

After consultation with the Office of General Counsel, I have determined that compliance with the subpoena is consistent with the privileges and rights of the House.

Sincerely,

GARY DENICK,  
Production Operations Manager,  
Office of Communications Media.

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair announces that she 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 after debate has concluded on all motions to suspend the rules, but not before 6 p.m. today.

#### DESIGNATING WILSON CREEK IN NORTH CAROLINA AS COMPO- NENT OF NATIONAL WILD AND SCENIC RIVERS SYSTEM

Mr. SHERWOOD. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 1749) to designate Wilson Creek in Avery and Caldwell Counties, North Carolina, as a component of the National Wild and Scenic Rivers System, as amended.

The Clerk read as follows:

H.R. 1749

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

#### SECTION 1. DESIGNATION OF WILSON CREEK IN NORTH CAROLINA AS A WILD, SCE- NIC, AND RECREATIONAL RIVER.

*Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding at the end the following new paragraph:*

*“(161) WILSON CREEK, NORTH CAROLINA.—(A) The 23.3 mile segment of Wilson Creek in the State of North Carolina from its headwaters to its confluence with Johns River, to be administered by the Secretary of Agriculture in the following classifications:*

*“(i) The 2.9 mile segment from its headwaters below Calloway Peak downstream to the confluence of Little Wilson Creek, as a scenic river.*

*“(ii) The 4.6 segment from Little Wilson Creek downstream to the confluence of Crusher Branch, as a wild river.*

*“(iii) The 15.8 segment from Crusher Branch downstream to the confluence of Johns River, as a recreational river.*

*“(B) The Forest Service or any other agency of the Federal Government may not undertake condemnation proceedings for the purpose of acquiring public right-of-way or access to Wilson Creek against the private property of T. Henry Wilson, Jr., or his heirs or assigns, located in Avery County, North Carolina (within the area 36°, 4 min., 21 sec. North 81°, 47 min., 37° West and 36°, 3 min., 13 sec. North and 81° 45 min. 55 sec. West), in the area of Wilson Creek designated as a wild river.”*

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania (Mr. SHERWOOD) and the gentleman from American Samoa (Mr. FALEOMAVAEGA) each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. SHERWOOD).

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

Madam Speaker, H.R. 1749 was introduced by our esteemed colleague, the gentleman from North Carolina (Mr. BALLENGER), and would designate Wilson Creek in Avery and Caldwell Counties, North Carolina, as a component of the National Wild and Scenic Rivers System.

When the Subcommittee on Forests and Forest Health held a hearing on August 3, 1999, the gentleman from North Carolina (Mr. BALLENGER) and the Forest Service testified in support of the bill. The bill was amended at subcommittee to make a technical correction.

Both the subcommittee and the full committee favorably reported this bill, as amended by voice vote.

□ 1415

I strongly urge passage of H.R. 1749.

Madam Speaker, I reserve the balance of my time.

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

Madam Speaker, first I would like to certainly commend the gentleman from North Carolina (Mr. BALLENGER), my good friend, for his sponsorship of this legislation.

Madam Speaker, H.R. 1749 would designate 23.3 miles of Wilson Creek in Avery and Caldwell Counties, North Carolina, as a component of the National Wild and Scenic Rivers System. Approximately 2.9 miles would be designated as scenic, 4.6 miles as wild, and 15.8 miles as recreational area.

The Forest Service deemed the creek, which is rich in aquatic and plant life, eligible and suitable for wild and scenic status since 1990. There is a great deal of local support in this legislation, and I urge my colleagues to support it.

Madam Speaker, I reserve the balance of my time.

Mr. SHERWOOD. Madam Speaker, I yield 3 minutes to the gentleman from North Carolina (Mr. BALLENGER), the author of the bill.

Mr. BALLENGER. Madam Speaker, I rise today in support of my bill, H.R. 1749, to designate Wilson Creek in my congressional district as a Wild and Scenic River. And I want to thank the gentleman from Alaska (Chairman YOUNG) and the gentlewoman from Idaho (Mrs. CHENOWETH-HAGE), chairwoman of the subcommittee, for their support of this bill and their diligent efforts to get this bill to the floor.

Madam Speaker, I would like to invite any of my colleagues from Congress that get to our area, if they want to see something fabulously beautiful, look at the Wilson Creek. Wilson Creek is a free-flowing, crystal clear waterway which passes through some of the most beautiful scenery in the Nation. It provides pristine habitat for a multitude of fish species and plant life which live within the creek and along its banks.

From its headwaters below Calloway Peak on Grandfather Mountain in Avery County, to where it empties into Johns River in Caldwell County, Wilson Creek meets and exceeds all the requirements for such an important designation.

Specifically, my bill would designate 23.3 miles of Wilson Creek as a Wild and Scenic River. And in my opinion, having this creek designated as Wild and Scenic would help maintain its natural beauty while helping to improve the quality of recreational opportunities like hunting, fishing, camping, canoeing, and other activities for thousands of people who visit it each year.

Madam Speaker, the potential designation of Wilson Creek as a Wild and Scenic River has received tremendous support from the County Commissioners of both Avery and Caldwell Counties, as well as the local residents and outdoor enthusiasts. In fact, when I met with the County Commissioner in Caldwell and Avery Counties prior to the introduction of my bill, I was presented with letters of support from local residents, positive newspaper articles and editorials, and a letter from the U.S. Forest Service which indicated a willingness to help us in this effort.

Madam Speaker, I am convinced that the designation of Wilson Creek as a Wild and Scenic River is well supported within the communities which surround it. I know CBO is trying to find some cost for it. They have not been able to. There is no expense. And I believe this is an excellent bill that would do much to preserve Wilson Creek, making it both a natural asset and a natural treasure, and I urge its passage.

Mr. BURR of North Carolina. Madam Speaker, I rise today in support of H.R. 1749, designating Wilson Creek in northwest North Carolina as a wild and scenic river.

Madam Speaker, one of the hidden beauties—and there are few—of the ever changing North Carolina congressional district map is that in any given election, with the blessing of the electorate, the members our delegation are given the honor of serving different parts of different counties for short periods of time. During my first two terms of Congress, I had the opportunity to serve parts of Caldwell County that we are honoring today.

Although the majority of the legwork here in Washington was done by my colleague Mr. BALLENGER and his staff, the reason the designation is becoming a reality is the process by which it matured. You see, Mr. Speaker, this was not a decision forced upon the people of Avery and Caldwell County by a Federal bureaucracy with little or no local input. This project has been the result of local initiative, spearheaded by county commissioners and community leaders. These officials, at every step of the way, explained the process and benefits of wild and scenic designation to the local community and landowners, enlisting the advice and counsel of the local U.S. Forest Service. The professionalism of Forest Supervisor John Ramey, District Ranger Mike Anderson and Recreation Planner Kathy Ludlow quickly put to rest any misconceptions or fears

the local community may have harbored towards seeking this Federal designation.

Madam Speaker, this designation will do more than protect the 23 miles of river which rolls through the shadow of Grandfather Mountain. What also is being affirmed here is an example of how our Federal conservation policy should be administered—from local decisions by local leaders working in partnership with the Federal Government towards a universal goal of preserving the most pristine and natural resources of our country.

I thank Mr. BALLENGER for bringing this bill forward and I ask for its immediate approval.

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

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

The SPEAKER pro tempore (Mrs. EMERSON). The question is on the motion offered by the gentleman from Pennsylvania (Mr. SHERWOOD) that the House suspend the rules and pass the bill, H.R. 1749, as amended.

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

A motion to reconsider was laid on the table.

#### INDIAN TRIBAL ECONOMIC DEVELOPMENT AND CONTRACT ENCOURAGEMENT ACT OF 1999

Mr. SHERWOOD. Madam Speaker, I move to suspend the rules and pass the Senate bill (S. 613) to encourage Indian economic development, to provide for the disclosure of Indian tribal sovereign immunity in contracts involving Indian tribes, and for other purposes.

The Clerk read as follows:

S. 613

*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 "Indian Tribal Economic Development and Contract Encouragement Act of 1999".

##### SEC. 2. CONTRACTS AND AGREEMENTS WITH INDIAN TRIBES.

Section 2103 of the Revised Statutes (25 U.S.C. 81) is amended to read as follows:

"SEC. 2103. (a) In this section:

"(1) The term 'Indian lands' means lands the title to which is held by the United States in trust for an Indian tribe or lands the title to which is held by an Indian tribe subject to a restriction by the United States against alienation.

"(2) The term 'Indian tribe' has the meaning given that term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

"(3) The term 'Secretary' means the Secretary of the Interior.

"(b) No agreement or contract with an Indian tribe that encumbers Indian lands for a period of 7 or more years shall be valid unless that agreement or contract bears the approval of the Secretary of the Interior or a designee of the Secretary.

"(c) Subsection (b) shall not apply to any agreement or contract that the Secretary (or a designee of the Secretary) determines is not covered under that subsection.

"(d) The Secretary (or a designee of the Secretary) shall refuse to approve an agree-

ment or contract that is covered under subsection (b) if the Secretary (or a designee of the Secretary) determines that the agreement or contract—

"(1) violates Federal law; or

"(2) does not include a provision that—

"(A) provides for remedies in the case of a breach of the agreement or contract;

"(B) references a tribal code, ordinance, or ruling of a court of competent jurisdiction that discloses the right of the Indian tribe to assert sovereign immunity as a defense in an action brought against the Indian tribe; or

"(C) includes an express waiver of the right of the Indian tribe to assert sovereign immunity as a defense in an action brought against the Indian tribe (including a waiver that limits the nature of relief that may be provided or the jurisdiction of a court with respect to such an action).

"(e) Not later than 180 days after the date of enactment of the Indian Tribal Economic Development and Contract Encouragement Act of 1999, the Secretary shall issue regulations for identifying types of agreements or contracts that are not covered under subsection (b).

"(f) Nothing in this section shall be construed to—

"(1) require the Secretary to approve a contract for legal services by an attorney;

"(2) amend or repeal the authority of the National Indian Gaming Commission under the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.); or

"(3) alter or amend any ordinance, resolution, or charter of an Indian tribe that requires approval by the Secretary of any action by that Indian tribe."

##### SEC. 3. CHOICE OF COUNSEL.

Section 16(e) of the Act of June 18, 1934 (commonly referred to as the "Indian Reorganization Act") (48 Stat. 987, chapter 576; 25 U.S.C. 476(e)) is amended by striking ", the choice of counsel and fixing of fees to be subject to the approval of the Secretary".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania (Mr. SHERWOOD) and the gentleman from American Samoa (Mr. FALEOMAVAEGA) each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. SHERWOOD).

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

Madam Speaker, Senate 613, authored by Senator CAMPBELL of Colorado, would amend existing law to provide that the Secretary of Interior approve only those Indian land contracts which encumber Indian lands for a period of 7 or more years. Senate 613 would update Federal laws enacted in 1872 by removing antiquated and unnecessary Indian land contract approval requirements which apply to "all" contracts, irrespective of their brevity or insignificance.

We must maintain some Federal control over contracts which encumber Indian lands for 7 or more years because of the trust responsibility incurred by the Federal Government when the land was initially taken into trust.

Madam Speaker, this bill was passed unanimously in the Senate and is long overdue. I urge my fellow Members to support it and thus forward it to the President for his signature.

Madam Speaker, I reserve the balance of my time.

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

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

Mr. FALEOMAVAEGA. Madam Speaker, Senate bill 613 would amend provisions of law requiring certain contracts made with Indian tribes to be approved by the Secretary of the Interior. The current law, commonly referred to as Section 81, was enacted in 1872 in response to concerns that Indian tribes were being taken advantage of by non-Indian attorneys in bringing claims against the United States for treaty violations.

Numerous contracts were signed between attorneys and Indian tribes which provided for exorbitant attorneys' fees. For decades, the Bureau of Indian Affairs interpreted Section 81 as applying solely to such tribe-attorney contracts.

During the 1980's, several Federal Court cases ruled the Secretary of the Interior was required to approve any contract that was found to be, and I quote, "relative to Indian lands." End of quote. Because of the ambiguity of this phrase, more and more contracts were submitted for Secretarial approval. Today, the Secretary of the Interior is asked to approve contracts for everything from construction of a new building to the purchase of tribal office supplies. The Bureau of Indian Affairs is overwhelmed by these unnecessary requests and the process severely hinders economic development on Indian lands.

Madam Speaker, Senate bill 613 would eliminate the current requirement that tribes seek approval for contracts between Indian tribes and attorneys, unless the tribe's constitution requires such approval. The bill instead provides that only contracts that encumber Indian lands for 7 or more years be approved by the Secretary of the Interior. Additionally, this bill explicitly leaves in place the National Indian Gaming Commission's authority to review and approve Indian gaming agreements.

Madam Speaker, I am concerned about one provision of the bill which affects the sovereign immunity of Indian tribes. This bill requires that contracts which continue to be approved include remedies for breach of contract, disclosure of tribe sovereign immunity, or express waiver of the right to assert immunity as a defense.

Recent Supreme Court cases have strongly affirmed that notions of sovereignty that existed when the Constitution was formed have lost none of their relevance in the subsequent two centuries. A most basic component of sovereignty is the right to decide for itself when and under what circumstances a sovereign will be sued. These provisions would force Indian tribes to address, disclose, or waive their sovereign immunity in basic contracts, where a State or the Federal