

history of the Federal removal and remand statutes.

While we passed a predecessor bill last July, the other body developed minor amendments to clarify the text. These changes were vetted with House Judiciary and we endorse them. The revisions improve the bill in two ways. First, the new language stipulates that only Federal issues are removable to Federal court. And second, the text provides that a 30-day removal "clock" is triggered either by a request for testimony or documents, or an order enforcing such a request.

In addition, the floor version strikes section 3 of H.R. 368. This is superfluous language that references a favorable CBO score inserted in the CONGRESSIONAL RECORD last year in advance of our consideration of the predecessor bill. Section 3 isn't needed because we have an updated CBO score—also favorable—that applies to this year's bill.

In closing, I would like to thank Congressman JOHNSON for his hard work on this project, and I would urge my colleagues to support H.R. 368.

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

Mr. JOHNSON of Georgia. I thank the gentleman from California, and I yield myself such time as I may consume.

Mr. Speaker, H.R. 368, the Removal Clarification Act of 2011, will enable Federal officials to remove cases to Federal court in accordance with the spirit and intent of the Federal officer removal statute, 28 U.S.C. 1442(a). This is a noncontroversial, bipartisan bill. In the 111th Congress, a nearly identical version passed the House under a suspension of the rules and passed the Senate with an amendment by unanimous consent.

Under the Federal officer removal statute, a Federal officer should be able to remove a case from State court to Federal court when it involves the Federal officer's exercise of his or her official responsibilities. The purpose underlying the Federal officer removal statute is to prevent State litigants from interfering with the Federal Government's operations. There is, however, some ambiguity as to whether the Federal officer removal statute applies to State pre-suit discovery procedures. More than 40 States have such procedures, which require individuals to be deposited or respond to discovery requests even when a civil action has not yet been filed. This means that Federal officials can be forced to litigate in State court, undermining the purpose and intent of the Federal officer removal statute.

Courts are split on whether the removal statute applies to pre-suit discovery. Some courts have found that Federal officers cannot remove a proceeding to Federal court when these pre-suit discovery motions are at issue while others have found that such proceedings could be removed. This bill will clarify that Federal officers should

be able to remove a proceeding to Federal court any time a legal demand is made for a Federal official's testimony or documents if the officer's exercise of his or her official responsibilities was at issue.

The legislation will also allow a Federal officer to appeal a district court's decision to remand the matter back to the State court, pursuant to 28 U.S.C. 1447. This bill will not result in the removal of the entire State case when a Federal officer is served with a discovery request when the only hook is that a Federal officer has been served with such a discovery request. Rather, the bill we consider today makes clear that "if there is no other basis for removal, only that discovery proceeding may be removed to the district court."

Finally, the bill makes clear that the timing requirement under 28 U.S.C. 1446 will not be changed, restating the 30-day requirement for removing the case when the judicial order is sought as well as when the judicial order is enforced.

In closing, I would like to thank Chairman SMITH and Ranking Member CONYERS for working with me on this bill, and I urge my colleagues to support this important bipartisan piece of legislation.

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

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, once again I would like to thank the gentleman from Georgia for bringing this bill to the committee and to the floor. I urge my colleagues to support this bill.

Ms. JACKSON LEE of Texas. Mr. Speaker, I rise today in support of the amendment to H.R. 368, "The Removal Clarification Act of 2011."

"The Removal Clarification Act of 2011" clarifies when a case involving a federal official can be removed from a state court into a federal court. It states that a federal official can remove cases to federal court in accordance with the spirit and intent of the federal officer removal statute. It also makes clear that the federal officer removal statute applies to all federal officials, including officials of the legislative and executive branch of the Federal government.

The purpose of the law is to take from state courts the infeasible power to hold a federal officer or agent criminally or civilly liable for an act allegedly performed in the execution of their federal duties. This does not mean federal officers can break the law; it just means that these cases are transferred to U.S. district court for consideration. Federal officers or agents, including congressmen, should not be forced to answer for conduct asserted within their federal duties in a state forum that invites local interests or prejudice to color outcomes. In the absence of this constitutional protection, federal officers, including congressmen and women, would be subject to political harassment and federal operations generally would be needlessly hampered.

H.R. 368, introduced by my colleague Rep. HANK JOHNSON of Georgia, is a non-controversial, bipartisan bill that was passed by the House and passed in the Senate with an amendment at the end if the 111th Congress.

Just about a month ago, we considered this bill in the House Judiciary Committee, and it received support from my colleagues on both sides of the aisle.

Currently under 28 U.S.C. 1442(a), federal officials are able to remove a case out of state court and into federal court. However under state pre-suit discovery laws, federal officials may be unable to remove the case because a "civil action" has not yet been filed.

H.R. 368 does not make any changes to the underlying removal law. It simply clarifies 28 U.S.C. 1442(a) by including any proceeding to the extent that in such a proceeding, a judicial order, including a subpoena for testimony or documents, is sought or issued.

In my home state of Texas, there was a recent high profile case, *Price v. Johnson*, involving a Texas state legal action taken against Rep. JOHNSON, where the removal to federal court was denied by the U.S. District Court. The Fifth Circuit illustrated the importance of better clarity needed in 28 U.S.C. 1442(a). In the 111th Congress, the Judiciary Committee's Subcommittee on Courts and Competition Policy found that case law interpreting the removal statute is not just split among the circuits, but within them as well. Therefore, H.R. 368 is a much needed measure to once and for all settle the confusion amongst rulings in the Federal District Courts.

Currently, there are 47 states that have enacted pre-civil suit discovery statutes; H.R. 368 would take into account the operation of these state pre-civil suit discovery statutes and provide clarification to prevent more cases like *Price v. Johnson* from occurring.

H.R. 368 is essential to the integrity and preeminence of the federal government within its realm of authority. This bill will also allow for appeal to the federal court if the district court remands the matter back to the state court and that the federal defense is also still needed for removal.

I ask my colleagues to please join me in supporting H.R. 368, "the Removal Clarification Act of 2011."

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. DANIEL E. LUNGREN) that the House suspend the rules and pass the bill, H.R. 368, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. DANIEL E. LUNGREN of California. 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.

FEDERAL RESTRICTED BUILDINGS AND GROUNDS IMPROVEMENT ACT OF 2011

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 347) to correct and simplify the drafting of

section 1752 (relating to restricted buildings or grounds) of title 18, United States Code, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 347

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 "Federal Restricted Buildings and Grounds Improvement Act of 2011".

SEC. 2. RESTRICTED BUILDING OR GROUNDS.

Section 1752 of title 18, United States Code, is amended to read as follows:

"§ 1752. Restricted building or grounds

"(a) Whoever—

"(1) knowingly enters or remains in any restricted building or grounds without lawful authority to do so;

"(2) knowingly, and with intent to impede or disrupt the orderly conduct of Government business or official functions, engages in disorderly or disruptive conduct in, or within such proximity to, any restricted building or grounds when, or so that, such conduct, in fact, impedes or disrupts the orderly conduct of Government business or official functions;

"(3) knowingly, and with the intent to impede or disrupt the orderly conduct of Government business or official functions, obstructs or impedes ingress or egress to or from any restricted building or grounds; or

"(4) knowingly engages in any act of physical violence against any person or property in any restricted building or grounds; or attempts or conspires to do so, shall be punished as provided in subsection (b).

"(b) The punishment for a violation of subsection (a) is—

"(1) a fine under this title or imprisonment for not more than 10 years, or both, if—

"(A) any person, during and in relation to the offense, uses or carries a deadly or dangerous weapon or firearm; or

"(B) the offense results in significant bodily injury as defined by section 2118(e)(3); and

"(2) a fine under this title or imprisonment for not more than one year, or both, in any other case.

"(c) In this section—

"(1) the term 'restricted buildings or grounds' means any posted, cordoned off, or otherwise restricted area—

"(A) of the White House or its grounds, or the Vice President's official residence or its grounds;

"(B) of a building or grounds where the President or other person protected by the Secret Service is or will be temporarily visiting; or

"(C) of a building or grounds so restricted in conjunction with an event designated as a special event of national significance; and

"(2) the term 'other person protected by the Secret Service' means any person whom the United States Secret Service is authorized to protect under section 3056 of this title when such person has not declined such protection."

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. DANIEL E. LUNGREN) and the gentleman from Georgia (Mr. JOHNSON) each will control 20 minutes.

The Chair recognizes the gentleman from California.

GENERAL LEAVE

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, I ask unanimous consent that all Members may have 5

legislative days to revise and extend their remarks and include extraneous materials on H.R. 347 currently under consideration.

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

There was no objection.

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, at this time I yield 5 minutes to the gentleman from Florida (Mr. ROONEY), the author of this bill, a distinguished former member of our Judiciary Committee and one who has just gotten over the mourning period because of his beloved Pittsburgh Steelers.

Mr. ROONEY. I thank the gentleman from California.

Mr. Speaker, the United States Secret Service began providing protective services following the assassination of President McKinley in 1901. The Service's protection responsibilities have since expanded to include the First Family, the Vice President, former Presidents, heads of state, and others. The Service also provides protection at special events of national significance. To address this vital responsibility, the Secret Service must anticipate, recognize, and assess threat situations and initiate strategies to eliminate and reduce threats or security vulnerabilities.

A key component of the Service's protection mission is securing the buildings and grounds where those protected work or visit. From the White House to a hotel ballroom, the Secret Service must provide a secure environment for the President and other protectees.

H.R. 347 ensures that the Secret Service has the ability to secure all necessary areas surrounding restricted buildings and grounds that house our leaders, their families, and foreign heads of state. This bill clarifies section 1752 of title 18, which sets penalties for knowingly entering or remaining in any restricted building or grounds without the lawful authority to do so.

□ 1440

Currently written, the code does not distinguish between those who are there lawfully, such as Secret Service agents and other authorized staff, and those who are there without permission. This bill does not create any new authorities for the Secret Service and does not restrict the liberties of American citizens. H.R. 347 simply clarifies and improves existing criminal statutes that are necessary for the Secret Service to resolve security issues and implement prevention strategies before tragedy strikes.

This bill will enable the United States Secret Service to continue to deliver the highest level of protective services consistent with their proud tradition. I urge my colleagues to join me in supporting this important legislation.

Mr. JOHNSON of Georgia. I yield myself such time as I may consume.

Mr. Speaker, I support H.R. 347, which will assist the Secret Service in performing their protective duties, and it does include the Pittsburgh Steelers organization in the confines of this legislation.

The role of the Secret Service has expanded greatly since it was created in 1865 to fight the counterfeiting of U.S. currency. The Secret Service became part of the Treasury Department in 1883 and took on many additional investigative responsibilities with respect to safeguarding the payment and financial systems of the United States.

It wasn't until 1894 that the Secret Service first started protecting our Presidents, and that protective role with respect to the President, Vice President, and other dignitaries has grown substantially since that time. The bill before us today will help the Secret Service carry out this protective function.

Current Federal law prohibits individuals from entering or remaining in areas cordoned off as restricted because of protection being provided by the Secret Service. This bill would simply clarify that the prohibition under the existing statute only applies to those who do not have lawful authority to be in those areas.

The bill also would add the White House and the Vice President's residence to the definition of restricted areas protected under current law.

The men and women of the Secret Service conduct themselves with valor and professionalism while carrying out the protective function of their agency. They provide protection for a variety of people and events, including the President and national special security events.

The Secret Service has other important functions which also deserve recognition. For example, the investigative role of the Secret Service has expanded greatly from protecting the currency against counterfeiting to investigating a wide variety of crimes related to this country's financial institutions and credit systems.

I commend the gentleman from Florida, Representative TOM ROONEY, for his work on this bill. I do sympathize with him in his loss. And I urge my colleagues to support H.R. 347.

I yield back the balance of my time.

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, I would ask all Members to support this reasonable legislation.

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. DANIEL E. LUNGREN) that the House suspend the rules and pass the bill, H.R. 347, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. DANIEL E. LUNGREN of California. 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.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 2 o'clock and 45 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1830

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. LATTA) at 6 o'clock and 30 minutes p.m.

RESIGNATION FROM THE HOUSE OF REPRESENTATIVES

The SPEAKER pro tempore laid before the House the following resignation from the House of Representatives:

FEBRUARY 28, 2011.

Hon. JOHN BOEHNER,
Speaker of the House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: I write to inform you that I have notified California Governor Jerry Brown of my resignation from the House, effective today, to assume the responsibilities of President, Director and Chief Executive Officer of the Wilson Woodrow Center for International Scholars.

The privilege of representing the people of California's 36th Congressional District for 17 years has been an honor without equal. I look forward to working with you to ensure an orderly transition for my successor.

Sincerely,

JANE HARMAN.

FEBRUARY 28, 2011.

Hon. EDMUND G. BROWN,
Governor of California,
State Capitol, Suite 1173, Sacramento, CA.

DEAR GOVERNOR BROWN: I write to inform you that I will resign my House seat, effective today, to assume the responsibilities of President, Director and Chief Executive Officer of the Wilson Woodrow Center for International Scholars.

The privilege of representing the people of California's 36th Congressional District for 17 years has been an honor without equal. I look forward to working with you to ensure an orderly transition for my successor.

Sincerely,

JANE HARMAN.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Under clause 5(d) of rule XX, the Chair announces to the House that, in light of the resignation of the gentlewoman from California (Ms. HARMAN), the whole number of the House is 433.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.J. RES. 44, FURTHER CONTINUING APPROPRIATIONS AMENDMENTS, 2011

Mr. WOODALL, from the Committee on Rules, submitted a privileged report (Rept. No. 112-19) on the resolution (H. Res. 115) providing for consideration of the joint resolution (H.J. Res. 44) making further continuing appropriations for fiscal year 2011, and for other purposes, which was referred to the House Calendar and ordered to be printed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed.

Votes will be taken in the following order:

H.R. 394, H.R. 347, and H.R. 368, in each case by the yeas and nays.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

FEDERAL COURTS JURISDICTION AND VENUE CLARIFICATION ACT OF 2011

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and pass the bill (H.R. 394) to amend title 28, United States Code, to clarify the jurisdiction of the Federal courts, and for other purposes, as amended, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. SMITH) that the House suspend the rules and pass the bill, as amended.

The vote was taken by electronic device, and there were—yeas 402, nays 0, not voting 30, as follows:

[Roll No. 148]

YEAS—402

Ackerman
Adams
Aderholt
Akin
Altmire
Amash
Andrews
Austria
Baca
Bachmann
Bachus
Baldwin
Barletta
Barrow
Bartlett
Barton (TX)
Bass (CA)
Bass (NH)
Beceerra
Benishak
Berg
Berkley
Berman
Biggart
Bilbray
Bilirakis
Bishop (GA)
Bishop (NY)

Bishop (UT)
Black
Blackburn
Blumenauer
Bonner
Bono Mack
Boren
Boswell
Boustany
Brady (PA)
Brady (TX)
Braley (IA)
Brooks
Broun (GA)
Brown (FL)
Buchanan
Bucshon
Buerkle
Burgess
Burton (IN)
Butterfield
Calvert
Camp
Campbell
Canseco
Cantor
Capito
Capps

Capuano
Cardoza
Carney
Carson (IN)
Carter
Cassidy
Chabot
Chaffetz
Chandler
Chu
Cicilline
Clarke (MI)
Clarke (NY)
Clay
Cleaver
Clyburn
Coble
Coffman (CO)
Cohen
Cole
Conaway
Connolly (VA)
Conyers
Cooper
Costa
Costello
Courtney
Cravaack

Crawford
Crenshaw
Critz
Crowley
Cuellar
Culberson
Cummings
Davis (CA)
Davis (IL)
Davis (KY)
DeFazio
DeLauro
Denham
Dent
DesJarlais
Deutch
Diaz-Balart
Dicks
Dingell
Doggett
Dold
Donnelly (IN)
Doyle
Dreier
Duffy
Duncan (SC)
Duncan (TN)
Edwards
Ellison
Ellmers
Emerson
Engel
Eshoo
Farr
Fattah
Filner
Fincher
Fitzpatrick
Flake
Fleischmann
Fleming
Flores
Fortenberry
Foxy
Frank (MA)
Franks (AZ)
Frelinghuysen
Fudge
Gallegly
Garamendi
Gardner
Garrett
Gerlach
Gibbs
Gibson
Gingrey (GA)
Gohmert
Gonzalez
Goodlatte
Gosar
Gowdy
Granger
Graves (GA)
Graves (MO)
Green, Al
Green, Gene
Griffin (AR)
Griffith (VA)
Grimm
Guinta
Guthrie
Hall
Hanabusa
Harper
Harris
Hartzler
Hastings (FL)
Hastings (WA)
Hayworth
Heck
Heinrich
Heller
Hensarling
Herger
Herrera Beutler
Higgins
Himes
Hirono
Holt
Honda
Hoyer
Huelskamp
Huizenga (MI)
Hultgren
Hunter
Hurt
Inslie
Israel
Issa

Jackson (IL)
Jackson Lee
(TX)
Jenkins
Johnson (GA)
Johnson (IL)
Johnson (OH)
Johnson, E. B.
Johnson, Sam
Kaptur
Keating
Kelly
Kildee
Kind
King (IA)
King (NY)
Kinzinger (IL)
Kissell
Kline
Kucinich
Labrador
Lance
Landry
Langevin
Lankford
Larsen (WA)
Larson (CT)
Latham
Latta
Lee (CA)
Levin
Lewis (CA)
Lewis (GA)
Lipinski
LoBiondo
Loebach
Lofgren, Zoe
Long
Lowey
Lucas
Luetkemeyer
Lujan
Lummis
Lungren, Daniel
E.
Lynch
Mack
Maloney
Manzullo
Marino
Markey
Matheson
Matsui
McCarthy (CA)
McCarthy (NY)
McCauley
McClintock
McCollum
McCotter
McDermott
McGovern
McHenry
McIntyre
McKeon
McKinley
McMorris
Rodgers
McNerney
Meehan
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Moore
Moran
Mulvaney
Murphy (CT)
Murphy (PA)
Myrick
Nadler
Napolitano
Neal
Neugebauer
Noem
Nugent
Nunes
Nunnelee
Olson
Oliver
Owens
Palazzo
Pallone
Pascrell
Pastor (AZ)
Paul
Paulsen

Pearce
Pelosi
Pence
Perlmutter
Peters
Peterson
Petri
Pingree (ME)
Pitts
Platts
Poe (TX)
Polis
Pompeo
Posey
Price (GA)
Price (NC)
Quayle
Quigley
Rahall
Rangel
Reed
Rehberg
Reichert
Renacci
Reyes
Ribble
Richardson
Richmond
Rigell
Rivera
Rohy
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rokita
Rooney
Ros-Lehtinen
Roskam
Ross (AR)
Ross (FL)
Rothman (NJ)
Roybal-Allard
Royce
Runyan
Ruppersberger
Ryan (OH)
Ryan (WI)
Sanchez, Linda
T.
Sanchez, Loretta
Sarbanes
Schalise
Schakowsky
Schiff
Schilling
Schmidt
Schock
Schradner
Schwartz
Schweikert
Scott (SC)
Scott (VA)
Scott, Austin
Scott, David
Sensenbrenner
Serrano
Sessions
Sewell
Sherman
Shimkus
Shuster
Simpson
Sires
Slaughter
Smith (NE)
Smith (NJ)
Smith (TX)
Southernland
Speier
Stark
Stearns
Stivers
Stutzman
Sullivan
Sutton
Terry
Thompson (CA)
Thompson (MS)
Thompson (PA)
Thornberry
Tierney
Tipton
Tonko
Tsongas
Turner
Upton
Van Hollen
Velázquez