

Representatives. The Senate amendment to H.R. 400 would override current tax law by providing special tax treatment to Alaska Native Corporations receiving cash or property in certain circumstances and, therefore, contravenes this constitutional requirement.

Section 204(a) of the Senate amendment achieves this result by providing that, for the purposes of section 21(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1620(c)), the receipt of consideration by a Native Corporation for the relinquishment to the United States of land selection rights granted to any Native Corporation shall be deemed to be an interest in land.

Section 21 of the Alaska Native Claims Settlement Act addresses the taxation of various actions pursuant to that Act. Subsection (c) of section 21 provides that in certain instances the receipt of land or any interest in land shall not be subject to Federal, State, or local taxation. Section 204 of the Senate amendment deems the receipt of any consideration (whether land, cash, or other property) to be "an interest in land" for purposes of section 21(c) of the Alaska Native Claims Settlement Act.

The Senate amendment expands section 21 to make the receipt of cash and other property to be tax-free. Absent this provision, the receipt of cash and other property would be governed by the rules of the Internal Revenue Code which would generally treat their receipt as a taxable event. This would clearly supersede the Federal income tax rules relating to the taxation of the disposition of property.

The provision would have a direct effect on tax revenues. The proposed change in our tax laws is a "revenue affecting" infringement on the House's prerogatives, which constitutes a revenue measure in the constitutional sense. Therefore, I am asked that the House insist on its constitutional prerogatives.

There are numerous precedents for the action I am requesting. In particular, on June 21, 1988, the House returned to the Senate S. 727, which dealt with the tax treatment of income derived from the exercise of Indian treaty fishing rights.

I want to emphasize that this action does not constitute a rejection of the Senate amendment on its merits. Adoption of this privileged resolution to return the bill to the Senate should in no way prejudice its consideration in a constitutionally acceptable manner.

The proposed action today is procedural in nature, and is necessary to preserve the prerogatives of the House to originate revenue matters. It makes it clear to the Senate that the appropriate procedure for dealing with revenue measures is for the House to act first on a revenue bill, and for the Senate to accept it or amend it as it sees fit.

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

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

Mr. Speaker, Members of the Senate know better. This is a perpetual problem that we face in the House. They know that tax legislation must originate in the House and is not with any deleterious remarks that I want to make about this bill, but they know better, and I think it ought to be sent back and I concur with the gentleman's motion.

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

Mr. CRANE. Mr. Speaker, I have no further requests for time, but I would like to take advantage of this opportunity on our final day of this session of this term to pay tribute, great tribute to a gentleman that I have looked up to for many years on the Committee on Ways and Means, our ranking minority member now who is going into retirement, but will not retire from his involvement I am sure, in these key issues of concern to all of us citizens here in the United States.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

#### NAVAJO-HOPI LAND DISPUTE SETTLEMENT ACT OF 1996

Mr. GILCHREST. Mr. Speaker, I ask unanimous consent that the Committee on Resources be discharged from further consideration of the Senate bill (S. 1973) to provide for the settlement of the Navajo-Hopi land dispute, and for other purposes, and I ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

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

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1973

*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 "Navajo-Hopi Land Dispute Settlement Act of 1996".

#### SEC. 2. FINDINGS.

The Congress finds that—

(1) it is in the public interest for the Tribe, Navajos residing on the Hopi Partitioned Lands, and the United States to reach a peaceful resolution of the longstanding disagreements between the parties under the Act commonly known as the "Navajo-Hopi Land Settlement Act of 1974" (Public Law 93-531; 25 U.S.C. 640d et seq.);

(2) it is in the best interest of the Tribe and the United States that there be a fair and final settlement of certain issues remaining in connection with the Navajo-Hopi Land Settlement Act of 1974, including the full and final settlement of the multiple

claims that the Tribe has against the United States;

(3) this Act, together with the Settlement Agreement executed on December 14, 1995, and the Accommodation Agreement (as incorporated by the Settlement Agreement), provide the authority for the Tribe to enter agreements with eligible Navajo families in order for those families to remain residents of the Hopi Partitioned Lands for a period of 75 years, subject to the terms and conditions of the Accommodation Agreement;

(4) the United States acknowledges and respects—

(A) the sincerity of the traditional beliefs of the members of the Tribe and the Navajo families residing on the Hopi Partitioned Lands; and

(B) the importance that the respective traditional beliefs of the members of the Tribe and Navajo families have with respect to the culture and way of life of those members and families;

(5) this Act, the Settlement Agreement, and the Accommodation Agreement provide for the mutual respect and protection of the traditional religious beliefs and practices of the Tribe and the Navajo families residing on the Hopi Partitioned Lands;

(6) the Tribe is encouraged to work with the Navajo families residing on the Hopi Partitioned Lands to address their concerns regarding the establishment of family or individual burial plots for deceased family members who have resided on the Hopi Partitioned Lands; and

(7) neither the Navajo Nation nor the Navajo families residing upon Hopi Partitioned Lands were parties to or signers of the Settlement Agreement between the United States and the Hopi Tribe.

#### SEC. 3. DEFINITIONS.

Except as otherwise provided in this Act, for purposes of this Act, the following definitions shall apply:

(1) ACCOMMODATION.—The term "Accommodation" has the meaning provided that term under the Settlement Agreement.

(2) HOPI PARTITIONED LANDS.—The term "Hopi Partitioned Lands" means lands located in the Hopi Partitioned Area, as defined in section 168.1(g) of title 25, Code of Federal Regulations (as in effect on the date of enactment of this Act).

(3) NAVAJO PARTITIONED LANDS.—The term "Navajo Partitioned Lands" has the meaning provided that term in the proposed regulations issued on November 1, 1995, at 60 Fed. Reg. 55506.

(4) NEW LANDS.—The term "New Lands" has the meaning provided that term in section 700.701(b) of title 25, Code of Federal Regulations.

(5) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(6) SETTLEMENT AGREEMENT.—The term "Settlement Agreement" means the agreement between the United States and the Hopi Tribe executed on December 14, 1995.

(7) TRIBE.—The term "Tribe" means the Hopi Tribe.

(8) NEWLY ACQUIRED TRUST LANDS.—The term "newly acquired trust lands" means lands taken into trust for the Tribe within the State of Arizona pursuant to this Act or the Settlement Agreement.

#### SEC. 4. RATIFICATION OF SETTLEMENT AGREEMENT.

The United States approves, ratifies, and confirms the Settlement Agreement.

#### SEC. 5. CONDITIONS FOR LANDS TAKEN INTO TRUST.

The Secretary shall take such action as may be necessary to ensure that the following conditions are met prior to taking lands into trust for the benefit of the Tribe pursuant to the Settlement Agreement:

(1) SELECTION OF LANDS TAKEN INTO TRUST.—

(A) PRIMARY AREA.—In accordance with section 7(a) of the Settlement Agreement, the primary area within which lands acquired by the Tribe may be taken into trust by the Secretary for the benefit of the Tribe under the Settlement Agreement shall be located in northern Arizona.

(B) REQUIREMENTS FOR LANDS TAKEN INTO TRUST IN THE PRIMARY AREA.—Lands taken into trust in the primary area referred to in subparagraph (A) shall be—

(i) land that is used substantially for ranching, agriculture, or another similar use; and

(ii) to the extent feasible, in contiguous parcels.

(2) ACQUISITION OF LANDS.—Before taking any land into trust for the benefit of the Tribe under this section, the Secretary shall ensure that—

(A) at least 85 percent of the eligible Navajo heads of household (as determined under the Settlement Agreement) have entered into an accommodation or have chosen to relocate and are eligible for relocation assistance (as determined under the Settlement Agreement); and

(B) the Tribe has consulted with the State of Arizona concerning the lands proposed to be placed in trust, including consulting with the State concerning the impact of placing those lands into trust on the State and political subdivisions thereof resulting from the removal of land from the tax rolls in a manner consistent with the provisions of part 151 of title 25, Code of Federal Regulations.

(3) PROHIBITION.—The Secretary may not, pursuant to the provisions of this Act and the Settlement Agreement, place lands, any portion of which are located within or contiguous to a 5-mile radius of an incorporated town or city (as those terms are defined by the Secretary) in northern Arizona, into trust for benefit of the Tribe without specific statutory authority.

(4) EXPEDITIOUS ACTION BY THE SECRETARY.—Consistent with all other provisions of this Act, the Secretary is directed to take lands into trust under this Act expeditiously and without undue delay.

#### SEC. 6. ACQUISITION THROUGH CONDEMNATION OF CERTAIN INTERSPERSED LANDS.

(a) IN GENERAL.—

(1) ACTION BY THE SECRETARY.—

(A) IN GENERAL.—The Secretary shall take action as specified in subparagraph (B), to the extent that the Tribe, in accordance with section 7(b) of the Settlement Agreement—

(i) acquires private lands; and

(ii) requests the Secretary to acquire through condemnation interspersed lands that are owned by the State of Arizona and are located within the exterior boundaries of those private lands in order to have both the private lands and the State lands taken into trust by the Secretary for the benefit of the Tribe.

(B) ACQUISITION THROUGH CONDEMNATION.—With respect to a request for an acquisition of lands through condemnation made under subparagraph (A), the Secretary shall, upon the recommendation of the Tribe, take such action as may be necessary to acquire the lands through condemnation and, with funds provided by the Tribe, pay the State of Arizona fair market value for those lands in accordance with applicable Federal law, if the conditions described in paragraph (2) are met.

(2) CONDITIONS FOR ACQUISITION THROUGH CONDEMNATION.—The Secretary may acquire lands through condemnation under this subsection if—

(A) that acquisition is consistent with the purpose of obtaining not more than 500,000

acres of land to be taken into trust for the Tribe;

(B) the State of Arizona concurs with the United States that the acquisition is consistent with the interests of the State; and

(C) the Tribe pays for the land acquired through condemnation under this subsection.

(b) DISPOSITION OF LANDS.—If the Secretary acquires lands through condemnation under subsection (a), the Secretary shall take those lands into trust for the Tribe in accordance with this Act and the Settlement Agreement.

(c) PRIVATE LANDS.—The Secretary may not acquire private lands through condemnation for the purpose specified in subsection (a)(2)(A).

#### SEC. 7. ACTION TO QUIET POSSESSION.

If the United States fails to discharge the obligations specified in section 9(c) of the Settlement Agreement with respect to voluntary relocation of Navajos residing on Hopi Partitioned Lands, or section 9(d) of the Settlement Agreement, relating to the implementation of sections 700.137 through 700.139 of title 25, Code of Federal Regulations, on the New Lands, including failure for reason of insufficient funds made available by appropriations or otherwise, the Tribe may bring an action to quiet possession that relates to the use of the Hopi Partitioned Lands after February 1, 2000, by a Navajo family that is eligible for an accommodation, but fails to enter into an accommodation.

#### SEC. 8. PAYMENT TO STATE OF ARIZONA.

(a) AUTHORIZATION OF APPROPRIATIONS.—Subject to subsection (b), there are authorized to be appropriated to the Department of the Interior \$250,000 for fiscal year 1998, to be used by the Secretary of the Interior for making a payment to the State of Arizona.

(b) PAYMENT.—The Secretary shall make a payment in the amount specified in subsection (a) to the State of Arizona after an initial acquisition of land from the State has been made by the Secretary pursuant to section 6.

#### SEC. 9. 75-YEAR LEASING AUTHORITY.

The first section of the Act of August 9, 1955 (69 Stat. 539, chapter 615; 25 U.S.C. 415) is amended by adding at the end the following new subsections:

“(c) LEASES INVOLVING THE HOPI TRIBE AND THE HOPI PARTITIONED LANDS ACCOMMODATION AGREEMENT.—Notwithstanding subsection (a), a lease of land by the Hopi Tribe to Navajo Indians on the Hopi Partitioned Lands may be for a term of 75 years, and may be extended at the conclusion of the term of the lease.

“(d) DEFINITIONS.—For purposes of this section—

“(1) the term ‘Hopi Partitioned Lands’ means lands located in the Hopi Partitioned Area, as defined in section 168.1(g) of title 25, Code of Federal Regulations (as in effect on the date of enactment of this subsection); and

“(2) the term ‘Navajo Indians’ means members of the Navajo Tribe.”

#### SEC. 10. REAUTHORIZATION OF THE NAVAJO-HOPI RELOCATION HOUSING PROGRAM.

Section 25(a)(8) of Public Law 93-531 (25 U.S.C. 640d-24(a)(8)) is amended by striking “1996, and 1997” and inserting “1996, 1997, 1998, 1999, and 2000”.

#### SEC. 11. EFFECT OF THIS ACT ON CASES INVOLVING THE NAVAJO NATION AND THE HOPI TRIBE.

Nothing in this Act or the amendments made by this Act shall be interpreted or deemed to preclude, limit, or endorse, in any manner, actions by the Navajo Nation that seek, in court, an offset from judgments for

payments received by the Hopi Tribe under the Settlement Agreement.

#### SEC. 12. WATER RIGHTS.

(a) IN GENERAL.—

(1) WATER RIGHTS.—Subject to the other provisions of this section, newly acquired trust lands shall have only the following water rights:

(A) The right to the reasonable use of groundwater pumped from such lands.

(B) All rights to the use of surface water on such lands existing under State law on the date of acquisition, with the priority date of such right under State law.

(C) The right to make any further beneficial use on such lands which is unappropriated on the date each parcel of newly acquired trust lands is taken into trust. The priority date for the right shall be the date the lands are taken into trust.

(2) RIGHTS NOT SUBJECT TO FORFEITURE OR ABANDONMENT.—The Tribe's water rights for newly acquired trust lands shall not be subject to forfeiture or abandonment arising from events occurring after the date the lands are taken into trust.

(b) RECOGNITION AS VALID USES.—

(1) GROUNDWATER.—With respect to water rights associated with newly acquired trust lands, the Tribe, and the United States on the Tribe's behalf, shall recognize as valid all uses of groundwater which may be made from wells (or their subsequent replacements) in existence on the date each parcel of newly acquired trust land is acquired and shall not object to such groundwater uses on the basis of water rights associated with the newly acquired trust lands. The Tribe, and the United States on the Tribe's behalf, may object only to the impact of groundwater uses on newly acquired trust lands which are initiated after the date the lands affected are taken into trust and only on grounds allowed by the State law as it exists when the objection is made. The Tribe, and the United States on the Tribe's behalf, shall not object to the impact of groundwater uses on the Tribe's right to surface water established pursuant to subsection (a)(3) when those groundwater uses are initiated before the Tribe initiates its beneficial use of surface water pursuant to subsection (a)(3).

(2) SURFACE WATER.—With respect to water rights associated with newly acquired trust lands, the Tribe, and the United States on the Tribe's behalf, shall recognize as valid all uses of surface water in existence on or prior to the date each parcel of newly acquired trust land is acquired and shall not object to such surface water uses on the basis of water rights associated with the newly acquired trust lands, but shall have the right to enforce the priority of its rights against all junior water rights the exercise of which interfere with the actual use of the Tribe's senior surface water rights.

(3) RULE OF CONSTRUCTION.—Nothing in paragraph (1) or (2) shall preclude the Tribe, or the United States on the Tribe's behalf, from asserting objections to water rights and uses on the basis of the Tribe's water rights on its currently existing trust lands.

(c) APPLICABILITY OF STATE LAW ON LANDS OTHER THAN NEWLY ACQUIRED LANDS.—The Tribe, and the United States on the Tribe's behalf, further recognize that State law applies to water uses on lands, including subsurface estates, that exist within the exterior boundaries of newly acquired trust lands and that are owned by any party other than the Tribe.

(d) ADJUDICATION OF WATER RIGHTS ON NEWLY ACQUIRED TRUST LANDS.—The Tribe's water rights on newly acquired trust lands shall be adjudicated with the rights of all

other competing users in the court now presiding over the Little Colorado River Adjudication, or if that court no longer has jurisdiction, in the appropriate State or Federal court. Any controversies between or among users arising under Federal or State law involving the Tribe's water rights on newly acquired trust lands shall be resolved in the court now presiding over the Little Colorado River Adjudication, or, if that court no longer has jurisdiction, in the appropriate State or Federal court. Nothing in this subsection shall be construed to affect any court's jurisdiction; provided, that the Tribe shall administer all water rights established in subsection (a).

(e) PROHIBITION.—Water rights for newly acquired trust lands shall not be used, leased, sold, or transported for use off of such lands or the Tribe's other trust lands, provided that the Tribe may agree with other persons having junior water rights to subordinate the Tribe's senior water rights. Water rights for newly acquired trust lands can only be used on those lands or other trust lands of the Tribe located within the same river basin tributary to the main stream of the Colorado River.

(f) SUBSURFACE INTERESTS.—On any newly acquired trust lands where the subsurface interest is owned by any party other than the Tribe, the trust status of the surface ownership shall not impair any existing right of the subsurface owner to develop the subsurface interest and to have access to the surface for the purpose of such development.

(g) STATUTORY CONSTRUCTION WITH RESPECT TO WATER RIGHTS OF OTHER FEDERALLY RECOGNIZED INDIAN TRIBES.—Nothing in this section shall affect the water rights of any other federally recognized Indian tribe with a priority date earlier than the date the newly acquired trust lands are taken into trust.

(h) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to determine the law applicable to water use on lands owned by the United States, other than on the newly acquired trust lands. The granting of the right to make beneficial use of unappropriated surface water on the newly acquired trust lands with a priority date such lands are taken into trust shall not be construed to imply that such right is a Federal reserved water right. Nothing in this section or any other provision of this Act shall be construed to establish any Federal reserved right to groundwater. Authority for the Secretary to take land into trust for the Tribe pursuant to the Settlement Agreement and this Act shall be construed as having been provided solely by the provisions of this Act.

Mr. MILLER of California. Mr. Speaker, I rise in support of S. 1973, the Navajo-Hopi Land Dispute Settlement Act of 1996. This bill is another step in the right direction toward bringing the problems with the land dispute between the two tribes to a close. It will enact the settlement agreement reached between the Hopi Tribe and the Department of Justice acting on behalf of the United States.

S. 1973 will provide the Hopi Tribe with the authority to enter in lease agreements with Navajo residents living on Hopi partitioned land. These leases will allow the Navajo residents to live peaceably on Hopi land for 75 years with the promise that they will be treated under Hopi law the same as members of the Hopi Tribe.

Further, this legislation will settle four law suits pending against the United States by the Hopi Tribe. Enactment of this bill will save millions in continued litigation costs and probable U.S. liability.

I urge my colleagues to support this measure—the Hopi Tribe has remained willing to

negotiate and discuss each issue which has arisen over this matter. They have waited long enough for this bill to pass.

I want to thank the Navajo nation for its help in getting this settlement to this point. I further wish to thank the Hopi Tribe, the tribal council, and particularly chairman Ferrell Secakuku and Kim Secakuku for their determination and long hours of hard work.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

#### GENERAL LEAVE

Mr. GILCHREST. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the Senate bill just passed.

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

There was no objection.

#### PERMISSION FOR COMMITTEE ON RESOURCES TO HAVE UNTIL 5 P.M. OCTOBER 11, 1996, TO FILE REPORT ON H.R. 2041, GUAM WAR RESTITUTION ACT

Mr. GILCHREST. Mr. Speaker, I ask unanimous consent that the Committee on Resources have until 5 p.m. on October 11, 1996, to file a report on H.R. 2041, the Guam War Restitution Act, as amended.

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

There was no objection.

#### SPECIAL ORDERS

The SPEAKER pro tempore (Mr. HANSEN). Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington [Mr. DICKS] is recognized for 5 minutes.

[Mr. DICKS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Utah [Mr. HANSEN] is recognized for 5 minutes.

[Mr. HANSEN addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington [Mr. McDERMOTT] is recognized for 5 minutes.

[Mr. McDERMOTT addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. COX] is recognized for 5 minutes.

[Mr. COX addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut [Ms. DELAURO] is recognized for 5 minutes.

[Ms. DELAURO addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. STEARNS] is recognized for 5 minutes.

[Mr. STEARNS addressed the House. His remarks will appear hereafter in the Extension of Remarks.]

#### THANKS AND APPRECIATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Louisiana [Mr. FIELDS] is recognized for 5 minutes.

Mr. FIELDS of Louisiana. Mr. Speaker, tonight I rise, as a 33-year-old retiring Member of this distinguished body, filled with thanks and appreciation.

I would first, Mr. Speaker, like to thank each Member of this great and prestigious body. I have never served in a body with such great Members, Members that care about people, Members that care about each other. And I want to thank the Members of this great institution for giving me the opportunity to serve with them.

I also, Mr. Speaker, would like to thank my staff, who have worked so hard throughout the 4 years, or 3½ years, that we have had the opportunity to serve the people of Louisiana. The people on my staff have had the opportunity to solve over 7,000 cases, and we have had over 200 town hall meetings throughout the State of Louisiana. And without the staff that I have, we would not have been able to accomplish those goals.

So I tonight, Mr. Speaker, would like to thank the many members of my congressional staff, who have worked so hard to serve the people of Louisiana.

I would like to thank the staff throughout this Congress, from the security officers, Capitol Police, to the people who work at the desk to people who just work and do day-to-day things here in the House of Representatives.

And I want to give special appreciation to Mr. Charlie Johnson, who is our Parliamentarian, who has worked so hard to keep the rules and regulations, the rules of the House, adhered to.

I remember, Mr. Speaker, when I was first elected to this body, I was 29 years of age and I had the opportunity, at the request of Speaker Foley, to serve as Speaker of the House, and Charlie received several phone calls. The phones