

Thompson (CA)	Udall (NM)	Weiner
Thompson (MS)	Upton	Weldon (FL)
Thornberry	Velazquez	Weldon (PA)
Thune	Visclosky	Weller
Thurman	Vitter	Whitfield
Tiahrt	Walden	Wicker
Tiberi	Walsh	Wilson
Tierney	Waters	Wolf
Toomey	Watkins (OK)	Woolsey
Towns	Watson (CA)	Wu
Traficant	Watt (NC)	Young (FL)
Turner	Watts (OK)	
Udall (CO)	Waxman	

NAYS—2

Houghton

Paul

NOT VOTING—39

Baker	Ehrlich	Ortiz
Barr	Ferguson	Payne
Becerra	Gibbons	Pombo
Blunt	Hall (OH)	Radanovich
Boozman	Hill	Riley
Callahan	LaFalce	Souder
Cantor	Largent	Stark
Clay	Lipinski	Sweeney
Cooksey	Luther	Terry
Cox	McInnis	Wamp
Cubin	McIntyre	Wexler
Cummings	Meek (FL)	Wynn
Delahunt	Murtha	Young (AK)

□ 1912

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

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to award congressional gold medals on behalf of government workers who responded to the attacks on the World Trade Center and perished and on behalf of people aboard United Airlines Flight 93 who helped resist the hijackers and caused the plane to crash."

A motion to reconsider was laid on the table.

PERMISSION TO HAVE UNTIL 6 A.M. DECEMBER 19, 2001, TO FILE CONFERENCE REPORT ON H.R. 3061, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2002

Mr. YOUNG of Florida. Mr. Speaker, I ask unanimous consent that the managers on the part of the House have until 6 a.m., December 19, 2001, to file a conference report on the bill (H.R. 3061) making appropriations for the Departments of Labor, Health and Human Services, and Education and related agencies for the fiscal year ending September 30, 2002, and for other purposes.

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

There was no objection.

MAKING IN ORDER AFTER 1 P.M. ON WEDNESDAY, DECEMBER 19, 2001, CONSIDERATION OF CONFERENCE REPORT ON H.R. 3061, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2002

Mr. YOUNG of Florida. Mr. Speaker, I ask unanimous consent that it shall be in order at any time after 1 p.m. on

Wednesday, December 19, 2001, to consider the conference report to accompany the bill (H.R. 3061) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2002, and for other purposes; that all points of order against the conference report and against its consideration are waived; and the conference report shall be considered as read.

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

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, 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 6 of rule XX.

Any record votes on postponed questions will be taken tomorrow.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3427

Mr. ROHRABACHER. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor from H.R. 3427.

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

There was no objection.

□ 1915

HOMESTAKE MINE CONVEYANCE ACT OF 2001

Mr. CANNON. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1389) to provide for the conveyance of certain real property in South Dakota to the State of South Dakota with indemnification by the United States Government, and for other purposes, as amended.

The Clerk read as follows:

S. 1389

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

TITLE I—CONVEYANCE OF HOMESTAKE MINE

SEC. 101. SHORT TITLE.

This title may be cited as the "Homestake Mine Conveyance Act of 2001".

SEC. 102. FINDINGS.

Congress finds the following:

(1) The United States is among the leading nations in the world in conducting basic scientific research.

(2) That leadership position strengthens the economy and national defense of the United States and provides other important benefits.

(3) The Homestake Mine in Lead, South Dakota, owned by the Homestake Mining Company of California, is approximately 8,000 feet deep and is situated in a unique physical setting that is ideal for carrying out certain types of particle physics and other research.

(4) The Mine has been selected by the National Underground Science Laboratory

Committee, an independent panel of distinguished scientists, as the preferred site for the construction of the National Underground Science Laboratory.

(5) Such a laboratory would be used to conduct scientific research that would be funded and recognized as significant by the United States.

(6) The establishment of the laboratory is in the national interest and would substantially improve the capability of the United States to conduct important scientific research.

(7) For economic reasons, Homestake intends to cease operations at the Mine in 2001.

(8) On cessation of operations of the Mine, Homestake intends to implement reclamation actions that would preclude the establishment of a laboratory at the Mine.

(9) Homestake has advised the State that, after cessation of operations at the Mine, instead of closing the entire Mine, Homestake is willing to donate the underground portion of the Mine and certain other real and personal property of substantial value at the Mine for use as the National Underground Science Laboratory.

(10) Use of the Mine as the site for the laboratory, instead of other locations under consideration, would result in a savings of millions of dollars for the Federal Government.

(11) If the Mine is selected as the site for the laboratory, it is essential that closure of the Mine not preclude the location of the laboratory at the Mine.

(12) Homestake is unwilling to donate, and the State is unwilling to accept, the property at the Mine for the laboratory if Homestake and the State would continue to have potential liability with respect to the transferred property.

(13) To secure the use of the Mine as the location for the laboratory and to realize the benefits of the proposed laboratory it is necessary for the United States to—

(A) assume a portion of any potential future liability of Homestake concerning the Mine; and

(B) address potential liability associated with the operation of the laboratory.

SEC. 103. DEFINITIONS.

In this title:

(1) **ADMINISTRATOR.**—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) **AFFILIATE.**—

(A) **IN GENERAL.**—The term "affiliate" means any corporation or other person that controls, is controlled by, or is under common control with Homestake.

(B) **INCLUSIONS.**—The term "affiliate" includes a director, officer, or employee of an affiliate.

(3) **CONVEYANCE.**—The term "conveyance" means the conveyance of the Mine to the State under section 104(a).

(4) **FUND.**—The term "Fund" means the Environment and Project Trust Fund established under section 108.

(5) **HOMESTAKE.**—

(A) **IN GENERAL.**—The term "Homestake" means the Homestake Mining Company of California, a California corporation.

(B) **INCLUSION.**—The term "Homestake" includes—

(i) a director, officer, or employee of Homestake;

(ii) an affiliate of Homestake; and

(iii) any successor of Homestake or successor to the interest of Homestake in the Mine.

(6) **INDEPENDENT ENTITY.**—The term "independent entity" means an independent entity selected jointly by Homestake, the South

Dakota Department of Environment and Natural Resources, and the Administrator—

(A) to conduct a due diligence inspection under section 104(b)(2)(A); and

(B) to determine the fair value of the Mine under section 105(a).

(7) INDIAN TRIBE.—The term “Indian tribe” has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(8) LABORATORY.—

(A) IN GENERAL.—The term “laboratory” means the national underground science laboratory proposed to be established at the Mine after the conveyance.

(B) INCLUSIONS.—The term “laboratory” includes operating and support facilities of the laboratory.

(9) MINE.—

(A) IN GENERAL.—The term “Mine” means the portion of the Homestake Mine in Lawrence County, South Dakota, proposed to be conveyed to the State for the establishment and operation of the laboratory.

(B) INCLUSIONS.—The term “Mine” includes—

(i) real property, mineral and oil and gas rights, shafts, tunnels, structures, backfill, broken rock, fixtures, facilities, and personal property to be conveyed for establishment and operation of the laboratory, as agreed upon by Homestake and the State; and

(ii) any water that flows into the Mine from any source.

(C) EXCLUSIONS.—The term “Mine” does not include—

(i) the feature known as the “Open Cut”;

(ii) any tailings or tailings storage facility (other than backfill in the portion of the Mine described in subparagraph (A)); or

(iii) any waste rock or any site used for the dumping of waste rock (other than broken rock in the portion of the Mine described in subparagraph (A)).

(10) PERSON.—The term “person” means—

(A) an individual;

(B) a trust, firm, joint stock company, corporation (including a government corporation), partnership, association, limited liability company, or any other type of business entity;

(C) a State or political subdivision of a State;

(D) a foreign governmental entity;

(E) an Indian tribe; and

(F) any department, agency, or instrumentality of the United States.

(11) PROJECT SPONSOR.—The term “project sponsor” means an entity that manages or pays the costs of 1 or more projects that are carried out or proposed to be carried out at the laboratory.

(12) SCIENTIFIC ADVISORY BOARD.—The term “Scientific Advisory Board” means the entity designated in the management plan of the laboratory to provide scientific oversight for the operation of the laboratory.

(13) STATE.—

(A) IN GENERAL.—The term “State” means the State of South Dakota.

(B) INCLUSIONS.—The term “State” includes an institution, agency, officer, or employee of the State.

SEC. 104. CONVEYANCE OF REAL PROPERTY.

(a) IN GENERAL.—

(1) DELIVERY OF DOCUMENTS.—Subject to paragraph (2) and subsection (b) and notwithstanding any other provision of law, on the execution and delivery by Homestake of 1 or more quitclaim deeds or bills of sale conveying to the State all right, title, and interest of Homestake in and to the Mine, title to the Mine shall pass from Homestake to the State.

(2) CONDITION OF MINE ON CONVEYANCE.—The Mine shall be conveyed as is, with no representations as to the condition of the property.

(b) REQUIREMENTS FOR CONVEYANCE.—

(1) IN GENERAL.—The Administrator’s acceptance of the final report or certification of the independent entity under paragraph (4) is a condition precedent of the conveyance and of the assumption of liability by the United States in accordance with this title.

(2) DUE DILIGENCE INSPECTION.—

(A) IN GENERAL.—As a condition precedent of conveyance and of Federal participation described in this title, Homestake shall permit an independent entity to conduct a due diligence inspection of the Mine to determine whether any condition of the Mine may present an imminent and substantial endangerment to public health or the environment.

(B) CONSULTATION.—As a condition precedent of the conduct of a due diligence inspection, the Administrator, in consultation with Homestake, the South Dakota Department of Environment and Natural Resources, and the independent entity, shall define the methodology and standards to be used, and other factors to be considered, by the independent entity in—

(i) the conduct of the due diligence inspection;

(ii) the scope of the due diligence inspection; and

(iii) the time and duration of the due diligence inspection.

(C) PARTICIPATION BY HOMESTAKE.—Nothing in this paragraph requires Homestake to participate in the conduct of the due diligence inspection.

(3) REPORT TO THE ADMINISTRATOR.—

(A) IN GENERAL.—The independent entity shall submit to the Administrator a report that—

(i) describes the results of the due diligence inspection under paragraph (2); and

(ii) identifies any condition of or in the Mine that may present an imminent and substantial endangerment to public health or the environment.

(B) PROCEDURE.—

(i) DRAFT REPORT.—Before finalizing the report under this paragraph, the independent entity shall—

(I) issue a draft report;

(II) submit to the Administrator, Homestake, and the State a copy of the draft report;

(III) issue a public notice requesting comments on the draft report that requires all such comments to be filed not later than 45 days after issuance of the public notice; and

(IV) during that 45-day public comment period, conduct at least 1 public hearing in Lead, South Dakota, to receive comments on the draft report.

(ii) FINAL REPORT.—In the final report submitted to the Administrator under this paragraph, the independent entity shall respond to, and incorporate necessary changes suggested by, the comments received on the draft report.

(4) REVIEW AND APPROVAL BY ADMINISTRATOR.—

(A) IN GENERAL.—Not later than 60 days after receiving the final report under paragraph (3), the Administrator shall—

(i) review the report; and

(ii) notify the State in writing of acceptance or rejection of the final report.

(B) CONDITIONS FOR REJECTION.—The Administrator may reject the final report if the report discloses 1 or more conditions that—

(i) as determined by the Administrator, may present an imminent and substantial endangerment to the public health or the environment and require a response action; or

(ii) otherwise make the conveyance in section 104, or the assumption of liability, the release of liability, or the indemnification in section 106 contrary to the public interest.

(C) RESPONSE ACTIONS AND CERTIFICATION.—

(i) RESPONSE ACTIONS.—

(I) IN GENERAL.—If the Administrator rejects the final report, Homestake may carry out or bear the cost of, or permit the State or another person to carry out or bear the cost of, such response actions as are necessary to correct any condition identified by the Administrator under subparagraph (B)(i) that may present an imminent and substantial endangerment to public health or the environment.

(II) LONG-TERM RESPONSE ACTIONS.—

(aa) IN GENERAL.—In a case in which the Administrator determines that a condition identified by the Administrator under subparagraph (B)(i) requires continuing response action, or response action that can be completed only as part of the final closure of the laboratory, it shall be a condition of conveyance that Homestake, the State, or another person deposit into the Fund such amount as is estimated by the independent entity, on a net present value basis and after taking into account estimated interest on that basis to be sufficient to pay the costs of the long-term response action or the response action that will be completed as part of the final closure of the laboratory.

(bb) LIMITATION ON USE OF FUNDS.—None of the funds deposited into the Fund under item (aa) shall be expended for any purpose other than to pay the costs of the long-term response action, or the response action that will be completed as part of the final closure of the Mine, identified under that item.

(ii) CONTRIBUTION BY HOMESTAKE.—The total amount that Homestake may expend, pay, or deposit into the Fund under subclauses (I) and (II) of clause (i) shall not exceed—

(I) \$75,000,000; less

(II) the fair value of the Mine as determined under section 105(a).

(iii) CERTIFICATION.—

(I) IN GENERAL.—After any response actions described in clause (i)(I) are carried out and any required funds are deposited under clause (i)(II), the independent entity may certify to the Administrator that the conditions for rejection identified by the Administrator under subparagraph (B) have been corrected.

(II) ACCEPTANCE OR REJECTION OF CERTIFICATION.—Not later than 60 days after an independent entity makes a certification under subclause (I), the Administrator shall accept or reject the certification.

(c) REVIEW OF CONVEYANCE.—For the purposes of the conveyance, the requirements of this section shall be considered to be sufficient to meet any requirement of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

SEC. 105. ASSESSMENT OF PROPERTY.

(a) VALUATION OF PROPERTY.—The independent entity shall assess the fair value of the Mine.

(b) FAIR VALUE.—For the purposes of this section, the fair value of the Mine shall be the fair market value as determined by an appraisal in conformance with the Uniform Appraisal Standards for Federal Land Acquisition. To the extent appraised items only have value to the Federal Government for the purpose of constructing the laboratory, the appraiser shall also add to the assessment of fair value the estimated cost of replacing the shafts, winzes, hoists, tunnels, ventilation system and other equipment and improvements at the Mine that are expected to be used at, or that will be useful to, the laboratory.

(c) REPORT.—Not later than the date on which each report developed in accordance with section 104(b)(3) is submitted to the Administrator, the independent entity described in subsection (a) shall submit to the

State a report that identifies the fair value assessed under subsection (a).

SEC. 106. LIABILITY.

(a) ASSUMPTION OF LIABILITY.—

(1) ASSUMPTION.—Subject to paragraph (2), notwithstanding any other provision of law, on completion of the conveyance in accordance with this title, the United States shall assume any and all liability relating to the Mine and laboratory, including liability for—

(A) damages;

(B) reclamation;

(C) the costs of response to any hazardous substance (as defined in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601)), contaminant, or other material on, under, or relating to the Mine and laboratory; and

(D) closure of the Mine and laboratory.

(2) CLAIMS AGAINST UNITED STATES.—In the case of any claim brought against the United States, the United States shall be liable for—

(A) damages under paragraph (1)(A), only to the extent that an award of damages is made in a civil action brought under chapter 171 of title 28, United States Code, notwithstanding that the act or omission giving rise to the claim was not committed by an employee of the United States; and

(B) response costs under paragraph (1)(C), only to the extent that an award of response costs is made in a civil action brought under—

(i) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

(ii) the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.);

(iii) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.); or

(iv) any other applicable Federal environmental law, as determined by the Administrator.

(b) LIABILITY PROTECTION.—On completion of the conveyance, neither Homestake nor the State shall be liable to any person or the United States for injuries, costs, injunctive relief, reclamation, damages (including damages to natural resources or the environment), or expenses, or liable under any other claim (including claims for indemnification or contribution, claims by third parties for death, personal injury, illness, or loss of or damage to property, or claims for economic loss), under any law (including a regulation) for any claim arising out of or in connection with contamination, pollution, or other condition, use, or closure of the Mine and laboratory, regardless of when a condition giving rise to the liability originated or was discovered.

(c) INDEMNIFICATION.—Notwithstanding any other provision of law, on completion of the conveyance in accordance with this title, the United States shall indemnify, defend, and hold harmless Homestake and the State from and against—

(1) any and all liabilities and claims described in subsection (a), without regard to any limitation under subsection (a)(2); and

(2) any and all liabilities and claims described in subsection (b).

(d) WAIVER OF SOVEREIGN IMMUNITY.—For purposes of this title, the United States waives any claim to sovereign immunity with respect to any claim of Homestake or the State under this title.

(e) TIMING FOR ASSUMPTION OF LIABILITY.—If the conveyance is effectuated by more than 1 legal transaction, the assumption of liability, liability protection, indemnification, and waiver of sovereign immunity provided for under this section shall apply to each legal transaction, as of the date on which the transaction is completed and with

respect to such portion of the Mine as is conveyed under that transaction.

(f) EXCEPTIONS FOR CERTAIN CLAIMS.—Nothing in this section constitutes an assumption of liability by the United States, or relief of liability of Homestake, for—

(1) any unemployment, worker's compensation, or other employment-related claim or cause of action of an employee of Homestake that arose before the date of conveyance;

(2) any claim or cause of action that arose before the date of conveyance, other than claims relating to environmental response costs or natural resource damages; or

(3) any violation of any provision of criminal law.

(g) EXCEPTION FOR OFF-SITE ENVIRONMENTAL CLAIMS.—Nothing in this title constitutes an assumption of liability by the United States, relief of liability for Homestake, or obligation to indemnify Homestake, for any claim, injury, damage, liability, or reclamation or cleanup obligation with respect to any property or asset that is not conveyed under this title, except to the extent that any such claim, injury, damage, liability, or reclamation or cleanup obligation is based on activities or events at the Mine subsequent to the date of conveyance.

SEC. 107. INSURANCE COVERAGE.

(a) PROPERTY AND LIABILITY INSURANCE.—

(1) IN GENERAL.—To the extent property and liability insurance is available and subject to the requirements described in paragraph (2), the State shall purchase property and liability insurance for the Mine and the operation of the laboratory to provide coverage against the liability described in subsections (a) and (b) of section 106.

(2) REQUIREMENTS.—The requirements referred to in paragraph (1) are the following:

(A) TERMS OF INSURANCE.—In determining the type, extent of coverage, and policy limits of insurance purchased under this subsection, the State shall—

(i) periodically consult with the Administrator and the Scientific Advisory Board; and

(ii) consider certain factors, including—

(I) the nature of the projects and experiments being conducted in the laboratory;

(II) the availability and cost of commercial insurance; and

(III) the amount of funding available to purchase commercial insurance.

(B) ADDITIONAL TERMS.—The insurance purchased by the State under this subsection may provide coverage that is—

(i) secondary to the insurance purchased by project sponsors; and

(ii) in excess of amounts available in the Fund to pay any claim.

(3) FINANCING OF INSURANCE PURCHASE.—

(A) IN GENERAL.—Subject to section 108, the State may finance the purchase of insurance required under this subsection by using—

(i) funds made available from the Fund; and

(ii) such other funds as are received by the State for the purchase of insurance for the Mine and laboratory.

(B) NO REQUIREMENT TO USE STATE FUNDS.—Nothing in this title requires the State to use State funds to purchase insurance required under this subsection.

(4) ADDITIONAL INSURED.—Any insurance purchased by the State under this subsection shall—

(A) name the United States as an additional insured; or

(B) otherwise provide that the United States is a beneficiary of the insurance policy having the primary right to enforce all rights of the United States under the policy.

(5) TERMINATION OF OBLIGATION TO PURCHASE INSURANCE.—The obligation of the

State to purchase insurance under this subsection shall terminate on the date on which—

(A) the Mine ceases to be used as a laboratory; or

(B) sufficient funding ceases to be available for the operation and maintenance of the Mine or laboratory.

(b) PROJECT INSURANCE.—

(1) IN GENERAL.—The State, in consultation with the Administrator and the Scientific Advisory Board, may require, as a condition of approval of a project for the laboratory, that a project sponsor provide property and liability insurance or other applicable coverage for potential liability associated with the project described in subsections (a) and (b) of section 106.

(2) ADDITIONAL INSURED.—Any insurance obtained by the project sponsor under this section shall—

(A) name the State and the United States as additional insureds; or

(B) otherwise provide that the State and the United States are beneficiaries of the insurance policy having the primary right to enforce all rights under the policy.

(c) STATE INSURANCE.—

(1) IN GENERAL.—To the extent required by State law, the State shall purchase, with respect to the operation of the Mine and the laboratory—

(A) unemployment compensation insurance; and

(B) worker's compensation insurance.

(2) PROHIBITION ON USE OF FUNDS FROM FUND.—A State shall not use funds from the Fund to carry out paragraph (1).

SEC. 108. ENVIRONMENT AND PROJECT TRUST FUND.

(a) ESTABLISHMENT.—On completion of the conveyance, the State shall establish, in an interest-bearing account at an accredited financial institution located within the State, the Environment and Project Trust Fund.

(b) AMOUNTS.—The Fund shall consist of—

(1) an annual deposit from the operation and maintenance funding provided for the laboratory in an amount to be determined—

(A) by the State, in consultation with the Administrator and the Scientific Advisory Board; and

(B) after taking into consideration—

(i) the nature of the projects and experiments being conducted at the laboratory;

(ii) available amounts in the Fund;

(iii) any pending costs or claims that may be required to be paid out of the Fund; and

(iv) the amount of funding required for future actions associated with the closure of the facility;

(2) an amount determined by the State, in consultation with the Administrator and the Scientific Advisory Board, and to be paid by the appropriate project sponsor, for each project to be conducted, which amount—

(A) shall be used to pay—

(i) costs incurred in removing from the Mine or laboratory equipment or other materials related to the project;

(ii) claims arising out of or in connection with the project; and

(iii) if any portion of the amount remains after paying the expenses described in clauses (i) and (ii), other costs described in subsection (c); and

(B) may, at the discretion of the State, be assessed—

(i) annually; or

(ii) in a lump sum as a prerequisite to the approval of the project;

(3) interest earned on amounts in the Fund, which amount of interest shall be used only for a purpose described in subsection (c); and

(4) all other funds received and designated by the State for deposit in the Fund.

(c) EXPENDITURES FROM FUND.—Amounts in the Fund shall be used only for the purposes of funding—

(1) waste and hazardous substance removal or remediation, or other environmental cleanup at the Mine;

(2) removal of equipment and material no longer used, or necessary for use, in conjunction with a project conducted at the laboratory;

(3) a claim arising out of or in connection with the conducting of such a project;

(4) purchases of insurance by the State as required under section 107;

(5) payments for and other costs relating to liability described in section 106; and

(6) closure of the Mine and laboratory.

(d) FEDERAL PAYMENTS FROM FUND.—The United States—

(1) to the extent the United States assumes liability under section 106—

(A) shall be a beneficiary of the Fund; and
(B) may direct that amounts in the Fund be applied to pay amounts and costs described in this section; and

(2) may take action to enforce the right of the United States to receive 1 or more payments from the Fund.

(e) NO REQUIREMENT OF DEPOSIT OF PUBLIC FUNDS.—Nothing in this section requires the State to deposit State funds as a condition of the assumption by the United States of liability, or the relief of the State or Homestake from liability, under section 106.

SEC. 109. WASTE ROCK MIXING.

After completion of the conveyance, the State shall obtain the approval of the Administrator before disposing of any material quantity of laboratory waste rock if—

(1) the disposal site is on land not conveyed under this title; and

(2) the State determines that the disposal could result in commingling of laboratory waste rock with waste rock disposed of by Homestake before the date of conveyance.

SEC. 110. REQUIREMENTS FOR OPERATION OF LABORATORY.

After the conveyance, nothing in this title exempts the laboratory from compliance with any law (including a Federal environmental law).

SEC. 111. CONTINGENCY.

This title shall be effective contingent on the making of an award by the National Science Foundation for the establishment of the laboratory at the Mine.

SEC. 112. OBLIGATION IN THE EVENT OF NON-CONVEYANCE.

If the conveyance under this title does not occur, any obligation of Homestake relating to the Mine shall be limited to such reclamation or remediation as is required under any applicable law other than this title.

SEC. 113. PAYMENT AND REIMBURSEMENT OF COSTS.

The United States may seek payment—

(1) from the Fund, under section 108(d), to pay or reimburse the United States for amounts payable or liabilities incurred under this title; and

(2) from available insurance, to pay or reimburse the United States and the Fund for amounts payable or liabilities incurred under this title.

SEC. 114. CONSENT DECREES.

Nothing in this title affects any obligation of a party under—

(1) the 1990 Remedial Action Consent Decree (Civ. No. 90-5101 D. S.D.); or

(2) the 1999 Natural Resource Damage Consent Decree (Civ. Nos. 97-5078 and 97-5100, D. S.D.).

SEC. 115. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this title.

The SPEAKER pro tempore (Mr. LATOURETTE). Pursuant to the rule, the gentleman from Utah (Mr. CANNON) and the gentleman from West Virginia (Mr. RAHALL) each will control 20 minutes.

The Chair recognizes the gentleman from Utah (Mr. CANNON).

GENERAL LEAVE

Mr. CANNON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and insert extraneous material on the bill currently under consideration.

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

There was no objection.

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

Mr. Speaker, S. 1389 was passed by the other body on November 16 of this year. This bill will facilitate the conveyance of the Homestake Mine in South Dakota for eventual use as a National Underground Science Laboratory. The gentleman from South Dakota (Mr. THUNE) has introduced a companion bill, H.R. 3299, and the amendment proposed for S. 1389 reflects his improvements to the original legislation.

Mr. Speaker, I would like to thank the gentleman from Louisiana (Mr. TAUZIN), the gentleman from Alaska (Mr. YOUNG), and the gentleman from California (Mr. THOMAS) for their cooperation in scheduling this bill so expeditiously.

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

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

Mr. Speaker, S. 1389 was passed by the Senate on November 15. I would also note that virtually identical language is contained in the Senate-passed version of the fiscal year 2002 defense appropriations bill. In both cases, the measures were adopted by the other body without opposition.

With that noted, I would like to take this opportunity to commend the bill sponsors, Senators DASCHLE and JOHNSON, for their persistence in seeking the enactment of this legislation. It is at their request that those of us on this side of the aisle have agreed to expedite the consideration of S. 1389 this evening. With that noted, we do not object to the passage of this bill by the House.

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

Mr. CANNON. Mr. Speaker, I yield such time as he may consume to the gentleman from South Dakota (Mr. THUNE), the author of the House companion bill.

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

Mr. Speaker, the legislation before us this evening would help address an issue of enormous importance to my State of South Dakota and to the entire country. We have the opportunity

to take something that would be considered a liability and convert it into an asset. It all centers around something that up until a year ago I knew very little about, and that is neutrino research.

For the past 125 years, the Black Hills of South Dakota have been home to one of America's finest gold mining operations, Homestake Gold Mine. It is no longer profitable to mine gold at Homestake, so as of December 31 of this year, the mine will close. Its remaining workforce, which once numbered 800 employees, will be out of work and the community of Lead and the surrounding area will experience a devastating economic impact. That is, of course, unless another solution can be found.

Mr. Speaker, that solution has appeared in the form of the neutrino. It just so happens that Homestake Gold Mine offers the ideal setting for the physical study of subatomic particles known as neutrinos. A group of scientists from around the Nation is working with the State of South Dakota to create a National Underground Science Laboratory to conduct neutrino research.

Mr. Speaker, the Nation does not currently have a domestic facility with the capabilities needed for significant developments in this important scientific field. A formal proposal was made to the National Science Foundation on June 5 on behalf of Homestake Mine to be the host site for this research laboratory. About a dozen scientists within the National Science Foundation will review it and make a decision as to whether to proceed with the National Underground Science Laboratory. A committee of scientists already has identified Homestake as the preferred location, and final approval from NSF is expected soon.

In order for this project to move forward, Mr. Speaker, Homestake Mine must transfer ownership of its mine and related surface facilities to the State of South Dakota. Such a transfer can only occur if Homestake receives release from the Federal reclamation continuous ownership responsibilities through special indemnification legislation.

This legislation before us this evening, and now with the amendments that will be adopted by the House, set out the conditions under which such a transfer may occur.

Mr. Speaker, I want to thank the Committee on Resources, the Committee on Energy and Commerce, the Committee on Science, the Committee on the Judiciary, the and Committee on Transportation and Infrastructure for their assistance in bringing this legislation to the floor. Making this project a reality will help secure a better future for the people of Leads, South Dakota and for all of South Dakota and in creating national treasures of science and research for all of America.

Mr. Speaker, I thank the gentleman, and I urge my colleagues to adopt this legislation.

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

Mr. CANNON. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. BOEHLERT).

(Mr. BOEHLERT asked and was given permission to revise and extend his remarks.)

Mr. BOEHLERT. Mr. Speaker, I rise in opposition to the bill. I think it is seriously flawed and I have some real concerns about it.

However, one thing I am not concerned about is the professional manner in which the gentleman from South Dakota (Mr. THUNE) has engaged in a serious discussion of my concerns and I wish to compliment him for that. I have to confess that the most damage in this bill was done in the other body, but we are used to that here.

Mr. Speaker, I'm afraid I must rise in opposition to this bill, despite the strenuous efforts made to improve it by both Mr. THUNE and the House leadership. As a Member of Congress, I'm afraid that this bill could still unnecessarily saddle taxpayers with costly and unprecedented environmental responsibilities. And as Chairman of the House Science Committee, I'm concerned that this bill may distort the priorities of the National Science Foundation for years to come.

This bill sets up a dangerous and unprecedented situation in which the federal government will be financially responsible for activities it did not undertake at a piece of property it does not control. That flies in the face of common sense and fiduciary responsibility.

Under this bill, the federal government will be responsible for any environmental liability connected with the portions of the Homestake mine that are conveyed to South Dakota—even if they originated while the mine was privately operated. And while the mine will be owned by South Dakota, the state will have no financial responsibility for it; that will rest solely with the federal taxpayer. It's lucky that South Dakota doesn't have any bridges to sell us.

In the bill as originally introduced, the federal government did not even have any real ability to have problems at the mine cleaned up before it was transferred. Thanks to the efforts of Mr. THUNE, that situation has been improved.

I would urge the Environmental Protection Agency (EPA), which will hire a contractor to review the mine, not to accept any contractor with which it is not completely satisfied. The unfortunate fact that the contractor must be selected "jointly" by Homestake, South Dakota and EPA should not be allowed to pressure EPA into hiring a contractor that will not fully protect the federal taxpayer. And the requirement that EPA consult with Homestake and the State over the nature of the contract with the "independent entity" must not be interpreted to give Homestake or the State any veto over the content of the contract.

But EPA should consult with the National Science Foundation (NSF) throughout the environmental review process, as NSF is the federal agency that will have continuing responsibility if a laboratory is established at the mine.

Importantly, the bill now allows the EPA Administrator to reject the final report of the con-

tractor if it identifies conditions that would make the federal assumption of liability "contrary to the public interest." I believe this allows the federal government to reject the transfer of the mine if it would cost too much to remedy existing environmental problems. This is vital since Homestake's contribution to pre-transfer remediation could well turn out to be nothing, given the language in this bill.

The bill says nothing about which federal agency would be responsible for overseeing or financing any pre-transfer remediation. This is a major, conspicuous, and I assume, purposeful gap in the legislation.

I certainly would hope that these costs—which should not have been federalized in the first place—are not borne by the National Science Foundation, a small agency with important tasks that do not include environmental remediation.

But this bill raises many other concerns related to the National Science Foundation. All the activities under this bill are contingent on NSF approval of an underground laboratory at the Homestake mine.

While such a laboratory certainly has scientific merit, it may not be a high priority compared to other NSF programs and projects, especially given that construction of other neutrino detectors is either under consideration or underway.

This bill must not be used to pressure NSF to change or circumvent its traditional, careful selection procedures. Normally, a project of this magnitude would require several years of review. NSF would have to determine its relative priority among other Major Research Equipment proposals. And NSF would have to ensure that proper management is in place. Those procedures must be followed in this case. Indeed, this is even more important in the case of Homestake because any mismanagement could result in both environmental harm and substantial liability for the Federal Government.

I would also urge the National Science Foundation (NSF) not to make a decision on whether to award a grant to the underground laboratory until the report to EPA has been prepared. This is essential even though NSF will have to have an Environmental Impact Statement prepared about the conversion of the mine into a laboratory.

NSF should not be committing federal resources to a project until it knows how much the project will cost the federal taxpayer and which agencies will be responsible for shouldering that burden.

The federal assumption of liability will already pose unfortunate costs for NSF. The laboratory is to pay into an Environment and Project Trust Fund, and some if not all of that money will come from NSF.

NSF must be an active participant in determining how much needs to be contributed to the trust fund, especially since it may end up being the only contributor to that fund. And NSF must have a role in determining the final disposition of the fund. The bill is si-

lent on what is to become of the fund if a laboratory is started and then closed. All that is clear is that the Federal Government gets saddled with the costs of closing the mine. But which agency is responsible for that undertaking? And what will happen to any leftover funds? NSF should have an active role in deciding that.

This bill poses enormous, unnecessary and unprecedented risks for the federal taxpayer. It is, in a phrase, a sweetheart deal for the Canadian company that owns Homestake and for the State of South Dakota. It could threaten the stability of the National Science Foundation, a premier science agency whose processes have been viewed as a model of objectivity and careful review.

I should point out that the Federal Government is already paying Homestake \$10 million in this fiscal year to keep the mine open because it might become a laboratory. If that continues through the period of NSF decision-making the Federal Government could easily sink as much as \$50 million in to a mine that it may never use.

I will work to ensure that NSF itself is not saddled with those unnecessary costs, which could be spent on worthy grants to researchers.

The Science Committee will be following this matter extremely closely to ensure that the environmental review is rigorous and protects the public interest. We will watch closely to ensure that the laboratory is being reviewed in the same manner as every other NSF project and does not distort the agency's processes or priorities or weigh it down with unsustainable costs. The risks of proceeding with this bill are clear; we will work to see that they are never realized.

Mr. Speaker, I am attaching an exchange of letters with the National Science Foundation that will further highlight the risks inherent in proceeding in this unorthodox manner.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON SCIENCE,
Washington DC.

Dr. RITA COLWELL,
Director, National Science Foundation,
Arlington, VA.

DEAR DR. COLWELL: As you know, the Senate recently passed S. 1389, the "Homestake Conveyance Act of 2001." This bill has serious implications for the National Science Foundation (NSF).

With that in mind, we want to be sure that NSF is considering the likely consequences should S. 1389 be enacted. Therefore, I am writing to request that you submit to the House Science Committee the following items by no later than December 15:

(1) A plan for how NSF would absorb the expected costs of an underground laboratory at Homestake beginning in Fiscal Year 2003, with special attention to the impact on other projects in the Major Research Equipment account.

(2) A plan for how NSF would ensure that the laboratory was properly managed, even if a project were awarded in calendar 2002.

(3) A plan for how NSF would interact with the Environmental Protection Agency and the State of South Dakota to ensure that the

mine is in proper condition for the establishment of a laboratory and to determine amounts NSF grantees would have to pay into the Environment and Project Trust Fund established under the bill.

The enactment of S. 1389 could complicate NSF's situation for years to come, both directly and through the precedents the bill may set. We want to work together with you, starting immediately, to limit any problems this measure may cause.

Sincerely,

SHERWOOD BOEHLERT,
Chairman.

NATIONAL SCIENCE FOUNDATION,
Arlington, Virginia, December 14, 2001.
Hon. SHERWOOD BOEHLERT,
Chairman, Committee on Science, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter regarding S. 1389, the "Homestake Conveyance Act of 2001" and its possible implications for the National Science Foundation (NSF).

The following responds to your requests:

(1) A plan for how NSF would absorb the expected costs of an underground laboratory at Homestake beginning in Fiscal Year 2003, with special attention to the impact on other projects in the Major Research Equipment account.

NSF has not identified funds to support the conversion of the Homestake mine into an underground research laboratory. Unless the President requests and Congress appropriates additional monies for the lab, its establishment would force us to reconsider the priorities within the Research and Related Activities appropriation or reevaluate the funding profiles and timelines of existing MRE projects.

(2) A plan for how NSF would ensure that the laboratory was properly managed, even if a project were awarded in calendar 2002.

An applicant for a grant of this magnitude must submit a management plan for NSF's review prior to any funding decision by the Foundation. That plan must cover all phases of the project including the planning process, construction or acquisition, integration and test, commissioning, and maintenance and operations. The management plan sets forth the management structure and designates the key personnel who are to be responsible for implementing the award. This proposed management plan then becomes the basis for NSF's review of the adequacy of management for the project.

The technical and managerial complexity of the proposed lab suggests that NSF would utilize a Cooperative Agreement as the funding instrument. The particular terms of a Cooperative Agreement covering the lab would be established prior to NSF's funding of the proposal. That Cooperative Agreement would specify the extent to which NSF would advise, review, approve or otherwise be involved with project activities. To the extent NSF does not reserve or share responsibility for certain aspects of the project, all such responsibilities remain with the recipient.

(3) A plan for how NSF would interact with the Environmental Protection Agency (EPA) and the State of South Dakota to ensure that the mine is in proper condition for the establishment of a laboratory and to determine amounts NSF grantees would have to pay into the Environment and Project Trust Fund established under the bill.

NSF would interact in good faith with the EPA and the State of South Dakota to ensure that the mine is in satisfactory condition for the establishment of a laboratory. Additionally, assessment of the proposal before us will presumably require an Environmental Impact Statement (EIS). The findings of that EIS would very much inform our evaluation of the proposal.

We share your concern about the mandatory contribution to the Fund required of each project conducted in the lab. Our review of each proposal for science in the lab would include a careful analysis of (1) the projected costs of removing from the mine or laboratory equipment or other materials related to a proposed project, and (2) the projected cost of claims that could arise out of or in connection with a proposed project. Meaningful analysis of both factors would require close cooperation with the lab's Scientific Advisory Board, the State of South Dakota, and the EPA. These costs will factor into our evaluation of each proposal.

I appreciate the opportunity to work with you in assessing the possible impact of this legislation on the National Science Foundation.

The Office of Management and Budget advises that there is no objection to the submission of this report from the standpoint of the President's program.

Sincerely,

RITA R. COLWELL,
Director.

Mr. GILLMOR. Mr. Speaker, I rise to congratulate my colleague, JOHN THUNE, for his determination and tenacity in bringing this bill before the House today. It is because of him that the people of South Dakota have a high tech future that is environmentally friendly.

Earlier this year, the Homestake Mine in Lead, South Dakota announced that it was closing its gold mining operations after 125 years of work. Homestake planned to abandon its mine and allow it to fill up with water. Ordinarily, this would have been devastating news to the community, but the gentleman from South Dakota insisted that something could be done with the mine to create jobs and help prevent future environmental damage.

On November 15 of this year, the Senate passed legislation to transfer the Homestake Mine to the State of South Dakota for the purposes of constructing a National Underground Laboratory. While well intentioned, that bill, S. 1389, had potentially far-reaching implications for the environment.

I am pleased to say that Mr. THUNE and our committee staff worked diligently to change the course of the Senate bill and put the power to make polluters take legal and financial responsibility for their actions back in the hands of the appropriate Federal agencies.

I want to point out a few places that are of great importance to me. The Senate bill set up a few requirements in order for the Mine to be transferred, and the Mine and State to be relieved of all liability, in addition to receiving indemnification against future actions. Originally, the Senate bill also prevented the EPA Administrator from rejecting conveyance of the mine unless and only if an independent entity found an egregious environmental problem. The bill on the floor today, however, not only makes the assessment of the mine responsibility of EPA, but also opens up the criteria for rejection of conveyance to include anything that would present an imminent and substantial endangerment to public health and the environment. Most importantly, though, the legislation states that the EPA Administrator has an absolute right to reject the conveyance if the transfer is in any way contrary to the public interest.

Mr. Speaker, this is not a perfect bill, but it is worthy of consideration by this House. I believe the product before us is significantly better than the one sent to us one month ago. It still treats this mining company differently than

we treat any other company. Instead of passing this legislation to benefit one company, we should be looking at liability reform for all companies under Superfund.

But, I again want to congratulate Mr. THUNE for this holiday present to his State and his concern for new economic development and sustained environmental and public health protections.

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

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

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Utah (Mr. CANNON) that the House suspend the rules and pass the Senate bill, S. 1389, as amended.

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

A motion to reconsider was laid on the table.

REAFFIRMING THE SPECIAL RELATIONSHIP BETWEEN THE UNITED STATES AND THE REPUBLIC OF THE PHILIPPINES

Mr. ROHRABACHER. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 273) reaffirming the special relationship between the United States and the Republic of the Philippines.

The Clerk read as follows:

H. CON. RES. 273

Whereas the United States and the Republic of the Philippines have shared a special relationship of mutual benefit for more than 100 years;

Whereas 2001 marks the 50th anniversary of the United States-Philippines Mutual Defense Treaty, signed at Washington on August 30, 1951 (3 UST 3947);

Whereas since the September 11, 2001, terrorist attacks on the United States, the Philippines has been among the most steadfast friends of the United States during a time of grief and turmoil, offering heartfelt sympathy and support;

Whereas after the United States launched its war of self-defense in Afghanistan on October 7, 2001, Philippine President Gloria Macapagal-Arroyo immediately announced her Government's unwavering support for the operation, calling it "the start of a just offensive";

Whereas during United States operations in Afghanistan, the Government of the Philippines has made all of its military installations available to the United States Armed Forces for transit, refueling, resupply, and staging operations;

Whereas this assistance provided by the Philippines has proved highly valuable in the prosecution of the war in Afghanistan, as acknowledged by the Commander-in-Chief of United States Forces in the Pacific;

Whereas the Philippines also faces grave terrorist threats from the Communist Party of the Philippines, the New People's Army, the National Democratic Front, and the radical Abu Sayaff group, as well as an armed secessionist movement, the Moro Islamic Liberation Front;