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measure includes many "poison pill" sections which were assured to fail individually. The administration continues to oppose provisions, contained in H.R. 4570, which would endanger our Nation's natural resources. The President has indicated that he will veto the measure in its current form.

I am concerned that the majority has chosen not to provide, sufficient opportunity to remedy and find consensus among Members regarding the deficiencies contained in this bill. In fact, there are seventeen provisions within this measure which have never been heard or taken up before the Committee on Resources. An additional forty-eight have yet to be reported out of committee. However, the bill's sponsors have chosen to combine these provisions without opportunity for and the benefit of debate or amendment. Such heavy handed and partisan tactics espouse the worst qualities of legislating in a politically motivated environment.

I take particular exception to several sections included in this bill. For example, I object to efforts which hinder Presidential authority, as granted under the Antiquities Act, to protect our most significant and valuable natural resources on Federal lands. Also, I am opposed to efforts to accelerate timer harvesting on Federal lands in the name of "forestry management."

In addition to circumventing the environmental review process under the National Environmental Policy Act (NEPA), this section does not allow for careful and prudent planning for timber harvesting. Further, it creates additional timber subsidies through a new credit program established for loggers. Such "poison pill" sections in this omnibus measure need to be addressed on a singular basis without hindering the passage of other noncontroversial provisions.

Mr. Chairman, while I support many of the provisions contained in this omnibus act, I cannot support them with the many more environmentally adverse sections contained in this bill. Until such adverse provisions are removed from this bill, I will urge my colleagues to vote against H.R. 4570, while continuing to work toward enactment of a bill that is responsive to the needs of our national parks and public lands.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

SPEECH OF

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 8, 1998

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 4274) making appropriations for he Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1999, and for other purposes:

Mr. VENTO. Mr. Chairman, I rise today in strong opposition to the Labor-HHS–Education Appropriations Act for fiscal year 1999. this legislation essentially denies the weakest and most vulnerable of our nation's citizens important programs which provide positive opportunities to succeed in life. It shortchanges the youth of our nation by virtually eliminating the Administration's education agenda, subjects millions of America's most vulnerable families to hardships with the elimination of LIHEAP, dismantles common sense programs that help young people prepare for the world of work; and severely undercuts funding for programs which tackle labor issues such as adequate wages, organizing rights, worker health and safety enforcement.

As a former educator, I am a strong supporter of programs that invest in our nation's children. Education is the most important investment we can make to ensure the welfare of our nation's future. Our public schools face enormous challenges in the next several years, including record high numbers of students, increasing proportions of students with disabilities, billions of dollars in unmet infrastructure needs and the challenge of making education technology available to all students. To often I must report that as public schools struggle critics make their task more difficult rather than offer the resources. This irresponsible appropriation clearly ignores the fact that education has consistently been rated as a top priority of our constituents—it is almost impossible to list all of the negative provisions included, but let me highlight, some of the "lowlights". The Republican bill eliminates Title I reading and math assistance for 520,000 disadvantage students; eliminates Perkins college loans and Byrd Scholarships for 120,000 students, cuts $300 million from Goals 2000 and Eisenhower teacher training programs and turns them into block grants; and cuts funding or drug and violence prevention coordinators at 6,500 middle schools. It cuts funding for the School-to-Work program by $250 million, eliminates funding for Star Schools, thereby shutting down innovative programs for using technology and telecommunications equipment in the classroom in low-income school districts. This Republican effort will withdraw funding for the Summer Youth Employment and Training program and will prevent over 530,000 young Americans from gaining work experience and learning the valuable work ethics.

Proponents of this bill gloss over and ignore these drastic cuts in education and will instead applaud the needed and provided increases for Pell Grants, TRIO, Impact Aid and Special education. However, the bill provides only a $537 million, or 1.8% increase in program levels for the department of education—a figure which falls substantially below the 2.2% inflation rate projected for FY 99, so we are going backwards.

But that's not all. This bill doesn't just target the youth of our Nation to accept far less. H.R. 4247 is extreme in its disregard for the protection of our workforce. It provides inadequate funding for federal laws which protect their health and safety, and their right of workers to organize and bargain collectively. In addition, this bill ignores the growing need for highly skilled workers, cutting, nearly in half, the number of people who can participation in employment and training programs. This continued attack upon America's labor force and the extreme underfunding of principal programs which protect workers' wages, pensions, and equal opportunity rights is truly a slap in the face to the working families of America.

Finally, I am disappointed with this measure's elimination of funding for the Low-Income Housing Energy Assistance Program, or LIHEAP. LIHEAP provides heating and cooling assistance to 4.3 million low-income households by way of nurturing an effective funding partnership with all levels of government and the private sector. This is a crucial need in cold weather states such as Minnesota.

You don't have to be a meteorologist, scientist or environmentalist to notice the weather patterns in the past few years. Most Minnesotans are familiar with the extremes in weather-related conditions: dangerous winter temperatures down to 30 degrees below zero combined with even more frigid arctic windchills, producing advisory warnings against stepping outside with exposed skin for more than five minutes. We Minnesotans in turn sympathize with Texans this past summer, where at least 79 people died due to heat-related illnesses during the long, 100-plus degree heatwave. These extremes in temperatures translate into unpredictable energy bills for everyone, but have particularly dire consequences for individuals struggling on a limited income, and disparities of income have persisted and compound this program zero funding policy path.

It is estimated that the average American household spends 6.8 percent of its income on energy bills during the most expensive heating and cooling seasons. A low-income household spends an average of 17.4%, and sometimes up to 30%. That's at least two and a half times the average burden. We're talking about the poor elderly, children, low-income single parents—persons already hit with the struggles of welfare-to-work and cuts in Medicare coverage.

Yet in the wake of tornadoes, floods, hurricanes, and other natural disasters, the Republican leadership has seized upon this opportunity to create a battle between underserved populations. The Labor-HHS-Education bill justifies taking money out of LIHEAP to pay for an increase in our nation's medical research program. While I understand the importance of advancements in medical research, robbing Peter to pay Paul does not alleviate the long-term health, nutrition and safety problems caused by placing low-income individuals in between a rock and a hard place, forcing them to decide whether to heat or eat. Energy assistance is one of the simplest and most effective ways of preventing individuals from having to make that choice. Should we really expect the poorest of the poor, the working poor to be the qualitative cut that will help us fight the great ills that have faced mankind through the ages.

I urge my colleagues to express their commitment to a more preventive approach to meeting the needs of underserved populations. Vote no on the current Labor-HHS-Education appropriations package.

SONNY BONO COPYRIGHT TERM EXTENSION ACT

SPEECH OF

HON. JOE SCARBOROUGH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 7, 1998

Mr. SCARBOROUGH. Mr. Speaker, I rise in support of Title I of S. 505, the Copyright

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Term Extension Act, but rise in opposition to title II of the bill, relating to fairness in music licensing. Title II amounts to bad legislative decision-making for at least three reasons: (1) it is a shortsighted policy; (2) it is potentially an unconstitutional taking; and (3) it violates our multilateral treaty obligations which is likely to result in trade sanctions of property of songwriters.

First, by exempting most commercial establishments from paying copyright licensing fees for the public performance of music, the proposal will radically reduce the royalties that performing rights organizations (BMI, ASCAP and SESAC) will collect on behalf of songwriters. Admittedly, proponents of eroded protection—those that want a free ride off the backs of creators—are numerous and organized. But, this is no reason to enact legislation that will extinguish the flame of creativity and will chill the progress of science and the useful arts.

Second, the right to own private property free from arbitrary government interference is a basic tenet of American life. In fact, the right to own property is as ancient as humankind itself, with the enforcement of property rights being a part of legal systems worldwide. Under our constitutional scheme of government, property cannot be "taken" by government action without just compensation. Although debate swirls around the definition of the term "taking", common sense dictates that the term refers to any acts that diminish or deprive any legally protected right to use, possess, exclude others, or dispose of one's property, real or intellectual. Title II of the bill "takes" the property of songwriters and "gives" it to commercial establishments to use without compensation. In my opinion, it is taking without due process of law and just compensation and is therefore unconstitutional.

Third, the Secretary of Commerce has already advised Congress that fairness in music licensing reform legislation violates our international treaty obligations. His words have been seconded by a drumbeat of statements from the United States Trade Representative, the Register of Copyrights, and the Assistant Secretary of Commerce and Commissioner of Patents and Trademarks that an overly broad exemption in section 110(5) of the Copyright Act would "violate our obligations under the Berne Convention for the Protection of Literary and Artistic Works." I believe that Title II will result in a WTO finding that we have violated our multilateral treaty obligations.

For these reasons, I oppose Title II of the bill but because I support Title I, I will not ask for a recorded vote.

MISSISSIPPI SIOUX TRIBES JUDGMENT FUND DISTRIBUTION ACT OF 1998

SPEECH OF

HON. RICK HILL

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 10, 1998

Mr. HILL. Mr. Speaker, I rise to support S. 391, the "Mississippi Sioux Tribes Judgment Fund Distribution Act of 1998."

S. 391, sponsored by Senator DORGAN of North Dakota and cosponsored by his colleague from North Dakota and his colleagues from Montana and South Dakota, was originally introduced as a companion bill to H.R. 976. My legislation was brought up in the House under suspension of the rules and passed on September 8, 1997.

After receiving the referral of H.R. 976 the Senate Committee on Indian Affairs held a hearing on the measure on October 21, 1997 and favorably reported an amendment in the nature of a substitute on November 4, 1997. In order to address concerns raised by the Administration, the Committee on Indian Affairs held a legislative hearing on S. 391 on July 8, 1998. Only July 29, 1998 the committee favorably reported S. 391 with an amendment in the nature of a substitute. The Senate passed S. 391 on October 9, 1998.

The major difference between H.R. 976 as passed by the House and S. 391 as passed by the Senate concerns the amount of the judgment fund to be distributed to the three Sisseton and Wahpeton tribes. Under H.R. 976, these tribes would receive the interest on the undistributed funds and the lineal descendants would receive the principal originally allocated to them in the 1972 act. Under S. 391, the tribes will receive about 28.3 percent of the undistributed funds and the lineal descendants will receive about 71.6 percent. This disposition of the fund was resulted from extensive consultations by the Senate Committee on Indian Affairs both with the tribes and with the Administration. The Administration, in turn, consulted with representatives of the lineal descendants.

While in my opinion the tribes should receive the funds provided in the House passed measure the allocation funds in S. 391 represents a reasonable approach to accommodating the concerns and interests of the Administration, the tribes and lineal descendants. The cap S. 391 places on the amount of funds to be distributed to unaffiliated lineal descendants is particularly important. The United States has an important government-to-government relationship with these tribes and a trust responsibility to them that supports providing to the tribes the greatest percentage possible of the judgment fund that is compensation for the taking of lands owned by the tribes. Providing the greatest percentage possible will improve the desperate economies of these tribes while diminishing the amount of the fund that will be distributed per capita to unaffiliated lineal descendants to whom the United States does not owe the same trust obligation.

Apart from changing the tribal allocation, much of the remainder of S. 391 is the same as or similar to provision contained in H.R. 976. There are, however, certain new provisions that make more acceptable the reduction in the distribution to the tribes. One is a provision that tightens the methods used by the Secretary to verify the Sisseton and Wahpeton Mississippi Sioux Tribe lineal ancestry of new applicants who seek to participate as lineal descendants. The methods used by the Secretary with respect to those already identified as lineal descendants resulted in only 65 of those 1,988 individuals tracing ancestry to a member of the Sisseton and Wahpeton Mississippi Sioux Tribe. Since the judgment fund is compensation for lands taken from this aboriginal tribe it stands to reason and the 1972 act says as much explicitly, that eligibility to participate as a distributee must be based on lineal descendance from the aboriginal tribe. The only way to assure this is to have applicants identify a lineal ancestor who was a member of the tribe. S. 391 now more emphatically requires this. The Secretary, under S. 391, must use certain specified rolls to establish that an applicant has a lineal ancestor who was a member of the aboriginal tribe. However, it is not sufficient to simply identify an ancestor on one of the rolls referred to in S. 391. In addition it is necessary to ascertain that, that ancestor was a member of the aboriginal Sisseon and Wahpeton Mississippi Sioux Tribe. If the use of a particular roll does not permit the Secretary to determine that aboriginal tribe membership, then the Secretary must use other rolls, closer in time to the existence of the aboriginal tribe, to assure that an applicant has identified a "specific Sisseton and Wahpeton Mississippi Sioux Tribe lineal ancestor."

Section 8 is another important provision in S. 391. Subsections (a) and (f) of this section guarantee that if the lineal descendants bring suit challenging the constitutionality of the allocation to the tribes, the tribes will have the right to intervene in that suit to challenge the constitutionality of the allocation that S. 391 makes to the lineal descendants. Most importantly, the tribes will have the right to have their constitutional claims heard and determined on the merits. This was an important provision requested by the tribes as part of the negotiations that resulted in the reduction of the tribal allocation from that allowed under H.R. 976. The tribes' constitutional claims have never been determined on the merits despite the Federal court in Montana and United States Court of Appeals for the Ninth Circuit both stating that the tribes' claims merited litigation. These courts nevertheless was compelled to dismiss the claims as barred by a statute of limitations. A subsequent constitutional challenge by the tribes was dismissed on res judicata grounds by the Federal court in the District of Columbia. Section 8 of S. 391 will now allow these claims to be determined on the merits. In the context of S. 391, which also allows the lineal descendants to challenge the distribution made to the tribes, it is basic fairness to level the playing field by allowing the tribes to challenge the distribution to lineal descendants without the impediment of the types of defenses that in the past prevented the tribes from securing a merits disposition of their constitutional claims.

Subsection (f)(1) of S. 391 would preclude the tribes, once they receive a distribution under this act, from litigating a claim to challenge the distribution to lineal descendants arising under the 1972 act. However, if such a challenge commenced prior to the receipt of a distribution, that challenge is not impeded from proceeding. Also subsection (f)(2), as mentioned, protect the right of the tribes to secure a disposition on the merits of any claim they bring in intervention under subsection (a).

This bill has bipartisan support.

I urge my colleagues to support this measure.

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Document No. 59

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