not aware, we have a tendency to look down on peoples who are extraneous to us and our language particularly, but that is a fatal flaw in our makeup that sooner or later we are going to have to try to correct.

To understand this policy, we have to understand that the goal of the 1970's in this country that was considered the only one that was responding to what segments of the Arab world were saying were attempts of genocide, which unfortunately we have had such a thing. It is unfortunate, but it is true. It is enough.

There is an old saying in equity law that says in an act in which equity or relief is sought to correct a wrong, that action must first be rooted in a wrong. We know from reading human history that the kind of actions that seem to us to be inexplicable in the proceedings of some of these countries, we must never forget that those actions are never born except out of a rooted wrong. That has been stamped into the human makeup no matter what we are by I am sure God's breathing life into our souls and bodies and with that saving water of freedom, no matter where, every human being desires freedom, no matter how much it seems he has accepted the chains of enslavement.

To understand the Iraqi military industrialization effort, I repeat, we have to go back to the beginning of a program of self-sufficiency.

Iraq wanted to have its own military industrial base so that it did not have to depend on the Soviet Union or Western arms suppliers and others for its national security.

The Iraq-Iran war placed the better part of Iraq's military industrialization program on hold because resources were used to purchase urgently needed finished military products such as tanks, fighter jets, ammunition, artillery, and other equipment.

□ 1640

However, during that war Iraq also continued to work on its highest priority indigenous military projects, and when the war ended Saddam Hussein began a massive military industrialization effort.

Iraq had several ambitious goals as it ended its long 8-year war with Iran. First, Iraq wanted to provide for its own national security. Second, Iraq wanted to remain the Arab world's strongest military power. Third, Iraq wanted to become the Arab world's strongest industrial power.

As a matter of fact, all the Arab countries, except one, Syria, supported Iraq in its war against Iran.

As I said before, Iran is a non-Arabic nation. Now, Arabic or not, my colleagues, I ask you how could we be supplying Iraq with everything from intelligence—because we had an intelligence-gathering agreement all during that war with Iraq—supplied them with everything else, even backed up foreign countries like France to make sure they supplied military things all the way from Mirages to Exocet missiles, one of which, incidentally, was the one that killed 37 of our sailors in the Persian Gulf.

Have we forgotten that? How did they get them? That way. And we helped. Do we think that these people, which we, like the British and others, tend to look down upon as inferiors, do not know that at the same time Colonel North and the other hosts and security advisers of Mr. Reagan were over in Iran conveying TOW missiles, do you think they did not check with each other to know? How many Iraqi soldiers died as a result of the TOW missiles we gave them in the Iran-Contra deal? I am sure they know.

Do you believe the Iranians did not know that a lot of their soldiers and a lot of their people and a lot of the destruction through the bombing of Iraqi warplanes did not come from the aid we were giving them? Well, of course they did. They are not inferior people. They happen to have come from an era of long-retarded development, that is all.

We must remember that our modern engineering, and mathematics—how many buildings based on engineering formulas do you think we could build with Roman numerals? It was Arabic numbers which came to Europe through Spain, through the 800-year occupancy of southern Spain by the Moors. Modern medical science, that came through Spain. In the 16th century, Spanish ships bringing colonists, and what have you, including my ancestors on my father's side, who got to the province of what is now the state of Durango in 1560-something, were being inoculated against smallpox.

Now, maybe they did not know about the germ theory, but they knew the cause and effect. Spanish doctors, or what have you, were inoculating the Spanish occupants of these ships on their way to the New World against smallpox in the 16th century.

Where do you think they gained that lore? From the Moors, the Arabs.

So, let us remember that it is always good to remember that God is no respecter of individuals or nations.

Evidence that the Bush administration knew of Iraq's plans is widespread. One example is an Export-Import Bank country risk report dated June 1989. The Eximbank report, which was based in part on intelligence information, was presented to the Eximbank board of directors along with representatives of the State Department, CIA, and Commerce Department. This report states:

> In addition to higher oil production, the government is planning to develop new state controlled industries to supply the military, the civilian market and export markets. Iraq's ambitious plans, unlikely to be completed even within the next five-to-ten years, include oil refineries, petrochemical complexes, specialty steel and aluminum plants, vehicle assembly and various manufacturing activities. These new industries will fashion products for the new arms industries, and produce goods for sale in the domestic market and perhaps export markets.

A year later the CIA reported:

> One of Iraq's main post-war goals is the ambitious expansion of its defense industries

What could be clearer? After the cease-fire in its long war with Iran, Iraq obviously did not have any plans to demilitarize. In fact, it is apparent from reading intelligence community reports that Iraq's highest postwar priority was expanding its military industrial base. Like the Eximbank, a 1989 intelligence community report similarly states:

> A dramatic reduction in domestic military and civilian state sector claims on oil revenues and non-oil production would provide resources for an earlier end to arrears and rescheduling. However, such a massive reduction in military and civilian absorption of resources seems very unlikely * * *.

Iraq's ambitious military industrialization plan called for civilian activities to be integrated into military production and vice versa. In a public speech to the nation in 1989, Saddam Hussein urged Iraqis to:

> * * * make use of civilian industry for military purposes * * * and military industry for civilian purposes using their surplus potential.

This point is further brought home in a June 1989 intelligence report which shows that:

> The Ministry of Industry and Military Industrialization [MIMI] planned to integrate proposed specialty metals, vehicle assembly, and other manufacturing plants directly into missile, tank, and armored personnel carrier industries.

United States knowledge that Iraq gave highest priority to development of its defense industrial base is further spelled out a year later in a July 1990 report which states:

In May 1989, Hussein Kamil, the head of the Ministry of Industry and Military Industrialization (MIMI), proclaimed publicly that Iraq was implementing a defense industrial program to cover all its armed forces' needs for weapons and equipment by 1991. He stated that Iraq's industrialization program was intended to provide all of Iraq's basic industrial supplies from indigenous sources.

For Iraq the drive to develop its own weapons production capability required, to say the least, a complex and intensive undertaking. Not surprisingly, a 1990 CIA report noted that evidence indicated Iraq was devoting a considerable amount of its financial and labor resources on military industrialization.

An estimate of the magnitude of the effort is contained in a June 1989 Eximbank report which says that in 1988 Iraq devoted 42 percent of its oil revenues to military-related procurement.

FOREIGN FIRMS PLAY A BIG ROLE

Iraq had several motivations in embarking on such an ambitious military industrialization effort. First, Saddam Hussein did not want his national security beholden to foreign suppliers of military hardware. Foreign government policies change and Iraq had trouble developing secure long-term supply relationships for the supply of military hardware. The intelligence community stated in the summer of 1990:

Iraq's desire for a large arms industry has grown during the past decade. President Saddam Hussein apparently believes an expanded arms industry will enhance Iraqi prestige and help solve security problems identified during the war such as lack of reliable arms suppliers.

□ 1650

In future statements I will show how Iraq used BNL money to pay foreign firms for their critical role in his ambitious military industrialization effort. Iraq clearly could not have achieved the success it did in its military industrialization program without massive assistance from firms in Europe and the United States.

As we all know, foreign firms played a critical role in many of Iraq's most dangerous and exotic weapons programs such as the Condor II ballistic missile and Gerald Bull's "big gun" project, which I have referred to from the very beginning 2 years ago.

While the resources and coordination required to successfully carry out Iraq's military industrialization effort was monumental, many within the administration believed that Iraq would take a practical approach to setting priorities. For example, in July 1990 the intelligence community stated:

Although Iraq's stated goals almost certainly are over ambitious, we believe the regime recognizes its limitations and holds more pragmatic aspirations in private.

The goals of Iraq's military industrialization program, while ambitious, were considered substantial for several reasons. An executive branch report of July 1990 noted that:

Baghdad has significant advantages in making this grandiose, but still substantial expansion of its defense industries a realistic goal:

1. It has cheap hydrocarbons;
2. Oil income is likely to increase long-term;
3. Large Iraqi military can absorb high levels of production;
4. Iraq has the most highly educated work force in the Arab world;
5. A potential supply of customers for exported arms exists.

These factors are still valid today—not just for Iraq, but also for Iran, Saudi Arabia, and the former Soviet Union. It was Iran that we were against. Where is Iran today? Well, for the first time in just recent weeks it has gone across the sea there, into Sudan. Never before, to the great travail of Egypt, which looks upon Sudan with a lot of fear. Besides that, it has obtained nuclear assistance from one of the now independent states of the former Soviet Union. How well has all of this been reported, and where does this leave the so-called stabilization of the Middle East for which we pay treasury and blood?

Our Government knew from Saddam's own words that Iraq's military industrialization effort was designed to make it difficult to distinguish between military and civilian end uses. As a result, huge industrial complexes in Iraq, many covering thousands of acres, contained civilian as well as military components.

In addition, Iraq did not allow very many foreigners to have complete access to these complexes. United States intelligence no doubt had plenty of satellite photos of Iraqi establishments, but given strict travel restrictions in Iraq, they had limited human intelligence about exactly what was going on in various facilities.

Iraq's mixed-use complexes made it difficult for export licensing officials and those concerned about proliferation to tell exactly where United States equipment was going in Iraq, and, as I pointed out, out of the 771 licenses, only 1 was followed through to try to make sure that the end-use purposes had been served. Only 1 out of 771. That is why postinstallation checks; the Bush administration did only one, as I said; should have been a prerequisite for approving the shipment of United States dual-use technology to Iraq. Without checking on the technology after it was installed, there was almost no chance of determining if it was being used for civilian purposes as claimed by Iraq. The lack of any checks, given that the administration knew what Iraq wanted to do and how it was going to develop military facilities is inexplicable.

That problem is illustrated in a July 1990 executive branch report which states:

Iraq's military industrialization program presents a significant problem for controlling U.S. origin goods and technology and preventing its use in Iraqi military program, particularly strategic projects developing missiles and nonconventional weapons * * * dual-use equipment and technologies can be easily diverted from civilian to strategic military programs.

What could be clearer than that memorandum?

Iraq's close control of production and its mixed-use facility scheme was always a problem for policymakers. A declassified November 1989, State Department memo discussing how President Bush's mandate to increase trade with Iraq was at odds with efforts to stop Iraq's proliferation efforts put it this way:

The problem is not that we lack a policy toward Iraq; we have a policy. However the policy has proven very hard to implement when considering proposed exports of dual-use commodities to ostensibly non-nuclear end-users, particularly state enterprises.

The memo goes on to state, as I have reported before:

Complicating factors in decision making include:

1. A presumption by the Intelligence Community and others that the Iraqi government is interested in acquiring a nuclear explosives capability;
2. Evidence that Iraq is acquiring nuclear-related equipment and materials without regard for immediate need;
3. The fact that state enterprises * * * are involved in both military and civilian projects;
4. Indications of at least some use of fronts for nuclear-related procurement;
5. The difficulty in successfully demarching other suppliers not to approve exports of dual-use equipment to state enterprises and other ostensibly non-nuclear end users.

I will now provide a real world example of this dilemma using a BNL-financed glass-fiber factory that went to Iraq through Matrix-Churchill Corp.

One of the Iraqi military's highest priorities was carbon- and glass-fiber technology. Western militaries use carbon and glass fibers extensively in nuclear, missile, aerospace programs. These very lightweight fibers, when mixed with the proper ingredients, can protect metal from temperatures up to 3,000 degrees. For example, carbon and glass fibers can be used to insulate pipe in nuclear reactors. Carbon fiber technology is used to make nose cones and other temperature-resistant parts for rockets.

When properly fabricated these fibers can also be used to replace metal in many applications. For example, missile casings and many airplane fuselage parts are made with these fibers. These fibers are lighter and more heat resistant than metal. Carbon fibers can also be used to make parts for high-tem-

perature applications such as uranium-enrichment centrifuges.

Carbon- and glass-fiber technology also has many civilian uses such as making the hull of a boat, computer casings, and even golf clubs. Given Iraq's military intentions and the priority they placed on military production, a carbon- or glass-fiber plant in the hands of Iraq was known to be dangerous.

Certainly they were not forming any golf greens anywhere in that desert, but with the help of a BNL loan and Iraq's front company Matrix-Churchill the Iraqis were able to obtain from the United States a glass-fiber factory for the Nassr state enterprise for mechanical industries—which was Iraq's prime ballistic missile maker and also an integral cog in Iraq's efforts to enrich uranium through the centrifuge method.

Even though the United States had severe restrictions on sending carbon-fiber technology abroad, Iraq was able to obtain glass-fiber technology through the United States export licensing process. The glass-fiber debacle dramatically illustrates how President Bush's mandate to increase trade with Iraq was at odds with the policy of limiting proliferation. Iraq's military industrialization strategy of mixing military and civilian production with the same complexes, repeatedly caused nightmares within the export licensing process.

A summer 1990 Government report reflecting the dangers of Iraq's strategy cautioned that:

> Development of missiles and non-conventional weapons was Iraq's highest priority and the program most at odds with U.S. policy of limiting proliferation. Iraq's activities clearly presented tough problems for controlling U.S. dual-use technology that can easily be diverted from civilian programs because Iraq integrates civilian and military production facilities.

□ 1700

But instead of heeding numerous warnings about Iraq's military intentions and dubious procurement activities, the Bush administration repeatedly approved export licenses of military useful technology to Iraq. The glass-fiber factory and many other military useful technologies and equipment were shipped to Iraq in order to improve trade.

We are still doing that. We have also seen a recent helter-skelter of the falling dollar. It was almost in a free fall. The Federal Reserve had to intervene and get 17 other nations in Europe to intervene.

But what have I been saying since the middle 1970's about that? That has been lost side up. It is on record. I felt it was my responsibility. Certainly not having too much power and being looked down upon by the tremendous powerful banking lobbyists as somebody that did not have clout on the Banking Committee, my words went unheeded.

But there is where our danger is. Iraq has done and its advisers, and it is brilliant, whoever advised them, and I suspect a lot of those were non-Arab or non-Middle East, but probably European. This is why the Europeans, beginning after World War I when they were doing the same thing, today and are going the same place as after World War I, they used to say not Uncle Sam, but Uncle Sap.

That is what we continue to be. We continue to be played as Uncle Saps. It aggrieves me to see this, whether it is Middle East, Far East, Asia, or Europe, where it is still an ongoing process.

Does anybody think as our leaders have for the last decade and a half or two that we can depend on help, relief, from friendly sources? If we as an individual family suddenly decided that we are going to depend on our well-being and the supply of our essential needs from some good will neighbor down the street, how many of us would say that was very precarious? But we have been doing that on a national level. Any warnings, any voices speaking out, have been marginalized, shunted aside, including my own, in all fairness to myself.

I have had to take the brutality of dismissal and criticism, and even accusation of perhaps lack of patriotism long enough. So if this be treason, then make the most of it.

Shortly after the BNL raid in August 1989, the U.S. attorney in Atlanta began investigations of several BNL-financed projects, because they got tipped off that something was wrong, even though everybody else that had anything to do with it knew it. So they decided that some rogue element officials in this Italian bank branch in Rome did not know anything about $5 billion-plus of extension of credit through this little branch, or agency as they call it, in Atlanta?

Well now, come on. Anybody that believes that believes in the tooth fairy still.

A Federal Reserve memo indicated what the assistant U.S. attorney [AUSA] thought of the project. The September 22, 1989, Federal Reserve memo of a conversation with the Atlanta U.S. attorney states:

> McKenzie said that everything being written about the missile sales is true. Matrix-Churchill made missile casings.

A Federal Reserve memo dated September 28, 1989, indicates that the DOD had real concerns:

> The Department of Defense is investigating allegations that BNL's funding was used at least in part to finance arms shipments to Iraq in violation of U.S. law. The Atlanta U.S. attorney Gail McKenzie has indicated orally that she believes that BNL-Atlanta made loans to Matrix-Churchill * * * to finance the purchase by Iraq of missile casings * * *.

My gosh, the Atlanta assistant attorney general left and went to work for Matrix-Churchill, and then comes back to the Justice Department and the Atlanta Office of the Federal Attorney.

Two months later, on November 24, 1989, Matrix-Churchill Corp., Iraq's front company in Cleveland, OH, applied for an export license to ship equipment for the glass-fiber factory to Iraq. The Matrix-Churchill export application states:

> Equipment to be used to control a glass-fiber production line with a capacity of 15 tons a day.

The end user listed in the Matrix-Churchill was the technical corporation for special projects, referred to as TECO or Techcorp. The Bush administration had information on TECO going as far back as far as the middle 1980's. For example, a September 1989 Government report says that TECO was involved in high priority military projects that included chemical weapons, antimissile programs, long-range missiles, and nuclear weapons.

A later document showed that TECO served as a focal point for defense related industrial construction and civil engineering and commercial contacts between Iraq establishments and foreign suppliers.

Thus, before the November 1989 date of the application for a license to ship the glass-fiber technology to Iraq, the Bush administration had clear information showing that Matrix-Churchill was part of Iraq's secret military technology procurement network, and that the network's goal was to procure technology for high-priority missile and nuclear weapons projects in Iraq.

They also had information showing that the end user of the technology was an integral part of Iraq's procurement network and that TECO was responsible for Iraq's highest priority clandestine missile and nuclear programs.

Meanwhile, on February 12, 1990, a secret State Department cable was sent to the U.S. Embassies of our closest allies in Europe and Asia. The State Department instructed the Embassies to warn host governments about Iraq's plans to procure nuclear and missile technology, especially carbon- and glass-fiber technology. Can we imagine that?

The cable, subtitled, "Possible Iraqi Missile and Nuclear-related Procurement" reported that the NASSR State Enterprize for Mechanical Industries had been seeking a glass fiber production plant and that NASSR had procured commodities for Saddam Hussein's nuclear and missile programs in the past.

Here is the State Department warning these vacant embassies, "Look out, this is what they are trying to do," and yet we are supplying them with the fiberglass factory.

As I revealed last week, as far back as 1988 the administration had abundant information showing that NASSR was the heart of Iraq's ballistic missile

programs and also a critically important player in the nuclear weapons program. A Commerce Department memo related to an export license application for NASSR dated August 1988 sheds light on how far back our Government knew of NASSR's activities. The memo states of NASSR:

The equipment will be used by the NASSR State Establishment for Mechanical Industries. After several reviews DOD recommended a denial because DOD alleges that we are dealing with a "bad" end-user. The ultimate consignee is a subordinate to the Military Industry Commission and located in a military facility.

An intelligence report on NASSR in May 1990 showed that:

In the case of the missile program—the NASSR State Establishments for Mechanical Industries [NASSR] was instrumental to Iraq's missile development effort.

Amazingly, despite all this and in complete contradiction to the State Department's February warning, on May 30, 1990, the U.S. Commerce Department informed Matrix-Churchill that it did not even need a license to ship the equipment and the glass fiber technology to Iraq. Commerce told Matrix that the technology was G–DEST—in other words all Matrix-Churchill had to do was to have Techcorp verify in writing that is would not divert the technology to a third country. It is unbelievable.

Several weeks ago the committee interviewed a Matrix-Churchill employee assigned to the fiberglass project.

Let me pause at this point to give credit to one of the most indefatigable and brilliant professional staffers we have on the committee, Mr. Dennis Kane, and his able assistant, Debra Carr, under the leadership of our staff director, Mr. Kelsay Meek. I just cannot begin to describe to my colleagues what it has taken to get thousands of these documents. Some of them do not seem to make sense, they have numbers or codes, and they match them.

Mr. Kane and his helpers have worked all through the night and weekends. They have gone down even as tired as they are to Cleveland and talked to the Matrix-Churchill employees.

□ 1710

The moral of this zany, but dangerous story is this. When it came to Iraq, the general policy of thwarting proliferation was at odds with the President's policy of increasing trade with Iraq as spelled out in NSD 26. The Iraq policy permitted Iraq to obtain sophisticated United States military useful technology despite abundant evidence of Iraq's intentions and military programs and even despite our Government trying to stop these purchases elsewhere.

CONCLUSION

There is no way the administration can say that it did not know of Iraq's intentions. There is no way the administration can claim that it was not aware that it was helping to arm Iraq. The intelligence information and reports on Iraq's military industrialization program that I have discussed today and last week were widely disseminated within the administration.

Individuals at the White House, State Department, DOD, Export-Import Bank and the Commerce Department received all this information and much more throughout the entire Bush administration. In fact, the President himself received a good dose of this information in a national intelligence review which was sent to him in November 1989.

Last Friday the Los Angeles Times printed an article which stated:

Administration officials maintain that any military assistance to Iraq was an inadvertent consequence of the attempt to moderate Iraqi actions. They said that they were unaware of the extent of (Iraq's) network in this country and that top officials were distracted by other foreign policy concerns.

This claim is patently false. The fact is that the Bush administration had excruciating detail on Iraq's military industrialization plans and intentions and that Iraq gave highest priority to expanding its indigenous weapons manufacturing capability.

It was in this context that President Bush issued NSD–26 even though he had evidence of Iraq's intentions and dubious practices showed growing danger. The Bush administration did nothing to significantly alter its strategy toward Iraq.

It was a written policy of the Bush administration to help arm Iraq. The Bush administration sent United States technology to the Iraqi military and to many Iraqi weapons factories, despite overwhelming evidence showing that Iraq intended to use the technology in its clandestine nuclear, chemical, biological, weapons and long-range missile programs.

And yet, in 1991 President Bush stated flat out that not one United States firm supplied Saddam Hussein with equipment that enhanced Iraq's military capability. Last week and this week I have shown that the Bush administration actively participated in enhancing Iraq's military capability by watching and even encouraging the flow of billions in United States financial assistance and technology to Iraq.

Any claim that the United States may have inadvertently helped to arm Iraq is a smokescreen to obscure the massive blunder that occurred during the coddling of Saddam Hussein. There is more to say about this.

Mr. Speaker, I include for the RECORD documents to which I referred.

FEBRUARY 1990.

From: Secstate Washdc

To: Amembassy Bern priority, Amembassy Bonn priority, Amembassy Madrid priority, Amembassy Paris priority, Amembassy The Hague priority, Amembassy Tokyo priority, Info Amembassy London, Amembassy Ottawa, Amembassy Rome.

Secret State 046278

E.O. 12356: Decl: Dadr.

Tags: PARM, KNNP, MNUC, PREL. IZ.

Subject: Possible Iraqi missile and nuclear-related procurement.

Refs: (A) 89 State 292127; (B) 89 State 292006.

1. Secret—Entire text.

2. Action addressees will recall reftels which describe

(Secret)

(Secret)

USG concerns about the nuclear programs of Iran and Iraq and steps they have taken to reinvigorate those programs. Reftels urged host governments not to provide either Iran or Iraq with commodities or training which could lead to the production of fissile materials directly usable for nuclear explosives. i.e., plutonium or highly enriched uranium. In particular, reftels cautioned against the export of so-called "dual-use" items to the nuclear programs of Iran or Iraq which could be important in a nuclear weapon program.

3. In an ongoing effort to impede further development of the nuclear programs of Iran and Iraq, department would like to bring to the attention of host governments efforts by Iraq to acquire carbon fiber—and glass fiber-related technology—dual-use technologies which could have both missile and uranium enrichment centrifuge applications. (Begin FYI: Department is currently considering additional approaches which may be made to allied governments regarding other Iraqi efforts to acquire missile and CW-related technology. End FXI.) Embassy is requested to raise this issue drawing on the following talking points, as appropriate.

4. Talking points.

(A) You will recall our discussions of last fall during which we expressed concern about efforts by Iran and Iraq to reinvigorate their nuclear programs.

(B) We urge your government not to provide to Iran and Iraq equipment, materials, technology, or training which

(Secret)

(Secret)

could lead to the production of fissile material directly usable for nuclear explosives, i.e., plutonium or highly enriched uranium.

(C) We also urged suppliers to be extremely cautious about transfer of so-called dual-use items to Iran and Iraq which could be important to a nuclear weapon program.

(D) In our continuing effort to remain alert to efforts by Iran and Iraq to acquire technology which could contribute to a nuclear explosives program, the USG wished to bring to your attention efforts by Iraqi entities to acquire dual-use technologies which could have both missile and uranium enrichment applications.

(E) The USG has learned that Iraqi entities have been seeking carbon fiber production technology. A carbon fiber precursor known as polyacrylonitrile, and equipment for producing carbon fiber fabrics and components.

(F) The USG has also learned that Iraq's Nasser State Enterprise has been seeking a glass fiber production plant. Nasser has procured commodities on behalf of Iraq's nuclear and missile programs in the past.

(G) Certain high-precision forms of carbon fiber and glass fiber technologies have both

missile technology and uranium enrichment centrifuge applications. We believe it is possible that Iraq is trying to acquire this technology for use in one, or perhaps both, of these end-uses.

(H) We believe that the following companies possess this technology and may be approached by the Iraqis:

I. For the UK: (points are being passed to the UK Embassy in Washington)

(Secret)

(Secret)

Glass fibers: Courtalds, Ltd.

Carbon fibers: Courtalds, Ltd.

Filament winding machines: Plastrax and Courtalds, Ltd.

II. For the FRG:

Glass fibers and reinforced plastics: Lipex Anlagentechnik.

Filament winding machines: Josef Baer Maschinenfabrik, Bolenz and Schafer Maschinefabrik KG, and Maschinenbau-Gesellschaft MBH.

Other manufacturers of autoclaves which can be used for advanced fiber and reinforced plastic: F.G. Bode and Co. GMBH, and Deutsch and Neumann GMBH.

III. For France:

Filament winding machines: Berthiez, MFL and Senico.

IV. For Japan:

Carbon fibers: Sumika-Hercules Co., Ltd., a Japan-U.S. joint venture, and Toray Industries.

Filament winding machines: ASAHI.

V. For Switzerland:

Carbon fiber related technology (autoclave) manufacturers:

(Secret)

(Secret)

Nova Werke AG and Sulzer AG.

VI. For the Netherlands:

Carbon fibers: Hercules BV.

VII. For Spain:

We have not identified specific Spanish manufacturers which produce this type of technology, but we believe that such companies may be approached by Iraq.

VIII. For all:

(A) We would urge you to review cautiously license applications for the export of dual-use commodities and technology to Iraq that could be important in a nuclear weapon or missile delivery program, including carbon and glass-fiber technology and equipment.

(B) Filament winding machines and filamentary materials are covered by the so-called "second track" list, which nuclear suppliers agreed in 1984 to use best efforts to control. (This list contains items related to centrifuge enrichment and was adopted to complement the Zangger committee exercise on centrifuge enrichment which preceded it.) The list specifies "filament winding machines where the motions for positioning, wrapping and winding of fibers are coordinated and programmed in three or more axes, especially designed to fabricate composite structure or laminates from fibrous and filamentary materials" and "filamentary materials suitable for use in composite structures and having a specific modulus of greater than 12.3-times-ten-to-the-sixth-power and a specific strength greater than 0.3-times-ten-to-the-sixth-power in SI units."

(Secret)

(Secret)

(C) Filament winding machinery and filamentary materials are subject to COCOM control under IIL 1357 and IIL 1763, and are listed under category II of the equipment and technology annex of the missile technology control regime.

(D) A number of companies in the U.S. manufacture these items: the USG is exercising special caution to ensure that those companies are aware that a license is required for their export.

(E) Those companies are also being told that, given U.S. policy, licenses for the export to Iraq of these particular items would not be granted.

(F) The USG urges your government to take similar steps to ensure that Iraq is not successful in efforts to obtain these items, which could contribute to the development of Iraq's nuclear and missile programs.

End talking points. Eagleburger.

GLASS INC. INTERNATIONAL,
Covina, CA, February 22, 1990.

ROLAND DAVIS,
Matrix-Churchill Corp., 5903 Harper Road, Cleveland, OH.

DEAR ROLAND: I received your fax dated 2/22/90. I know that I promised you a fax regarding a schedule for supplying you with control drawings. I was unable to do this since our employee responsible for this activity was not able to attend work on the 21st. We now have arrived at a tentative date of March 9, 1990 for delivery of the documents under question, but I must advise you that we will not supply this data until we receive a signed copy of an Export License from the U.S. State Department authorizing the shipment of the Computer Control System software and related drawings, and or equipment.

Your office was advised in August 1989 that in our opinion an Export License was required for the Computer Control System.

Since you were unable to prepare the application for the Export License, we at our cost, prepared a draft of an Export Application and sent it to you on October 10, 1989 and revised it at your request on October 18, 1989.

Please note in the September Monthly Report Par A. and C., purchasing of the computer was delayed for two reasons, (1) Not being paid under the terms of Letter of Credit and (2) Not having received a copy of an approved Export License for the Computer, software, and related drawings. It was made very clear in each of the following Monthly Reports, October, November, December 1989 and January 1990, that the Computer Control System was not complete.

I would like to point out as I have in the past that to my knowledge it is a criminal offense to export from the United States anything related to Computers without an approved Export License. This point was discussed again with your office when we were advised by the Del Lavoro Bank that we have been investigated by the United States Government (F.B.I. and Customs), regarding exporting to Iraq. At that time I told your office that I was glad that nothing related to the Process Computer System had been supplied to Iraq.

We are doing our utmost to support MCC. Please note that if your Export Application is not approved what are we to do with all of this equipment as well as our engineering investment in the Control System.

Very truly yours,

ALBERT LEWIS.

TELEX NO.: 3-030.

DATE: MARCH 7, 1990.

To: Techcorp—Baghdad, Iraq.

Attn: Mr. Taha Salman.

Subject: Glass Fiber Project—Contract No. 3128, export license application control No. C120752.

(AA) This is to advise you that we have just been informed by the U.S. Department of Export License that our application (control code No. C120752) for the IBM personal computers (AT286) will be rejected as they are not allowed to be exported to Iraq.

(BB) From talking to the Iraqi commercial attaché at the Embassy earlier today, he informed me that there are similar cases on other projects for which the Embassy will contact the U.S. State Department to resolve. But he requested that they receive an authorization from you or the ministry to discuss our case. Therefore, you are kindly requested to Telex the Embassy immediately (with a copy to us) authorizing them to follow up on our case and to help in obtaining the export license. Please make sure that you refer to our project name, number, and the export license application No. as stated above.

Also, it will be of great help, if the commercial section of the American Embassy in Baghdad are contacted by the ministry for the same purpose. I do not see why they are objecting to export simple personal computers to Iraq, while they can be exported to most countries.

(CC) At our end, we are still in contact with the U.S. authorities, but I believe your official involvement will expedite matters considerably.

Best Regards,

A.T. QADDUMI.

MATRIX-CHURCHILL CORP.,
HARPER ROAD
Cleveland, OH, May 15, 1990.

To: Iraqi Embassy.

Atten: Yousif Abdul Rahman.

From: Mr. Roland Davis.

Subject: Export License.

Application for Export License No. C120752, Dated Nov. 17, 1989, Log No. D065531.

Presently in the hands of: Office of Export License, Mr. Dan. Hill (Since May 8, 1990) 1-202-377-4055; Last Contract was 5-14-90 @ 4:15 P.M. Said he had to talk with the Director of the Export License Office and would get back with me on Tuesday, May 15, 1990.

The Technology is that of Glass Inc. International and a letter explaining dated March 30, 1990 is attached.

Spent the better part of 2 days trying to get the status of our application for Export License application C120752. It seems that it has been rejected by:

1. Defense Dept.
2. Office of Export Enforcement.
3. Office of Technology and Policy Analysis.

It is presently in the Office of Export License who is leaning toward denial. The denial is not based on the computer, but the technology of the process, which is the process for manufacture of "E" Glass Fiber Technology.

Enclosed is the brief explanation of the technology that Glass Inc. International is providing along with Matrix-Churchill to Iraq.

We would like to bring this subject to your attention and request your assistance in this matter.

If you have any questions, please do not hesitate to call.

Regards,

ROLAND B. DAVIS.

GLASS INC. INTERNATIONAL,
Covina, CA, March 30, 1990.

MR. LOCKETT YEE,
U.S. Department of Commerce, BXA/OTPA/TTC, 41th E. Constitution Ave N.W., room 4068, Washington, DC.

DEAR MR. YEE: Enclosed find a copy of the Export License and supporting document for

a commercial glass fiber plant in Peoples Republic of China. The technology being supplied by Matrix-Churchill to Iraq is a standard commercial glass fiber used as a reinforcement for plastics and asphalt. The generic name for the fiber is E-Glass. Its chemistry is typically 54.0 percent SiO_2, 15 percent Al_2O_3, 15 percent CaO/MgO, 11 percent B_2O_3, 2.0 percent F_2, 0.9 percent Na_2O/K_2O. This glass would not be suitable for light transmission since it contains large amounts of chrome and iron. Also, the process can not produce glass of the required quality or characteristics.

The fiber is essentially a single rod of glass having the above chemistry. The diameter of the fiber is typically, 10 to 14 microns. The glass making raw materials are melted in a large furnace approximately 24 feet long and 9 feet wide. The resulting glass is drawn into fibers using platinum bushing having 400 or more holes. These fibers are married together into rovings and/or chopped into fiber length form ¼ to 1½ inches.

See the attached picture of E-Glass Fiber Furnace.[1]

The fibers used in telecommunications are generally known as optic fibers. These are made using two different glasses; a core glass and a clad glass. The core glass is normally pure Quartz (SiO_2). The cladding glass may be a zinc lanthanum borate glass (ZNO, LA, B_2O_3).

See attached picture of Optic Fiber Furnace. Also, see attached picture of E-Glass products.[1]

Sincerely,

ALBERT LEWIS.

U.S. DEPARTMENT OF COMMERCE,
BUREAU OF EXPORT ADMINISTRATION,
Washington, DC.

Export License Application, RWA Notice, Case Number: C120752.

Action Date: May 30, 1990.

The reason printed below explains why the referenced Export License Application is (r)eturned (w)ithout (a)ction. When an application has been returned without action and is being resubmitted, a new application form must be submitted. When a new form is submitted, it must reference the original application. The resubmission must be in accordance with the requirements existing at the time of the resubmission (see paragraph 372.4(G) of the Export Administration regulations).

Applicant reference number: C120752.

Applicant: M467939.

Matrix Churchill Corporation.

5903 Harper Road, Cleveland, OH 44139.

Consignee in country of ultimate designation: Techcorp, Ministry of Industry Building, Al Nidhal Street, Baghdad, Iraq. Reason: The equipment specifically identified on this application do not need a validated license and qualify for general license G-Dest.

Refer inquiries to: Exporter Assistance Staff, Office of Export Licensing, P.O. Box 273, U.S. Department of Commerce, Washington, D.C. 20044, or nearest district office (see Export Administration regulations for list of district offices).

MATRIX-CHURCHILL CORP.,
Cleveland, OH, May 30, 1990.

Mr. ALBERT LEWIS,
Glass Inc. International
Chino, California

Subject: Glass Fiber Project—Export License

This is to advise you of my phone discussions with Mr. Richard Kress of the Department of Commerce—Office of Export Licensing, with regard to the subject of our export license. Mr. Kress called me today at noon in response to our letter dated May 25, 1990, copy attached. He advised me that after review of the technical data for the computers we are intending to ship for the plant, it was established that this equipment is classified as G-Dest, and as such does not require an export license. He advised me that we could go ahead and ship. However, I requested that they advise me in writing stating the above, which he promised to do immediately.

I then asked him about the Glass Fiber Technology itself, and whether it is also clear. His reply was that the only concern was with the computer equipment, and since no export license is required, the end user does not matter anymore, and that we can ship all the equipment for the plant including the computer. I stated to him that I would not ship the computer equipment until receipt of his letter.

As soon as we receive such letter, I will send a copy for your records.

Very Truly Yours,

A.T. QADDUMI,
Project Manager.

U.S. DEPARTMENT OF COMMERCE,
BUREAU OF EXPORT ADMINISTRATION,
Washington, DC.

Mr. A.T. QADUMMI,
Matrix-Churchill Corp.
Cleveland, Ohio.

DEAR MR. QADUMMI: Pursuant to our recent telephone conversations I am informing you of the following. The Office of Technology and Policy Analysis informed me that they concur with our determination regarding the 286 computer and peripherals on export license application C120752. This equipment is decontrolled under General License G-Dest and should be classified as 6565G. The technical data for glass fiber production can be shipped under General License GTDR with a letter of assurance. The glass fiber equipment qualifies for General License G-Dest and should be classified as 6399 G. Temperature and process controllers that are serially networked to the computer should be classified as 6599G and qualifies under General License G-Dest. The following item numbers identified in the equipment list provided by the applicant cannot be classified because of lack of technical parameters: 24, 49, 78, 89, 90, 91, 92, 93, 99, 101, and 105. For these items a formal commodity classification should be obtained in order to determine whether they require a validated license. For further information please contact Lockett Yee in OTPA-TTC at 377-1662 or Dale Jensen in OTPA-CS at 377-0708. The statements made in this response are based on information from the OTPA files for the export license application referenced above.

Sincerely,

RICHARD KRESS,
Strategic Trade Specialist.

MATRIX-CHURCHILL CORP.,
Cleveland, OH, June 1, 1990.

Mr. LOCKETT YEE,
U.S. Department of Commerce,
Washington, DC.

Subject: Glass Fiber Project—Application for Export License.

Reference: Our Application No. C120752—Your Control Code No. D065531.

DEAR MR. YEE: As per your request, please find another copy of our application dated November 17, 1989. Also attached is a copy of Mr. Albert Lewis's letter dated March 30, 1990, to yourself on the specification of Glass Fiber. I will call Mr. Lewis today to ask him to send you a complete copy of the document he sent to you then.

You are kindly requested to review the above documents and to advise us whether we need an export license or not for exporting the technology of Glass Fiber, and if so, to grant us the export license. If you need additional information, please don't hesitate to call us.

Your urgent attention to this matter is greatly appreciated.

Very Truly Yours,

A.T. QADDUMI.

MATRIX-CHURCHILL CORP.,
Cleveland, OH, June 4, 1990

NAME: Mr. Adnan Al-Amiry.

COMPANY NAME: TDG—London.

DEAR ADNAN: Please fax the following (2) sheets to Techcorp as per our discussions earlier today. Also, if you may send it to our office in Baghdad for follow up.

Thanks,

A.T. QADDUMI

MATRIX-CHURCHILL CORP.,
Cleveland, OH, June 4, 1990.

Mr. TAHA SALMAN,
TECHCORP,
Baghdad, Iraq.

Subject: Glass Fiber Project—Export License.

After a lengthy debate with the U.S. Department of Commerce—Office of Export License, we were able to obtain their approval to export the technology for the E-Glass Continuous Fiber on the condition that we receive a "Letter of Assurance" from the Importer, Technical Corps for Special Projects, that neither the technical data nor the direct product thereof is intended to be shipped, either directly or indirectly, to some specified countries, as per the list of countries in the attached letter text.

To enable us to transfer the technology, you are kindly requested to send a "Letter of Assurance" as per the attached text.

Very Truly Yours,

A.T. QADDUMI
Project Manager.

REPUBLIC OF IRAQ,
TECHCORP.

MATRIX CHURCHILL CORP.,
Cleveland, OH.

Subject: E-Glass Continuous Fiber Plant—Export License Application No. C120752 Letter of Assurance.

GENTLEMAN: This is to assure you that neither the technical data nor the direct product thereof from the above plant is intended to be shipped, either directly or indirectly to the following countries:

(1.) Country Group Q: Romania.
(2.) Country Group S: Libya.
(3.) Country Group W: Hungary, Poland.
(4.) Country Group Y: Albania, Bulgaria, Czechoslovakia, Estonia, German Democratic Republic, Laos, Latvian, Lithuanian, Mongolian People Republic, U.S.S.R.
(5.) Country Group Z: North Korea, Vietnam, Kampuchea, Cuba.
(6.) Afghanistan.
(7.) People's Republic of China.
(8.) Kama River (Kam AZ) or ZIL truck plants in the U.S.S.R.

OSAMA HUMADI,
Technical Corps for Special Projects.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legis-

[1] Photographs not reproducible in RECORD.

lative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. YOUNG of Alaska) to revise and extend his remarks and include extraneous material:)

Mr. DELAY, for 60 minutes, on July 28.

(The following Members (at the request of Mr. RAHALL) to revise and extend their remarks and include extraneous material:)

Mr. STAGGERS, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. MONTGOMERY, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. YOUNG of Alaska) and to include extraneous matter:)

Mr. SOLOMON.

Mr. BROOMFIELD.

Mr. MARLENEE.

Mr. DOOLITTLE.

Mr. GRADISON in two instances.

(The following Members (at the request of Mr. RAHALL) and to include extraneous matter:)

Mr. MATSUI.

Mr. RANGEL.

Mr. SOLARZ.

Mr. BILBRAY.

Mr. KENNEDY.

Mr. MATSUI in three instances.

Mr. ANTHONY.

Mr. VENTO in two instances.

Mr. KOSTMAYER.

Mr. LIPINSKI.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to, accordingly (at 5 o'clock and 12 minutes p.m.) under its previous order, the House adjourned until tomorrow, Tuesday, July 28, 1992, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3999. A letter from the Secretary of the Department of Education, transmitting a draft of proposed legislation to permit the Department of Education to make additional fiscal year 1992 allocations to certain counties under chapter 1 of title I of the Elementary and Secondary Education Act of 1965 and for other purposes; to the Committee on Education and Labor.

4000. A letter from the Department of State, transmitting the annual report for fiscal year's 1989 and 1990 on the Foreign Service Retirement and Disability System, pursuant to 31 U.S.C. 9503(a)(1)(8); to the Committee on Government Operations.

4001. A letter from the Secretary, Department of the Interior, transmitting notice of a proposed water reclamation project for the Fort McDowell Indian Community, pursuant to 43 U.S.C. 422d; to the Committee on Interior and Insular Affairs.

4002. A letter from the Secretary, Department of the Interior, transmitting notice of a proposed water reclamation project for the Ute Mountain Indian Tribe, CO, pursuant to 43 U.S.C. 422d; to the Committee on Interior and Insular Affairs.

4003. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

4004. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

4005. A communication from the President of the United States, transmitting a draft of proposed legislation to designate certain lands in the State of Wyoming as wilderness, as for other purposes; to the Committee on Interior and Insular Affairs.

4006. A letter from the Administrator of Management and Budget (Federal Procurement Policy), transmitting a draft of proposed legislation to amend the Miller Act to increase the statutory threshold; to the Committee on the Judiciary.

4007. A letter from the Administrator, General Services Administration, transmitting a copy of a building project survey, pursuant to 40 U.S.C. 606(a); to the Committee on Public Works and Transportation.

4008. A letter from the Secretary of Labor, transmitting the annual report describing employment and training programs for veterans during program year 1989, pursuant to 38 U.S.C. 2009(b); jointly, to the Committees on Education and Labor and Veterans' Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ROE: Committee on Public Works and Transportation. H.R. 1489. A bill to increase the safety to humans and the environment from the transportation by pipeline of natural gas and hazardous liquids, and for other purposes; with an amendment (Rept. 102–247, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 2407. A bill entitled the "Farm Animal and Research Facilities Protection Act of 1991"; with amendments (Rept. 102–498, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROE: Committee on Public Works and Transportation. H.R. 5465. A bill to amend title XIII of the Federal Aviation Act of 1958 relating to aviation insurance; with an amendment (Rept. 102–723). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROE: Committee on Public Works and Transportation. H.R. 5466. A bill to amend the Federal Aviation Act of 1958 to enhance competition among air carriers by prohibiting an air carrier who operates a computer reservation system from discriminating against other air carriers participating in the system and among travel agents which subscribe to the system, and for other purposes; with an amendment (Rept. 102–724). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROE: Committee on Public Works and Transportation. H.R. 3537. A bill to direct the Secretary of Transportation to establish a Civil Tiltrotor Development Advisory Committee in the Department of Transportation, and for other purposes. (Rept. 102–725). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Interior and Insular Affairs. H.R. 4026. A bill to formulate a plan for the management of natural and cultural resources on the Zuni Indian Reservation, on the lands of the Ramah Band of the Navajo Tribe of Indians, and the Navajo Nation, and in other areas within the Zuni River watershed and upstream from the Zuni Indian Reservation, and for other purposes (Rept. 102–726). Referred to the Committee of the Whole House on the State of the Union.

Mr. CLAY: Committee on House Administration. House Joint Resolution 271. Resolution authorizing the Go For Broke National Veterans Association to establish a memorial to Japanese-American veterans in the District of Columbia or its environs; with amendments (Rept. 102–727). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5643. A bill to amend the Internal Revenue Code of 1986 with respect to the treatment of certain amounts received by operators of licensed cotton warehouses (Rept. 102–728). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5646. A bill to amend the Internal Revenue Code of 1986 to provide for the treatment of not-for-profit residual market insurance companies under the alternative minimum tax and to repeal the taxable income limitation on the recognition of built-in gain of S corporations (Rept. 102–729). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5647. A bill to provide that the special estate tax valuation recapture provisions shall cease to apply after 1992 in the case of property acquired from decedents dying before January 1, 1982 (Rept. 102–730). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5652. A bill to amend the Internal Revenue Code of 1986 to extend the period for the rollover of gain on the sale of a principal residence for the period the taxpayer has substantial frozen deposits in a financial institution (Rept. 102–731). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5654. A bill to amend the Internal Revenue Code of 1986 to provide that the harbor maintenance tax shall not apply to the movement of certain cargo within contiguous United States and foreign ports, and for other purposes (Rept. 102–732). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5656. A bill to amend the Internal Revenue Code of 1986 to exempt services performed by full-time students for sea-

sonal children's camps from Social Security taxes, and for other purposes (Rept. 102–733). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5659. A bill to permit the simultaneous reduction of interest rates on certain port authority bonds (Rept. 102–734). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5674. A bill to clarify the tax treatment of intermodal containers, to revise the tax treatment of small property and casualty insurance companies, and for other purposes (Rept. 102–735). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5675. A bill to amend the Internal Revenue Code of 1986 to permit regulations waiving yield restrictions on tax-exempt bond arbitrage if the arbitrage rebate requirements are met (Rept. 102–736). Referred to the Committee of the Whole House on the State of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows

Mr. BROOKS: Committee on the Judiciary. H.R. 455. A bill for the relief of Melissa Johnson (Rept. 102–737). Referred to the Committee of the Whole House.

Mr. BROOKS: Committee on the Judiciary. H.R. 712. A bill for the relief of Patricia A. McNamara (Rept. 102–738). Referred to the Committee of the Whole House.

Mr. BROOKS: Committee on the Judiciary. H.R. 2345. A bill for the relief of William A. Kubrick; with an amendment (Rept. 102–739). Referred to the Committee of the Whole House.

Mr. BROOKS: Committee on the Judiciary. H.R. 2563. A bill for the relief of Richard W. Schaffert (Rept. 102–740). Referred to the Committee of the Whole House.

Mr. BROOKS: Committee on the Judiciary. H.R. 3664. A bill for the relief of Irwin Rutman; with an amendment (Rept. 102–741). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. MARLENEE:

H.R. 5696. A bill to provide for the management of lands and recreational resources at Canyon Ferry Reservoir, MT, and for other purposes; to the Committee on Interior and Insular Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 840: Mr. HAYES of Illinois.

H.R. 2872: Mr. BROOMFIELD and Mr. SMITH of New Jersey.

H.R. 3138: Mr. SANDERS and Mr. HOYER.

H.R. 3920: Mr. DIXON.

H.R. 4178: Mr. JOHNSTON of Florida.

H.R. 4207: Mr. LEHMAN of California and Mr. WALSH.

H.R. 4304: Mr. MACHTLEY, and Mr. KILDEE.

H.R. 4311: Mrs. JOHNSON of Connecticut.

H.R. 4427: Mr. BORSKI and Mr. WYLIE.

H.R. 4530: Mrs. LOWEY of New York, Mr. INHOFE, Mr. SWETT, and Mr. JAMES.

H.R. 5424: Mr. WELDON.

H.R. 5570: Mr. DANNEMEYER, Mr. OLVER, Mr. GUARINI, Ms. HORN, Mr. JACOBS, Mr. KOLTER, Mr. BURTON of Indiana, and Mr. BEREUTER.

H.J. Res. 398: Mr. BROWDER, Mr. MCDERMOTT, Mr. WHITTEN, Mr. HERTEL, Mr. MRAZEK, Mr. OWENS of New York, Mrs. LOWEY of New York, Mr. ANDREWS of New Jersey, Mr. SCHEUER, Mr. DE LUGO, Mr. PURSELL, Mr. CAMP, Ms. KAPTUR, Mr. DARDEN, and Mr. LEVINE of California.

H.J. Res. 422: Mr. BLACKWELL, Mr. BRUCE, and Mr. CARDIN.

H.J. Res. 474: Mr. RAMSTAD, Mr. GEKAS, and Mrs. BENTLEY.

H.J. Res. 488: Mr. FOGLIETTA, Mr. SCHEUER, and Mr. ENGEL.

H. Con. Res. 180: Mr. JONTZ.

H. Con. Res. 282: Mr. MOODY and Mr. GREEN of New York.

H. Con. Res. 325: Mr. BUSTAMANTE.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 5405: Mr. JOHNSON of South Dakota.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 5620

By Mrs. ROUKEMA:

—At the end of the bill insert the following new section:

SECTION . From funds appropriated to the Department of Transportation or made available in Public Law 102–143 or any other act the Secretary of Transportation shall, notwithstanding any other provision of this Act or any other act, make available not to exceed $500,000 for emergency corrective actions to be undertaken at Route 515, near Breakneck Road, in Vernon Township, New Jersey.