

those present have voted in the affirmative.

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

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

#### ENCOURAGING THE NEGOTIATED SETTLEMENT OF TRIBAL CLAIMS

Mr. HANSEN. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1857) to encourage the negotiated settlement of tribal claims.

The Clerk read as follows:

S. 1857

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

#### SECTION 1. SETTLEMENT OF TRIBAL CLAIMS.

(a) IN GENERAL.—Notwithstanding any other provision of law, for purposes of determining the date on which an Indian tribe received a reconciliation report for purposes of applying a statute of limitations, any such report provided to or received by an Indian tribe in response to section 304 of the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4044) shall be deemed to have been received by the Indian tribe on December 31, 1999.

(b) STATEMENT OF PURPOSE.—Subsection (a) is solely intended to provide recipients of reconciliation reports with the opportunity to postpone the filing of claims, or to facilitate the voluntary dismissal of claims, to encourage settlement negotiations with the United States.

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

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

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

Mr. Speaker, this bill is a bill to encourage the negotiated settlement of tribal claims. S. 1857 allows Indian tribes to postpone the filing of lawsuits against the United States for either the loss of money held in trust for the tribe or the mismanagement of those funds, such as the loss of interest income or the crediting of the wrong tribal trust fund account.

Under present law, the statute of limitations does not run against such claims until each tribal account holder receives an accounting "from which the beneficiary can determine whether there has been a loss." Although the United States began to provide Indian tribes with reconciliation reports in early 1996, no one knows for sure whether these reports commenced the running of the statute of limitations.

The Government Accounting Office has given Congress real reason to doubt that these reports constitute a sufficient accounting to satisfy the Federal Government trust obligation. However, if, as many Indian tribes fear, the report serves to trigger the statute of

limitations, a tribe may feel obligated to file a lawsuit to protect its interests. S. 1857 will help prevent a flood of litigation and the costs it will incur.

I commend my friend, the gentleman from Michigan (Mr. KILDEE), for introducing a House companion bill, H.R. 3815, of which I am an original cosponsor. As we have learned from the ongoing class action lawsuits that began as *Cobell v. Babbitt* in 1996, we will all be best served if there are as many of these trust fund accounting claims as possible settled through negotiation without litigation.

S. 1857 will give the Federal Government until December 31, 2005, to create a process for settling these claims. I applaud the administration for its foresight in assisting with these efforts.

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

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

Mr. Speaker, the mismanagement of the Indian trust funds is truly one of the worse embarrassments of this Nation. Sadly, we have become the United States of broken promises to many of our first Americans.

Today, as we consider S. 1857, there is a multi-billion dollar lawsuit pending where the court has already ruled that the Interior Department is in breach of its trust responsibility to Indian account holders. Two cabinet Secretaries have already been held in contempt of court, and a third may also be found in contempt at any time.

The Federal Government has held monies in trust for the American Indians since 1820, and almost immediately the criticism started on how funds intended for the benefit of Indians were handled. In 1828, Henry Rowe Schoolcraft, a noted negotiator of several Indian treaties, wrote, "The derangements in the fiscal affairs of the Indian department are in the extreme. One would think that appropriations had been handled with a pitchfork."

In 1834, the House Committee on Indian Affairs filed a report which characterized the administration of Indian Affairs as being "expensive, inefficient, and irresponsible."

Were these warnings heeded? No. Let us fast forward almost 160 years to 1992, when the House Committee on Government Operations released a report on the mismanagement of Indian trust funds. The report detailed numerous basic problems, including the inability of the Department of the Interior to give account holders proper account balances, the lack of uniform written policies governing how accounts are to be managed, the insufficient training of personnel needed to carry out the duties required, and the inadequate automated and recordkeeping systems.

Some of us remember our response to that 1992 report. We sat down with tribal and individual Indian account holders, the Department of the Interior, banking and trust management experts, and the computer experts and together developed legislation to address these problems.

Well, Mr. Speaker, it is unfortunate but true that even after that legislation was signed into law and sent to the Department of the Interior for implementation, as of today the four basic problems I just outlined still exist. Indeed, there are no written uniform policies. Personnel charged with such an important job are not given sufficient training. The promise of a greater computer system has become a multi-million dollar disaster, and the Department cannot provide account holders with a full and complete accounting of their funds.

This last point brings me to the issues raised by the pending legislation, S. 1857. Congress appropriated \$20 million, which was contracted to Arthur Andersen to provide each Indian tribe with an accounting of their federally held trust fund accounts. It was clear when these reports were sent to Indian tribes in 1996 that they were not a full and accurate reconciling of the tribal accounts.

Now, 6 years later, Indian tribes fear that a statute of limitations could run out on them and they could be precluded from challenging the accuracy of those Arthur Andersen reports.

While I think it is unlikely any court would find in favor of the government in any such case, we need to allay the concerns and put off this deadline. S. 1857 would extend the statute of limitations for another 3 years in order to give an extension of time for negotiations between Indian tribes and the Federal Government over trust fund account balances.

I am an original cosponsor of the companion legislation in the House, and I urge my colleagues to support this bill and head off dozens of additional lawsuits filed against Secretary Norton.

This is an important step to take, but it is only a temporary one. We must settle the issue of all Indian trust fund account balances, and we must set up a system where future Congresses are not quoting us when describing a still-continuing problem.

Let me be clear: the Federal Government cannot give a full and accurate historical accounting of Indian trust funds to the account holders. Members do not have to take my word for it. Numerous reports exist detailing trust fund documentation that are too damaged to read or are lost entirely. Members can read testimony from BIA employees of storing documents in a barn in Oklahoma, only to toss them out to make room for new documents. Members can ask Secretary Gale Norton, who admitted as much before the House Committee on Resources just last month.

Just this past November, Secretary Norton announced the establishment of a new agency within the Department of the Interior to handle Indian trust activities. She made a dreadful mistake by not working with the account holders before bursting forth with this proposal. I know she realizes that now, but not after precious time has slipped by.

I do not claim to have all the answers; but I do know that the answer will come only when we all stand up and face our responsibility, admit the mistakes, and work openly and honestly with Indian country.

I urge passage of the pending legislation.

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

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

Mr. RAHALL. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. KILDEE), a gentlemen, I might add, who has been very much on the forefront on this and other Indian issues, and a valued member of our Committee on Resources.

Mr. KILDEE. Mr. Speaker, as co-chairman of the congressional Native American Caucus, I rise today in strong support of S. 1857, a bill to encourage the negotiated settlement of tribal claims.

I introduced the House companion bill, H.R. 3851. I want to thank my colleagues, the gentleman from West Virginia (Mr. RAHALL), the gentleman from Utah (Mr. HANSEN), the gentleman from Arizona (Mr. HAYWORTH), and the gentleman from California (Mr. GALLEGLY), for agreeing to be original cosponsors.

Mr. Speaker, this bill has deep bipartisan support and the support of the administration. I want to commend my colleagues in the Senate for their swift action to address the issue of tolling the statute of limitations on legal claims Indian tribes may assert against the United States relating to the management of tribal trust funds.

This issue is certainly not new to Congress. Since 1991, Congress has approved language in the Department of the Interior's appropriations acts to toll the statute of limitations until the tribal account holders have been provided an accounting of such funds.

In addition, since 1987, Congress has required the Department of the Interior to reconcile tribal trust fund accounts. By providing an accounting of these funds, Indian tribes will have the opportunity to determine whether there has been a mismanagement of trust funds. These requirements were included in the President's budget request for fiscal year 2003.

The problem this bill seeks to address relates directly to the reconciliation reports that the Department of the Interior provided to tribal account holders in 1996. Several Indian tribes believe that the reconciliation reports do not constitute an accounting.

Since the statute of limitations for filing legal claims is 6 years, the tribe's concern is that the Department may claim that the 1996 reconciliation reports commence the running of a statute that would expire this year. In an attempt to preserve their legal claims against the United States, many tribes have already filed claims in Federal courts across the country.

This bill does not address the legal issues involved in those lawsuits. This bill, however, will facilitate the voluntary dismissal of these legal claims. Also, it provides the tribal account holders an opportunity to postpone the filing of claims from 2002 to 2005 and encourage negotiations for the settlement of tribal accounting or resource management claims.

Mr. Speaker, I urge my colleagues to support this bill.

Mr. RAHALL. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. PALLONE), another very valuable leader and friend of Indian country.

Mr. PALLONE. Mr. Speaker, I want to thank our chairman and our ranking member, and also the chairman of our Native American Caucus, the gentleman from Michigan (Mr. KILDEE), for their work on this legislation.

Mr. Speaker, I rise today in strong support of the bill, S. 1857. This bill gives tribal trust fund account holders the opportunity to postpone filing legal claims until 2005. Technically, the bill tolls the statute of limitations on legal claims that Indian tribes may assert against the U.S. relating to the management of tribal trust funds.

The bill is necessary, as I know my colleagues have already said, because many tribes believe their legal claims may be time-barred because the statute of limitations expires as early as this year.

I really wanted, though, to talk about the larger issue, that the BIA has grossly mismanaged the remaining tribal lands and has squandered billions of dollars worth of resources that should have gone to the benefit of often-impoorished American Indians.

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Today, the Secretary of the Interior is faced by a mandate of Congress to clean up the accounting and management of Indian trust funds, and by a lawsuit alleging a great failure of the Secretary's trust responsibility for Indian lands. In response, the Secretary has proposed a plan to create a new Bureau of Indian Trust Asset Management and remove the trust functions from the Bureau of Indian affairs.

I am very much opposed to this proposal. I am greatly concerned that this plan is repeating the failures of the many past trust reform efforts. Recently, 193 Indian tribes unanimously adopted a resolution opposing this reorganization and the transfer of the responsibilities to the BIA. I strongly believe that this reorganization effort cannot go forward until the Department consults with Indian tribes in the development of a business processes plan for trust reform, a clear plan for performing the basic trust functions of accounting, collections, record keeping, inspections, enforcement and resource management. The plan has to include policies, procedures and control.

I know the Secretary is now saying she is doing this, but she is consulting

with the tribes after the fact. The fact is many of them do not feel they are still being properly consulted even today. This criticism, as my colleagues know, came up at the hearing that we held on the issue in the Committee on Resources.

It is notable that this criticism, a lack of structural foundation, is exactly the same as has been leveled against the Department's development of the Trust Asset and Accounting Management System, TAAMS. All tribal leaders strongly support trust reform and want to work constructively with the Department and with Congress to ensure strong management of tribal assets. In fact, it is the tribes that have the greatest interest in ensuring that tribal assets and resources are properly managed.

Given such BIA and TAAMS mismanagement practices, the passage of this bill will give tribal trust fund account holders the opportunity to postpone filing legal claims until 2005. Such time is necessary in order for the tribal trust funds account holder to unravel the financial accounting mess that the BIA and TAAMS have put them in.

I think, obviously, this is the right thing to do. We have to support the bill, but I know we also have to look at the larger issue of trust reform and make sure it goes forward only with consultation with the tribes. I know my colleagues that are here all believe very strongly in that.

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

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. SHIMKUS). The question is on the motion offered by the gentleman from Utah (Mr. HANSEN) that the House suspend the rules and pass the Senate bill, S. 1857.

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

A motion to reconsider was laid on the table.

#### FALLON RAIL FREIGHT LOADING FACILITY TRANSFER ACT

Mr. GIBBONS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1870) to provide for the sale of certain real property within the Newlands Project in Nevada, to the city of Fallon, Nevada, as amended.

The Clerk read as follows:

H.R. 1870

*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 "Fallon Rail Freight Loading Facility Transfer Act".*

#### SEC. 2. CONVEYANCE TO THE CITY OF FALLON, NEVADA.

##### (a) CONVEYANCE.—

(1) IN GENERAL.—Subject to subsections (b) and (c), the Secretary of the Interior shall convey to the city of Fallon, Nevada, all right, title,