

## RESOLVING FISCAL CLIFF

(Ms. HANABUSA asked and was given permission to address the House for 1 minute.)

Ms. HANABUSA. Madam Speaker, people have no idea what we're doing because we don't know what we're doing. It reminds me of being in traffic: we all hurry to get to where—to another bottleneck and to wait.

Resolving the fiscal cliff is an opportunity to show that we can work together in a bipartisan manner; but to do so, we must listen and put the people first and the party second. If we don't, a middle class family of four will see their taxes rise by \$2,200 in 2013. Unemployment will go up to 9.1 percent.

Remember, the cost of extending all of the Bush tax cuts is \$2.4 trillion in 10 years. Extend the middle class tax cuts and let the Bush tax cuts for the upper 2 percent return to the Clinton rates. We cannot sacrifice the middle class, the steady job growth that we've seen just to protect the upper 2 percent. This is not the message we want to send, and this is not the message Republicans want to send.

## ADDRESSING GUN VIOLENCE

(Mr. HIMES asked and was given permission to address the House for 1 minute.)

Mr. HIMES. Madam Speaker, I joined my colleagues in the Connecticut delegation in Newtown last Sunday night. We will never forget that vigil—the despondency, the anger, the hopelessness. But over time, that emotion turns into the imperative that we act as public officials to make sure that this never happens again.

We have so much to do in a Nation awash in guns, and not just guns, but guns that are designed for the explicit purpose to do nothing but to kill lots of people quickly, in a Nation that celebrates violence as a solution and as entertainment, in a Nation that does not do enough to address the needs of its mentally disturbed.

One thing we should do right away, though, is put to rest forever the pernicious fantasy that more people carrying arms will make us safer. That's not backed by fact. It's not backed by data. It's not backed by history. It is a testosterone-laden fantasy. A gun in the home is 22 times more likely to be used in a suicide or a murder or violent assault than it is likely to be used in self-defense.

The RAND Corporation studies show that police officers trained in a situation of an exchange of gunfire hit their intended target less than two in 10 times—trained police officers. Ladies and gentlemen, more guns do not make for a safer America.

## COMMONSENSE GUN SAFETY LAWS

(Mr. CICILLINE asked and was given permission to address the House for 1 minute.)

Mr. CICILLINE. Madam Speaker, yesterday my office hosted the Brady Campaign to Prevent Gun Violence, and I met with families whose lives have been devastated by gun violence, families who lost loved ones in Columbine, at Virginia Tech, at Aurora, and in other incidents. No words of mine could ever match the pain that these families felt as a result of these losses.

The recent tragedy in Newtown, unfortunately, is the most recent in a long series of mass killings involving guns. But this incident is especially horrific because it involved the slaughter of 20 innocent children and their teachers. This must mark a turning point in the debate over commonsense gun safety laws. It's critical for lawmakers on both sides of the aisle to commit themselves to do everything we can to end this violence because commonsense gun laws aren't Democratic values or Republican values; they're American values. And if our values as Americans mean anything at all, then surely all Americans are entitled to enjoy their lives and live in neighborhoods that are safe and free from gun violence.

There is lots of talk about a national conversation, beginning a dialogue. The time for talking is over. Now we must act: banning assault weapons and high-capacity assault clips, fixing our criminal background check system, and closing loopholes that allow 40 percent of gun sales to go forward without background checks.

□ 1230

## RECENT DECREASE IN MENTAL HEALTH FUNDING

(Ms. KAPTUR asked and was given permission to address the House for 1 minute.)

Ms. KAPTUR. Madam Speaker, in view of what has happened in Newtown, Connecticut, it is important to place on the Record the fact that our Nation has been experiencing the largest reduction in State mental health services of this generation. According to the National Alliance on Mental Illness, States have cumulatively cut over \$1.8 billion from their mental health services between 2009 and 2011. This is the largest reduction in State mental health services in half a century.

With 1 in 17 people in America living with a serious neurological condition, how is this tremendous decrease in funding possible or humane?

Often, those who suffer the most are angels of destiny. According to a report from the Federal Bureau of Justice statistics, more than half of our country's prison population suffers or has suffered from mental disorders, but only a fraction of that population receives treatment during their incarceration. And, in fact, individuals with mental illness are far more likely to be victims of crime than the perpetrators.

Newtown is a national tragedy, Madam Speaker, but it reveals again

our shared responsibility to support and treat those in this country who need our help so desperately. I urge our colleagues to support a more constructive Federal role in assuring proper and early diagnosis and intervention of affected youth and appropriate treatment.

I congratulate President Obama and Vice President BIDEN for their leadership in moving our Nation to a better day for us all. So many of us here in Congress wish to join them in this great national challenge.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mrs. EMERSON). Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote incurs objection under clause 6 of rule XX.

Record votes on postponed questions will be taken later.

## REFERRING QUAPAW TRIBE OF OKLAHOMA TRUST CLAIMS TO COURT OF FEDERAL CLAIMS

Mr. SMITH of Texas. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 668) to refer H.R. 5862, a bill making congressional reference to the United States Court of Federal Claims pursuant to sections 1492 and 2509 of title 28, United States Code, the Indian trust-related claims of the Quapaw Tribe of Oklahoma (O-Gah-Pah) as well as its individual members, as amended.

The Clerk read the title of the resolution.

The text of the resolution is as follows:

H. RES. 668

*Resolved,*

## SECTION 1. REFERRAL.

Pursuant to section 1492 of title 28, United States Code, the bill (H.R. 5862), entitled "A Bill relating to members of the Quapaw Tribe of Oklahoma (O-Gah-Pah)," now pending in the House of Representatives, is referred to the chief judge of the United States Court of Federal Claims for a determination as to whether the Tribe and its members have Indian trust-related legal or equitable claims against the United States other than the legal claims that are pending in the Court of Federal Claims on the date of enactment of this resolution.

## SEC. 2. PROCEEDING AND REPORT.

Upon receipt of the bill, the chief judge shall—

(1) proceed according to the provisions of sections 1492 and 2509 of title 28, United States Code, notwithstanding the bar of any statute of limitations; and

(2) report back to the House of Representatives, at the earliest practicable date, providing—

(A) findings of fact and conclusions of law that are sufficient to inform the Congress of the nature, extent, and character of the Indian-trust related claims of the Quapaw Tribe of Oklahoma and its tribal members for compensation as legal or equitable

claims against the United States other than the legal claims that are pending in the Court of Federal Claims on the date of enactment of this resolution; and

(B) the amount, if any, legally or equitably due from the United States to the claimants.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. SMITH) and the gentleman from California (Ms. ZOE LOFGREN) each will control 20 minutes.

The Chair recognizes the gentleman from Texas.

#### GENERAL LEAVE

Mr. SMITH of Texas. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the bill under consideration.

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

There was no objection.

Mr. SMITH of Texas. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, first of all, I want to thank the gentleman from Oklahoma (Mr. COLE) for sponsoring House Resolution 668.

This bill allows a Native American Tribe that resides in Oklahoma, the Quapaw, to appear before the United States Federal court of claims to plead for damages against the Federal Government for mismanagement of tribal funds. The court would issue a report, either favorable or unfavorable, to the tribe. If favorable, the Natural Resources Committee would be authorized to move separate legislation to effect the court's decision.

In 2002, the tribe filed a lawsuit for an accounting in Federal district court of the U.S. Government's mismanagement of tribal and tribal member trust assets.

In November 2004, the tribe and the U.S. Government agreed that the tribe and third-party contractors would conduct an accounting of the U.S. Government's actions and inactions related to the trust assets. This was to facilitate a mediated solution to this lawsuit's claims. In exchange for this mediated route, the tribe would dismiss the lawsuit.

In June 2010, after 5 years of accounting and related analysis, the Quapaw Analysis was completed and shared with the U.S. Government. This set the stage for mediation. That analysis confirmed that the government's mismanagement of the Quapaw's trust constituted a breach of trust.

The tribe initiated multiple attempts to resolve their claims, which the government rejected. By 2011, the tribe sought relief in court from the government's failure to fulfill its trust obligations and to mediate and settle the trust claims.

Last year, eight Quapaw Tribe members filed a class-action lawsuit on behalf of themselves and other individuals for damages based on breach of trust. The government filed motions to

dismiss the case and also refused to respond to a formal settlement demand proffered by the tribe.

The government's foot-dragging necessitates our passage of House Resolution 668 today. The bill doesn't guarantee a desired outcome; it only allows the Quapaw a chance to go before the Federal court of claims and make their best case. Even if the court rules in their favor, the Natural Resources Committee must still move subsequent legislation that incorporates the court's decision through both Houses of Congress.

Also, a revision to the bill stipulates that an award of damages by the court only applies to claims that are not already pending before the Court of Federal Claims. This ensures that claimants will not be doubly or excessively compensated.

Again, I want to thank the gentleman from Oklahoma (Mr. COLE) for his persistence on this issue and for introducing this particular bill. I urge my colleagues to support House Resolution 668.

I reserve the balance of my time.

Ms. ZOE LOFGREN of California. Madam Speaker, I yield myself such time as I may consume.

I rise in support of House Resolution 668, a congressional reference bill concerning the trust-related claims of the Quapaw Tribe of Oklahoma.

Now, congressional reference bills are rare in Congress. The House hasn't considered such a bill since 2002 in the 107th Congress, but the fact that this procedure is a rare one doesn't mean that it isn't a useful one.

Unlike most other legislation, reference bills require passage in only one Chamber to take effect. If passed by either the House or Senate, the bill would simply refer a claim against the U.S. Government to the U.S. Court of Federal Claims for consideration.

The court, however, as the chairman has indicated, would not be authorized to render a final ruling on the claim. Rather, it would only be authorized to consider evidence and to submit a report to Congress with its findings and recommendations. Congress could then decide, based on the court's report, whether or not to enact a private claims bill or appropriate funds to the claimant in the interest of justice.

In this case, H. Res. 668 would refer the bill, H.R. 5862, a bill relating to members of the Quapaw Tribe of Oklahoma, to the Court of Federal Claims. And as amended, the bill would authorize the court to determine whether the tribe and its members have trust-related legal or equitable claims against the U.S., other than legal claims that are currently pending before the court.

We have consulted with the Department of Justice and the Department of the Interior on this matter, and both agencies agree that the Quapaw Tribe has legitimate claims against the United States concerning certain tribal lands that were held in trust by the Federal Government. The only real dispute is the value of the claim.

This makes this congressional reference bill an appropriate measure to help bring this matter to a final resolution. By referring the case to the Federal claims court, they can consider all the evidence, submit a report on what the court believes to be the appropriate value of the tribal claim, and then, based on that court's findings and conclusions, Congress can play its appropriate role to consider whether or not it is in the interest of justice to pass a private claims bill or otherwise appropriate funds to satisfy the claim.

This procedure will help the Congress do the right thing, and that's why we're sent here, to do the right thing.

So I ask my colleagues to support this important legislation. I commend Congressman COLE for his diligent pursuit of this matter of justice.

I reserve the balance of my time.

Mr. SMITH of Texas. Madam Speaker, I yield as much time as he may consume to the gentleman from Oklahoma (Mr. COLE), who is the sponsor of this legislation.

Mr. COLE. I thank the gentleman for yielding.

I had a long oration I was going to make, but I want to be quite honest. My good friend Chairman SMITH and my good friend Ranking Member LOFGREN have actually covered the case as well or better than I can. They're both distinguished attorneys. They understand the intricacies involved here, so there's no need for me to go through and literally repeat point by point what they have already made.

I do want to make one central point, or two points.

First, I want to thank both of them. This is a matter of justice. This is a bipartisan effort to try and make sure that an Indian nation that has a legitimate claim against the United States of America has an opportunity to go to court and make its case; no pre-determination of the outcome, no settlement without coming back through Congress again, just simply an opportunity to make a case of an injustice that all sides admit occurred, and establish what's fair compensation.

□ 1240

I want to commend, again, both my colleagues, and particularly Chairman SMITH. This simply could not have happened without his cooperation, his help, and the diligent work of his staff.

I urge passage of the legislation.

#### INTRODUCTION

Several hundred years ago, the Quapaw ("the Downstream People") were part of a larger group known as the Dhegiha Sioux, which split into the modern tribes known as the Quapaw, Osage, Ponca, Kansa, and Omaha. The Quapaw's ancestral lands are located at the confluence of the Arkansas and Mississippi rivers in what is present day Arkansas. When first encountered by the Europeans in the 1670's, there were some 20,000 Quapaws living in four villages in this area.

A series of treaties with the U.S. Government resulted in most of the Quapaw land being ceded to the United States, and the

Tribe acquiesced to relocation to the far northeastern corner of present day Oklahoma. In the process, the tribal land base was whittled down to its current acreage.

After Quapaw lands in Oklahoma were found to contain rich deposits of zinc and lead in 1905, the Government allowed mining activities to be carried out largely unfettered, and not for the benefit of the Quapaws. For years the value of the Quapaw mineral estate was exported from their land with the Government failing to ensure that royalties, bonuses and other payments were properly made and managed.

#### WHY H. RES. 668 IS NECESSARY

The Office of Historical Trust Accounting (OHTA) was established by Secretary of the Interior Secretarial Order No. 3231 on July 10, 2001; OHTA is charged with planning, organizing, directing and executing the historical accounting of tribal trust accounts and non-monetary assets.

In 2002, the Tribe filed a lawsuit for an accounting and for asset mismanagement in the Federal District Court in Oklahoma alleging the U.S. Government owed them an accounting and had mismanaged their funds and non-monetary assets.

During this time, there were over 104 tribal lawsuits pending and the Department of the Interior—Office of Historic Trust Accounting's ability to fund the accountings and determine whether assets were mismanaged was severely limited. At the same time, the Department of Justice had similar concerns about its ability to respond to the myriad of tribal lawsuits.

In July 2004, the U.S. Government and the Tribe negotiated and agreed to settle the pending lawsuit, and enter into an agreement under which the Department of the Interior would enter into a contract with Quapaw Information Services as contractor, to "identify, select, and analyze documents, and prepare an analysis (the Quapaw Analysis), of Interior's management" of the Tribe's Tribal Trust Fund Account, along with certain non-monetary land and natural resources assets held in trust on behalf of the Tribe, and eight individual members of the Tribe.

In 2010—after six years of work, Quapaw Information Systems gave its report to the U.S. Government. In turn, the U.S. Government accepted the accounting as being in conformity with the Federal standards, but refused to do anything with the accounting.

The Tribe fulfilled its end of the bargain. The U.S. Government did not.

By 2011, the Tribe was left with no choice but to seek relief in court from the Government's failure—not only its failure to fulfill its trust obligations, but its agreement to mediate and settle the matter once the accounting was completed. Accordingly, eight Quapaw tribal members filed a class-action lawsuit on behalf of themselves and all other similarly situated tribal members. This case, *Goodeagle v. United States*, seeks damages for the Government's breach of trust in the U.S. Court of Federal Claims.

In May 2011, the Tribe submitted a formal settlement demand to the Government, to which the Government has never responded. Instead, the Government has filed repeated Motions to Dismiss the *Goodeagle* case.

With the settlement demand ignored, and the Government's ongoing refusal to resolve these claims through settlement, in September

2012, the Tribe filed a complaint for damages in the U.S. Court of Federal Claims.

In November 2012, the Government filed yet another motion to dismiss the Tribe's case.

#### THE MECHANICS OF H. RES. 668

To ensure that the Tribe and its members can pursue their trust-related claims in the U.S. Court of Federal Claims, Rep. TOM COLE and Rep. DAN BOREN introduced H. Res. 668. Notably, this resolution does not pre-determine the outcome of the U.S. Court of Federal Claims review of the Tribe's lawsuit.

It simply allows the Tribe and its members to plead their case to a neutral decision-maker in a judicial proceeding.

Some may assume that the sending of a congressional reference to the U.S. Court of Federal Claims has already predetermined liability in favor of a claimant. As observed by former House Member (Rep. Marion T. Bennett (R-MO)), who became a Claims Court judge, "nothing could be further from the truth or the intent of Congress . . . Congress intends only to afford an impartial and independent forum for determination of the merits of a complex claim by judicial methods." Bennett, *Private Claims Acts and Congressional References*, 9 JAG L. Rev. 9 (1967).

H. Res. 668, as amended, simply affords the Tribe and its members the chance to present their case about the nature, extent, and character of the Indian trust related claims of the Quapaw Tribe and its tribal members for compensation as legal or equitable claims against the United States other than the legal claims that are pending in the Court of Federal Claims on the date of House approval of this to a neutral decision-maker in a judicial proceeding.

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

Mr. SMITH of Texas. I yield back the balance of my time.

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 agree to the resolution, H. Res. 668.

The question was taken.

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

Ms. ZOE LOFGREN of California. Madam Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

The point of no quorum is considered withdrawn.

#### PANDEMIC AND ALL-HAZARDS PREPAREDNESS REAUTHORIZATION ACT OF 2012

Mr. ROGERS of Michigan. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 6672) to reauthorize certain programs under the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act with respect to public health security and all-hazards preparedness and response, and for other purposes.

The Clerk read the title of the bill. The text of the bill is as follows:

H.R. 6672

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

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Pandemic and All-Hazards Preparedness Reauthorization Act of 2012".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

#### TITLE I—STRENGTHENING NATIONAL PREPAREDNESS AND RESPONSE FOR PUBLIC HEALTH EMERGENCIES

Sec. 101. National Health Security Strategy.

Sec. 102. Assistant Secretary for Preparedness and Response.

Sec. 103. National Advisory Committee on Children and Disasters.

Sec. 104. Modernization of the National Disaster Medical System.

Sec. 105. Continuing the role of the Department of Veterans Affairs.

#### TITLE II—OPTIMIZING STATE AND LOCAL ALL-HAZARDS PREPAREDNESS AND RESPONSE

Sec. 201. Temporary redeployment of federally funded personnel during a public health emergency.

Sec. 202. Improving State and local public health security.

Sec. 203. Hospital preparedness and medical surge capacity.

Sec. 204. Enhancing situational awareness and biosurveillance.

Sec. 205. Eliminating duplicative Project Bioshield reports.

#### TITLE III—ENHANCING MEDICAL COUNTERMEASURE REVIEW

Sec. 301. Special protocol assessment.

Sec. 302. Authorization for medical products for use in emergencies.

Sec. 303. Definitions.

Sec. 304. Enhancing medical countermeasure activities.

Sec. 305. Regulatory management plans.

Sec. 306. Report.

Sec. 307. Pediatric medical countermeasures.

#### TITLE IV—ACCELERATING MEDICAL COUNTERMEASURE ADVANCED RESEARCH AND DEVELOPMENT

Sec. 401. BioShield.

Sec. 402. Biomedical Advanced Research and Development Authority.

Sec. 403. Strategic National Stockpile.

Sec. 404. National Biodefense Science Board.

#### TITLE I—STRENGTHENING NATIONAL PREPAREDNESS AND RESPONSE FOR PUBLIC HEALTH EMERGENCIES

##### SEC. 101. NATIONAL HEALTH SECURITY STRATEGY.

(a) IN GENERAL.—Section 2802 of the Public Health Service Act (42 U.S.C. 300hh-1) is amended—

(1) in subsection (a)(1), by striking "2009" and inserting "2014"; and

(2) in subsection (b)—

(A) in paragraph (1)(A), by inserting "including drills and exercises to ensure medical surge capacity for events without notice" after "exercises"; and

(B) in paragraph (3)—

(i) in the matter preceding subparagraph (A)—

(I) by striking "facilities), and trauma care" and inserting "and ambulatory care facilities and which may include dental health facilities), and trauma care, critical care,"; and

(II) by inserting "(including related availability, accessibility, and coordination)" after "public health emergencies";