why I have worked to advance this legislation.

This bill is the first part of that answer. H.R. 3994, the Advancing Critical Connectivity Expands Service, Small Business Resources, Opportunities, Access, and Data Based on Assessed Need and Demand Act, the ACCESS BROADBAND Act, would establish a coordinating office for Federal broadband resources.

It would use existing resources to streamline management of Federal broadband resources across multiple agencies and simplify the process for small businesses and local economic developers to access them.

Currently, there is no comprehensive system that tracks where Federal dollars are going and how the funding is impacting communities. Investments are made with little accountability and oversight on behalf of the taxpayer.

ACCESS BROADBAND, as an act, would begin to address the issues. This bill would track Federal broadband dollars and streamline management of Federal broadband resources across multiple agencies. Most notably, it would simplify the process for small businesses and local economic developers to access them.

There is still much more work to be done on this issue. I do hope that this can serve as a starting place for us to open doors of opportunity and access for the millions of Americans who require the better and improved outcomes by investing in broadband expansion.

I thank all of the members and staff working together on ACCESS BROADBAND, helping ensure that our communities can access the broadband resources they need to grow and to prosper.

Mr. Speaker, I urge a ''yes'' vote on this bill, and I reserve the balance of my time.

Mr. LANCE. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. CARTER), who is a member of our committee.

Mr. CARTER of Georgia. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise today in support of my colleague's bill, the ACCESS BROADBAND Act.

Mr. TONKO's legislation would move to establish an office of Internet Connectivity and Growth at the National Telecommunications and Information Administration to coordinate and track Federal funding for broadband across every agency.

This is important because the Federal Government's grant system can oftentimes be confusing and disjointed, making it difficult for communities and organizations to find grants they may be eligible for. As a result, they may be losing out on opportunities, especially when it comes to broadband needs.

Our rural communities continue to struggle, and one area that has been proven to be a boon is access to high-speed internet. By encompassing all of these grants into one area, we can help assist communities and organizations across the country in their search for Federal grant funding.

Access to broadband is a recipe for growth, allowing people to take and create new opportunities that may not have been there before. That is why I urge my colleagues to support this legislation.

Mr. TONKO. Mr. Speaker, I have no other speakers on my side. If the other side is ready to close, I yield back the balance of my time.

Mr. LANCE. Mr. Speaker, I urge passage of this legislation, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. LANCE) that the House suspend the rules and pass the bill, H.R. 3994, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

PRIVATE PROPERTY RIGHTS PROTECTION ACT OF 2017

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1689) to protect private property rights.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 1689

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 ''Private Property Rights Protection Act of 2017''.

SEC. 2. PROHIBITION ON EMINENT DOMAIN ABUSE BY STATES.

(a) IN GENERAL.—No State or political subdivision of a State shall exercise its power of eminent domain, or allow the exercise of such power by any person or entity to which such power has been delegated, over property to be used for economic development or over property that is used for economic development within 7 years after that exercise, if that State or political subdivision receives Federal economic development funds during any fiscal year in which the property is so used or intended to be used.

(b) INELIGIBILITY FOR FEDERAL FUNDS.—A violation of subsection (a) by a State or political subdivision shall render such State or political subdivision ineligible for any Federal economic development funds for a period of 2 fiscal years following a final judgment on the merits by a court of competent jurisdiction that such subsection has been violated, and any Federal agency charged with distributing those funds shall withhold them for such 2-year period, and any such funds distributed to such State or political subdivision shall be returned or reimbursed by such State or political subdivision to the appropriate Federal agency or authority of the Federal Government, or component thereof.

(c) OPPORTUNITY TO CURE VIOLATION.—A State or political subdivision shall not be ineligible for any Federal economic development funds under subsection (b) if such State or political subdivision returns all real property the taking of which was found by a court of competent jurisdiction to have constituted a violation of subsection (a) and replaces any other property destroyed and repairs any other property damaged as a result of such violation. In addition, the State or political subdivision must pay any applicable penalties and interest to reattain eligibility.

SEC. 3. PROHIBITION ON EMINENT DOMAIN ABUSE BY THE FEDERAL GOVERNMENT.

The Federal Government or any authority of the Federal Government shall not exercise its power of eminent domain to be used for economic development.

SEC. 4. PRIVATE RIGHT OF ACTION.

(a) CAUSE OF ACTION.—Any—(1) owner of private property whose property is subject to eminent domain who suffers injury as a result of a violation of any provision of this Act with respect to that property; or (2) any tenant of property that is subject to eminent domain who suffers injury as a result of a violation of any provision of this Act with respect to that property, may bring an action to enforce any provision of this Act in the appropriate Federal or State court. A State shall not be immune under the 11th Amendment to the Constitution of the United States from any such action in a Federal or State court of competent jurisdiction. In such action, the defendant has the burden to show by clear and convincing evidence that the taking is not for economic development. Any such property owner or tenant may also seek an appropriate relief through a preliminary injunction or a temporary restraining order.

(b) LIMITATION ON BRINGING ACTION.—An action brought by a property owner or tenant under this Act may be brought if the property is used for economic development following the conclusion of any condemnation proceedings condemning the property of such property owner or tenant, but shall not be brought later than seven years following the conclusion of any such proceedings.

(c) ATTORNEYS' FEE AND OTHER COSTS.—In any action or proceeding under this Act, the court shall allow a prevailing plaintiff a reasonable attorneys' fee as part of the costs, and include expert fees as part of the attorneys' fee.

SEC. 5. REPORTING OF VIOLATIONS TO ATTORNEY GENERAL.

(a) SUBMISSION OF REPORT TO ATTORNEY GENERAL.—Any—(1) owner of private property whose property is subject to eminent domain who suffers injury as a result of a violation of any provision of this Act with respect to that property; or (2) any tenant of property that is subject to eminent domain who suffers injury as a result of a violation of any provision of this Act with respect to that property, may report a violation by the Federal Government, any authority of the Federal Government, State, or political subdivision of a State to the Attorney General.

(b) INVESTIGATION BY ATTORNEY GENERAL.—Upon receiving a report of an alleged violation, the Attorney General shall conduct an investigation to determine whether a violation exists.

(c) NOTIFICATION OF VIOLATION.—If the Attorney General concludes that a violation does exist, then the Attorney General shall notify the Federal Government, authority of the Federal Government, State, or political subdivision of a State that the Attorney General has determined that it is in violation of the Act. The notification shall further provide that the Federal Government, State, or political subdivision of a State has 90 days from the date of the notification to demonstrate to the Attorney General either that: (1) it is not in violation of the Act; or

(2) that it has cured its violation by returning all real property the taking of which the Attorney General finds to have constituted a violation of the Act and replacing any other property destroyed and repairing any other property damaged as a result of such violation.

(d) ATTORNEY GENERAL'S BRINGING OF ACTION TO ENFORCE ACT.—If, at the end of the 90-day period described in subsection (c), the Attorney General determines that the Federal Government, authority of the Federal Government, State, or political subdivision of a State is still violating the Act or has not cured its violation as described in subsection (c), then the Attorney General will bring an action to enforce the Act unless the property owner or tenant who reported the violation has already brought an action to enforce the Act. In such a case, the Attorney General shall intervene if it determines that intervention is necessary in order to enforce the Act. The Attorney General may file its lawsuit to enforce the Act in the appropriate Federal or State court. A State shall not be immune under the 11th Amendment to the Constitution of the United States from any such action in a Federal or State court of competent jurisdiction. In such action, the defendant has the burden to show by clear and convincing evidence that the taking is not for economic development. The Attorney General may seek any appropriate relief through a preliminary injunction or a temporary restraining order.

(e) LIMITATION ON BRINGING ACTION.—An action brought by the Attorney General under this Act may be brought if the property is used for economic development following the conclusion of any condemnation proceedings condemning the property of an owner or tenant who reports a violation of the Act to the Attorney General, but shall not be brought later than seven years following the conclusion of any such proceedings.

(f) ATTORNEYS' FEE AND OTHER COSTS.—In any action or proceeding under this Act brought by the Attorney General, the court shall, if the Attorney General is a prevailing plaintiff, award the Attorney General a reasonable attorneys' fee as part of the costs, and include expert fees as part of the attorneys' fee.

SEC. 6. NOTIFICATION BY ATTORNEY GENERAL.

(a) NOTIFICATION TO STATES AND POLITICAL SUBDIVISIONS.—

(1) Not later than 30 days after the enactment of this Act, the Attorney General shall provide to the chief executive officer of each State the text of this Act and a description of the rights of property owners and tenants under this Act.

(2) Not later than 120 days after the enactment of this Act, the Attorney General shall compile a list of the Federal laws under which Federal economic development funds are distributed. The Attorney General shall compile annual revisions of such list as necessary. Such list and any successive revisions of such list shall be communicated by the Attorney General to the chief executive officer of each State and also made available on the Internet website maintained by the United States Department of Justice for use by the public and by the authorities in each State and political subdivisions of each State empowered to take private property and convert it to public use subject to just compensation for the taking.

(b) NOTIFICATION TO PROPERTY OWNERS AND TENANTS.—Not later than 30 days after the enactment of this Act, the Attorney General shall publish in the Federal Register and make available on the Internet website maintained by the United States Department of Justice a notice containing the text of this Act and a description of the rights of property owners and tenants under this Act.

SEC. 7. REPORTS.

(a) BY ATTORNEY GENERAL.—Not later than 1 year after the date of enactment of this Act, and every subsequent year thereafter, the Attorney General shall transmit a report identifying States or political subdivisions that have used eminent domain in violation of this Act to the Chairman and Ranking Member of the Committee on the Judiciary of the House of Representatives and to the Chairman and Ranking Member of the Committee on the Judiciary of the Senate. The report shall—

(1) identify all private rights of action brought as a result of a State's or political subdivision's violation of this Act;

(2) identify all violations reported by property owners and tenants under section 5(c) of this Act;

(3) identify the percentage of minority residents compared to the surrounding nonminority residents and the median incomes of those impacted by a violation of this Act;

(4) identify all lawsuits brought by the Attorney General under section 5(d) of this Act;

(5) identify all States or political subdivisions that have lost Federal economic development funds as a result of a violation of this Act, as well as describe the type and amount of Federal economic development funds lost in each State or political subdivision and the Agency that is responsible for withholding such funds; and

(6) discuss all instances in which a State or political subdivision has cured a violation as described in section 2(c) of this Act.

(b) DUTY OF STATES.—Each State and local authority that is subject to a private right of action under this Act shall have the duty to report to the Attorney General such information with respect to such State and local authorities as the Attorney General needs to make the report required under subsection (a).

SEC. 8. SENSE OF CONGRESS REGARDING RURAL AMERICA.

(a) FINDINGS.—The Congress finds the following:

(1) The founders realized the fundamental importance of property rights when they codified the Takings Clause of the Fifth Amendment to the Constitution, which requires that private property shall not be taken ''for public use, without just compensation''.

(2) Rural lands are unique in that they are not traditionally considered high tax revenue-generating properties for State and local governments. In addition, farmland and forest land owners need to have long-term certainty regarding their property rights in order to make the investment decisions to commit land to these uses.

(3) Ownership rights in rural land are fundamental building blocks for our Nation's agriculture industry, which continues to be one of the most important economic sectors of our economy.

(4) In the wake of the Supreme Court's decision in Kelo v. City of New London, abuse of eminent domain is a threat to the property rights of all private property owners, including rural land owners.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the use of eminent domain for the purpose of economic development is a threat to agricultural and other property in rural America and that the Congress should protect the property rights of Americans, including those who reside in rural areas. Property rights are central to liberty in this country and to our economy. The use of eminent domain to take farmland and other rural property for economic development threatens liberty, rural economies, and the economy of the United States. The taking of farmland and rural property will have a direct impact on existing irrigation and reclamation projects. Furthermore, the use of eminent domain to take rural private property for private commercial uses will force increasing numbers of activities from private property onto this Nation's public lands, including its National forests, National parks and wildlife refuges. This increase can overburden the infrastructure of these lands, reducing the enjoyment of such lands for all citizens. Americans should not have to fear the government's taking their homes, farms, or businesses to give to other persons. Governments should not abuse the power of eminent domain to force rural property owners from their land in order to develop rural land into industrial and commercial property. Congress has a duty to protect the property rights of rural Americans in the face of eminent domain abuse.

SEC. 9. SENSE OF CONGRESS.

It is the policy of the United States to encourage, support, and promote the private ownership of property and to ensure that the constitutional and other legal rights of private property owners are protected by the Federal Government.

SEC. 10. RELIGIOUS AND NONPROFIT ORGANIZATIONS.

(a) PROHIBITION ON STATES.—No State or political subdivision of a State shall exercise its power of eminent domain, or allow the exercise of such power by any person or entity to which such power has been delegated, over property of a religious or other nonprofit organization by reason of the nonprofit or tax-exempt status of such organization, or any quality related thereto if that State or political subdivision receives Federal economic development funds during any fiscal year in which it does so.

(b) INELIGIBILITY FOR FEDERAL FUNDS.—A violation of subsection (a) by a State or political subdivision shall render such State or political subdivision ineligible for any Federal economic development funds for a period of 2 fiscal years following a final judgment on the merits by a court of competent jurisdiction that such subsection has been violated, and any Federal agency charged with distributing those funds shall withhold them for such 2-year period, and any such funds distributed to such State or political subdivision shall be returned or reimbursed by such State or political subdivision to the appropriate Federal agency or authority of the Federal Government, or component thereof.

(c) PROHIBITION ON FEDERAL GOVERNMENT.—The Federal Government or any authority of the Federal Government shall not exercise its power of eminent domain over property of a religious or other nonprofit organization by reason of the nonprofit or tax-exempt status of such organization, or any quality related thereto.

SEC. 11. REPORT BY FEDERAL AGENCIES ON REGULATIONS AND PROCEDURES RELATING TO EMINENT DOMAIN.

Not later than 180 days after the date of the enactment of this Act, the head of each Executive department and agency shall review all rules, regulations, and procedures and report to the Attorney General on the activities of that department or agency to bring its rules, regulations and procedures into compliance with this Act.

SEC. 12. SENSE OF CONGRESS.

It is the sense of Congress that any and all precautions shall be taken by the government to avoid the unfair or unreasonable taking of property away from survivors of Hurricane Katrina who own, were bequeathed, or assigned such property, for economic development purposes or for the private use of others.

SEC. 13. DISPROPORTIONATE IMPACT.

If the court determines that a violation of this Act has occurred, and that the violation has a disproportionately high impact on the poor or minorities, the Attorney General shall use reasonable efforts to locate former owners and tenants and inform them of the violation and any remedies they may have.

SEC. 14. DEFINITIONS.

In this Act the following definitions apply:

(1) ECONOMIC DEVELOPMENT.—The term ''economic development'' means taking private property, without the consent of the owner, and conveying or leasing such property from one private person or entity to another private person or entity for commercial enterprise carried on for profit, or to increase tax revenue, tax base, employment, or general economic health, except that such term shall not include—

(A) conveying private property—

(i) to public ownership, such as for a road, hospital, airport, or military base;

(ii) to an entity, such as a common carrier, that makes the property available to the general public as of right, such as a railroad or public facility;

(iii) for use as a road or other right of way or means, open to the public for transportation, whether free or by toll; and

(iv) for use as an aqueduct, flood control facility, pipeline, or similar use;

(B) removing harmful uses of land provided such uses constitute an immediate threat to public health and safety;

(C) leasing property to a private person or entity that occupies an incidental part of public property or a public facility, such as a retail establishment on the ground floor of a public building;

(D) acquiring abandoned property;

(E) clearing defective chains of title;

(F) taking private property for use by a utility providing electric, natural gas, telecommunication, water, wastewater, or other utility services either directly to the public or indirectly through provision of such services at the wholesale level for resale to the public; and

(G) redeveloping of a brownfield site as defined in the Small Business Liability Relief and Brownfields Revitalization Act (42 U.S.C. 9601(39)).

(2) FEDERAL ECONOMIC DEVELOPMENT FUNDS.—The term ''Federal economic development funds'' means any Federal funds distributed to or through States or political subdivisions of States under Federal laws designed to improve or increase the size of the economies of States or political subdivisions of States.

(3) STATE.—The term ''State'' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or any other territory or possession of the United States.

SEC. 15. LIMITATION ON STATUTORY CONSTRUCTION.

Nothing in this Act may be construed to supersede, limit, or otherwise affect any provision of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

SEC. 16. BROAD CONSTRUCTION.

This Act shall be construed in favor of a broad protection of private property rights, to the maximum extent permitted by the terms of this Act and the Constitution.

SEC. 17. SEVERABILITY AND EFFECTIVE DATE.

(a) SEVERABILITY.—The provisions of this Act are severable. If any provision of this Act, or any application thereof, is found unconstitutional, that finding shall not affect any provision or application of the Act not so adjudicated.

(b) EFFECTIVE DATE.—This Act shall take effect upon the first day of the first fiscal year that begins after the date of the enactment of this Act, but shall not apply to any project for which condemnation proceedings have been initiated prior to the date of enactment.

The SPEAKER pro tempore (Mr. CARTER of Georgia). Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from New York (Mr. NADLER) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin.

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 1689, currently under consideration.

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

There was no objection.

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

Mr. Speaker, I am pleased that the House is considering H.R. 1689, the Private Property Rights Protection Act. My bill aims to restore the property rights of all Americans that the Supreme Court took away in 2005.

The Founders of our country recognized the importance of an individual's right to personal property when they drafted the Constitution. The Fifth Amendment states: ''nor shall private property be taken for public use, without just compensation.''

In Kelo v. City of New London, the Supreme Court decided that economic development could be a public use under the Fifth Amendment's Takings Clause. In a 5–4 decision, the Court held that the government could take private property from an owner—in this case, Susette Kelo—to help a corporation or private developer—in this case, Pfizer.

The now infamous Kelo decision generated a massive backlash. As former Justice O'Connor stated: ''The government now has license to transfer property from those with fewer resources to those with more. The Founders cannot have intended this perverse result.''

Even in the 13 years since Kelo, polls show that Americans overwhelmingly oppose property being taken and transferred to another private owner, even if it is for the public economic good.

The Private Property Rights Protection Act is needed to restore to all Americans the property rights the Supreme Court invalidated. Although several States have since passed legislation to limit their power to eminent domain, and a number of supreme courts have barred the practice under their State constitutions, these laws exist on a varying degree.

H.R. 1689 would prohibit State and local governments that receive Federal economic development funds from using economic development as a justification for taking property from one person and giving to another private entity. Any State or local government that violates this prohibition will be ineligible to receive Federal economic development funds for 2 years.

The protection of property rights is one of the most important tenets of our government. I am mindful of the long history of eminent domain abuses, particularly in low-income and often predominantly minority neighborhoods, and the need to stop it. I am also mindful of the reasons we should allow the government to take the land when the way in which land is being used constitutes an immediate threat to public health and safety. I believe this bill accomplishes both goals.

Mr. Speaker, I urge my colleagues to join me in protecting private property rights for all Americans and limiting the dangerous effects of the Kelo decision on the most vulnerable in our society.

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

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

Mr. Speaker, I claim the time in opposition to H.R. 1689, the Private Property Rights Protection Act of 2017.

While I believe this bill is well intentioned, it is the wrong approach to a serious problem. It seeks to prevent abuse of eminent domain power, but its provisions could cripple the finances of State and local governments without even providing a remedy to the victims of an unjust taking.

In Kelo v. City of New London, the Supreme Court upheld the right of a municipality to use eminent domain authority to take private property and to transfer it to another private entity for a public purpose. Building on a century of precedent defining public use to include a public purpose, the Court held such a transfer did not violate the Fifth Amendment's Takings Clause, which provides that no person's private property shall be taken for public use without just compensation.

Critics of the Kelo decision believe that the Court overreached and that eminent domain should be exercised only when the taken property will be owned by the government or by a private entity operating as a public utility.

□ 1545

H.R. 1689 would overturn Kelo by prohibiting any State or local government that receives Federal economic development funds from using eminent domain to transfer private property to another private entity for the purpose of economic development.

The bill broadly defines economic development funds to include any Federal funds distributed to States or localities under laws designed to improve or increase their economies. Should a State or local government violate this prohibition, it is subject to the loss of all such funds for 2 years.

This draconian remedy could potentially devastate the finances of State

and local governments. Even projects unrelated to takings could lose funding, and cities could face bankruptcy simply by incorrectly guessing whether a given project would sufficiently qualify as being for a public use. The potential loss of such funding would also have a chilling effect on a government's willingness to use eminent domain to promote legitimate economic development projects.

Even if a government never takes a prohibited action, it would likely be adversely impacted by this bill. Just the potential loss of significant Federal funding may make it impossible for a government to sell municipal bonds or could require a government to pay inordinate interest rates given the possibility that it might, at some point in the future, use eminent domain improperly and thereby lose all Federal economic aid and, with it, the ability to repay the bonds.

The power of eminent domain is an extraordinary one and it should be used with great care. Historically, there are examples of States and localities abusing eminent domain for purely private gain or to favor one community at the expense of another. When used inappropriately, this power has wrecked communities for projects, resulting in little economic benefit.

When used appropriately, however, eminent domain is an important tool, making possible transportation networks, irrigation projects, and other important public works that support communities and are integral to their economic and social well-being.

Unfortunately, this bill's vague definitions may prohibit projects that have a genuine public purpose while allowing others that historically have abused eminent domain.

For example, this bill allows use of eminent domain to give property to a private party ''such as a common carrier that makes the property available for use by the general public as of right.'' That would seem to include a stadium, which is privately owned and available for use by the general public as of right.

On the other hand, communities could be barred from using eminent domain to pursue affordable housing projects if they are built using a public-private partnership, such as the HOPE VI program, which uses Federal money to encourage private development of mixed-income housing.

Yet another shortcoming of the bill is that it does not actually help an aggrieved property owner or tenant because it would not allow them to sue to stop the allegedly prohibited taking. The bill only authorizes suit after a condemnation proceeding has concluded, when it is too late.

In addition, injured persons would not be entitled to any damages other than the just compensation they got at the time of the taking. All they could get is the psychic satisfaction they may receive from bankrupting their community after the fact.

I would also point out that this bill is unnecessary, since more than 40 States have already moved aggressively to narrow their eminent domain laws in the 13 years since Kelo was decided.

Finally, H.R. 1689 undermines federalism, and it may raise constitutional concerns. Subject to the Takings Clause, local land use decisions are generally left to the judgments of State and local governments, which are in the best position to weigh local conditions and competing interests. This is the essence of federalism, and Congress should not be in the business of sitting as a national zoning board.

Also, the loss of all economic funding, even for projects that may have nothing to do with takings, is so draconian that it may amount to an unconstitutional coercion of State and local governments.

Accordingly, I oppose this bill, and I would simply make two comments to amplify on what I said.

If you want to stop improper takings, all right, but have a proper remedy. Allow the alleged victim of the improper taking to go to court, sue for an injunction to stop the improper taking, and get monetary damages, if any. That would be at least a reasonable remedy.

Instead, this bill says that you can't go to court to get an injunction; you can't get damages. All you can do is wait until after the improper taking has occurred—you already lost your property—then you can go to court; and if the court finds you are right, that it was an improper use of the eminent domain procedure, then the government will lose economic aid for 2 years. It doesn't help the plaintiff. It doesn't help the property owner. All it does is bankrupt the community. So what is the point?

Second, as I mentioned before, this could injure communities that never do an improper taking because, if I am the mayor, I may not be able to float a bond lest somebody think that maybe my successor once or twice removed may, 20 years down the line or 10 years down the line, do an improper taking. And then the Federal Government would come in, stop all economic aid, and we wouldn't be able to repay the bonds.

So this would impair the ability of States or local governments to bond for projects. It wouldn't help the victim—there may even be no victim—but it would hurt the government. It makes no sense. This is a real problem.

Mr. Speaker, I urge my colleagues to vote ''no,'' and I reserve the balance of my time.

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

Mr. Speaker, there are two flaws in the gentleman's argument. The first flaw, we ought to go back to why the Kelo case got to the Supreme Court.

Mrs. Kelo owned a house. She didn't want to sell it. What the city decided is that the public purpose that was served was by condemning the house and allowing an office building to be built so that the community could collect higher property taxes because the office building would end up being assessed at a greater value than Mrs. Kelo's house. Now, that was the so-called public purpose.

The thing is, without this legislation, any property that could be taxed higher if it were condemned and there were a replacement property that was put up could end up being condemned under the Kelo decision, and the homeowner would be out of luck and out of their house and have to find some more housing.

The second complaint the gentleman from New York makes is that the penalties for violations are too severe. Well, you don't change the activity of anybody if there are no penalties at all or the penalty is just a tap on the wrist. Just think of what would happen if we still had a law that said that everybody had to stop at a red light, but there was never a fine or any points or any impact on one's insurance policy because there was no moving vehicle violation. Good luck everybody in this country getting home from work tonight if that were the attitude toward traffic violations. There has to be some kind of a severe violation.

If the city is concerned that they might be violating the terms of this bill, they can always go to court and ask that their condemnation action be withdrawn. Hopefully, the judge will grant it to be withdrawn with prejudice, but at least it can be withdrawn.

The city can stop this procedure any time they want to before there is an actual condemnation judgment that is entered by the court. This is designed to slow down and stop legislation when the sole public purpose is to collect more property taxes because there is a more expensive structure that is being built there.

Both of these arguments, I think, do not have any merit whatsoever and that is why this bill ought to pass.

Mr. Speaker, I yield the balance of my time to the gentleman from Virginia (Mr. GOODLATTE), and I ask unanimous consent that he may control that time.

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

There was no objection.

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

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

Mr. Speaker, I first comment, the gentleman from Wisconsin says that we object that the penalty is too severe. We do not object that the penalty is too severe. We object that the penalty is irrelevant, that the penalty won't help the plaintiff. It won't help to prevent the misuse, number one. And number two, it could be a plot that would have the practical effect, when there is no misuse, no taking at all, of having a deleterious effect on

the community's bond rating, even when there is no taking.

If you are going to do this bill and you want to narrow the definition of a public purpose, which is the purpose of the bill, I am not sure we can do that, given the fact that the Supreme Court has decided what it is. Assuming we could do that, fine, but have an appropriate remedy, a remedy that would enable the plaintiffs to get an injunction against the taking, that would give them monetary damages, which is the way we normally do things, not a remedy that will not prevent the taking and only will damage a community, whether or not it does any improper takings. That doesn't make sense.

Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland (Mr. RASKIN).

Mr. RASKIN. Mr. Speaker, I want to ask the gentleman a couple of questions, but I want to preface my questions by saying I think that this is a terrible lost opportunity for serious, bipartisan legislation to address the problem of eminent domain abuse that has been taking place across the country and has been for several decades. I recommend to everybody a report of the Cato Institute by David Boaz, which summarizes what is taking place around the country.

One of the worst perpetrators of eminent domain abuse in the country is a business developer named Donald Trump. In the mid-1990s, he built the casino and the hotel in Atlantic City, but he wanted to evict a woman named Vera Coking, who was exactly in the same position as Mrs. Kelo would be in a decade later.

She had lived in this Victorian house at the end of the boardwalk in Atlantic City for several decades, but Donald Trump wanted to build a VIP limo parking lot to go with the existing hotel. He offered her some money and she said: No, thank you. My family has lived in this house for a long time. We want to stay here. Our kids go to school here.

He offered her a little bit more money and she said: No, it's not for sale. We are going to stay here.

So they created something called the Casino Reinvestment Development Authority, controlled by, essentially, the Trump Corporation, but they got the city to do it, and they tried to force her out. Luckily, the Cato Institute and some libertarian lawyers defended her rights.

But the legislation that is being brought forward today by the Republicans now on a totally partisan basis would do nothing for people in the situation of Mrs. Coking or Mrs. Kelo, because it doesn't give them any rights to sue. All it says is we are going to cut off money to government agencies.

It would be like saying: Well, in a case like that, we will cut off money to every city and town in New Jersey, not just Atlantic City, but to Newark, New Jersey, and to Freehold, New Jersey. We are going to cut off money all over the State.

It has got nothing to do with the actual problem. It doesn't help the people who are actually suffering under the problem of eminent domain abuse.

If we want to help them, let's give them a Federal right of action; or, if all you can do is cut off Federal money, cut off the particular city that is involved, but not every city or county that is receiving money under a Federal program.

Mr. NADLER made a point which I thought was really interesting, which is that this is a solution that doesn't address the problem. If we want to save people from getting evicted from their homes under the Kelo decision, which President Trump applauded and said he supports 100 percent, but if we want to save people from policies under the Kelo decision, shouldn't we give them rights rather than make some kind of Federal subsidy decision which is of constitutional question, in any event?

Mr. NADLER. Will the gentleman yield?

Mr. RASKIN. I yield to the gentleman from New York.

Mr. NADLER. Mr. Speaker, I agree with the gentleman. The standard way in which someone can vindicate rights is to sue. If the local government wants to abuse the rights of a homeowner, let's say, by an improper taking, the proper way for us to help is to give them the right to sue and to get injunctive relief. Let them go into Federal court and get an injunction which says: Do not tear down the building. Do not take away title. You can't do it because this is too broad a use of taking. It is a violation of the Fifth Amendment.

This bill won't actually help that person because it gives them no rights except the right after they have lost the property. It gives them the right to go to court and not get any relief for themselves, not get the property back, not get any monetary damages, not get an injunction. It gives them the right to go into court and seek to block financial aid to the community. So they can say, ''I took revenge on the community,'' but what is the point? It doesn't help them.

Mr. RASKIN. Reclaiming my time, rather than giving actual rights to people in the position of Mrs. Kelo or Mrs. Coking, who is going to be forced out of her house in Atlantic City, this, instead, places a very broad burden on the government and in such a way that it, I think, renders the whole legislation constitutionally suspect.

Mr. Speaker, don't we have constitutional decisions that say the government or Congress can't go so far as to punish an entire State government for something that one municipality does? Doesn't it seem like it is sort of going nuclear in order to get a mosquito?

I yield to the gentleman from New York.

□ 1600

Mr. NADLER. I think there are such decisions, and this would seem to violate them.

Mr. RASKIN. Isn't that what the Medicaid decision was all about?

Mr. NADLER. Yes. The Medicaid decision said you cannot draft the local government to exercise a function for the Federal Government, which this would seem to do also.

Mr. RASKIN. Doesn't it also say that we can't threaten to drive you out of the Medicaid program entirely because you refuse to accept one particular program that we want to impose upon you?

Mr. NADLER. That is exactly what it said.

Mr. RASKIN. Not only is this legislation completely illusory in terms of not really helping people who have the problem, but it might just be struck down.

Mr. Speaker, how can you cut off the people of Newark, New Jersey, or Freehold, New Jersey, because of something that happens in Atlantic City, New Jersey? It doesn't even help the people in Atlantic City, New Jersey, who are facing the problem with the big real estate developer who has bought up all the political power to try to drive somebody out of their home.

Mr. NADLER. I agree with the gentleman. I think the gentleman from Maryland makes a very valid point.

Mr. Speaker, for all these reasons, I oppose this bill. I would simply say: We agree there is a serious problem with abuse of eminent domain, and we agree there may very well be decent legislation that would do something about the problem.

If you are going to do it, draft legislation that really deals with the problem, that is constitutional, that will protect the small person such as Mrs. Kelo but that won't bankrupt the community in a way that is probably unconstitutional anyway.

This bill is not the solution. We could, on a bipartisan basis, work for an intelligent solution, but this is not it. Accordingly, I urge a ''no'' vote.

Mr. Speaker, I urge the defeat of this legislation, and I yield back the balance of my time.

Mr. GOODLATTE. Mr. Speaker, may I inquire how much time I have remaining.

The SPEAKER pro tempore. The gentleman from Virginia has 14 minutes remaining.

Mr. GOODLATTE. Mr. Speaker, I yield myself the balance of my time.

First of all, the protection of private ownership of property is vital to individual freedom and national prosperity. It is also one of the most fundamental constitutional principles, as the Founders enshrined property rights protections throughout the Constitution, including in the Fifth Amendment, which provides that private property shall not be taken for public use without just compensation.

This clause created two conditions to the government taking private property: first, the subsequent use of the property must be for the use of the public and, second, that the government must pay the owner just compensation for the property.

However, more than a decade ago the Supreme Court, in the 5–4 Kelo v. City of New London decision, expanded the ability of State and local governments to exercise eminent domain powers beyond what is allowed by the text of the Constitution, by allowing government to seize property under the vague guise of economic development, even when the public use turns out to be nothing more than the generation of tax revenues by another private party after the government takes property from private individuals and gives it to another private entity.

As the dissenting Justices observed, by defining public use so expansively, the result of the Kelo decision is, effectively, to delete the words ''for public use'' from the Takings Clause of the Fifth Amendment. The specter of condemnation hangs over all property. The government now has license to transfer property from those with few resources to those with more. The Founders cannot have intended this perverse result.

In the wake of this decision, State and local governments can use eminent domain powers to take the property of any individual for nearly any reason. Cities may now bulldoze citizens' homes, farms, churches, and small businesses to make way for shopping malls or other developments.

To help prevent such abuse, using Congress' constitutional legislative powers, it is important Congress finally passes the Private Property Rights Protection Act.

I want to thank Mr. SENSENBRENNER for reintroducing this legislation. He and I have worked together on this issue for many years, and I am pleased that this legislation incorporates many provisions from legislation I helped to introduce in the 109th Congress, the STOPP Act.

Specifically, the Private Property Rights Protection Act would prohibit State and local governments from receiving Federal economic development funds for 2 years when they use economic development as a justification for taking property from one person and giving it to another private entity.

In addition, this legislation grants adversely affected landowners the right to use appropriate legal remedies to enforce the provisions of the bill and allows State and local governments to cure violations by giving the property back to the original owner.

The bill also includes a carefully crafted definition of economic development that protects traditional uses of eminent domain, such as taking land for public uses like roads and pipelines, while prohibiting abuses of the eminent domain power.

No one should have to live in fear of the government's taking their home, farm, or business simply to give it to a wealthier person or corporation. As the Institute for Justice's witness observed during a hearing on this bill, using eminent domain so that another richer, better-connected person may live or work on the land you used to own tells Americans that their hopes, dreams, and hard work do not matter as much as money and political influence. The use of eminent domain for private development has no place in a country built on traditions of independence, hard work, and protection of property rights.

This legislation has passed the House three times previously, either by voice vote or with the support of at least 80 percent of House Members in an overwhelmingly bipartisan vote, only to be stalled in the Senate. But the fight for people's homes continues, as will this committee's efforts to protect Federal taxpayers from any involvement in eminent domain abuse.

Just a few years ago, every single Republican Member voted for the very same legislation on the House floor, as did two-thirds of Democratic Members. I urge my colleagues to join me in supporting this overwhelmingly bipartisan effort.

I want to respond to some of the issues raised by the gentleman from New York and the gentleman from Maryland. Pursuant to Congress' powers under the Constitution's Spending Clause, the Private Property Rights Protection Act conditions the receipt of Federal economic development funds on State and local governments agreeing not to use eminent domain for private economic development takings.

Federal law currently permits expending Federal funds to support the use of eminent domain for these abusive takings. In our current economy, and with the Federal Government running deficits every year, Congress should not be spending American taxpayers' scarce economic development funds to support State and local governments that unconstitutionally deprive hardworking Americans of their homes, farms, and small businesses.

By conditioning the receipt of Federal economic development funds on State and local governments agreeing not to take property for commercial development, this provision in the bill ends the Federal Government's complicit support of eminent domain abuse.

The enforcement provisions in the base bill are comprehensive, and they include all manner of relief from preliminary injunctions and temporary restraining orders, to the awarding of attorney's fees, to the ability of the State or locality to return or replace the property to avoid the penalties under the bill. Even those comprehensive enforcement mechanisms, on their own, are not enough. We must end Federal monetary support for economic development takings.

If State governments retain control over eminent domain decisions, then, of course, those States should be held responsible for the State's own actions. But in Virginia, my State, local governments are not allowed to condemn property for economic development purposes. In Virginia, the so-called Dillon Rule provides that localities can act only in areas in which the State general assembly has granted clear authority.

So, in Virginia, local governments have only the authorities granted to them by the General Assembly, and the Virginia General Assembly has empowered local governments in Virginia to condemn property for roads, schools, and other public uses, but local governments do not have the right to condemn property for economic development.

In fact, back in 2000, Virginia Beach city government tried to condemn private property on the oceanfront to help a Hilton hotel build a parking garage, but Circuit Court Judge H. Thomas Padrick, Jr., ruled that Virginia Beach could not use eminent domain for that purpose, finding that the legislature did not intend to allow a city to condemn property solely for its economic benefit and development.

Indeed, after the Supreme Court handed down its notorious decision in the Kelo case, a spokeswoman for the Virginia attorney general said the following:

> As per the constitution of Virginia, public use in eminent domain is defined by the general assembly. There is no proviso in our constitution to use eminent domain for economic development.

As a result of the Kelo decision, this bill won't have an impact on Virginia.

Finally, regarding Representative RASKIN's comments about how the bill relates to the Supreme Court's NFIB v. Sebelius case, the ObamaCare case, the bill, as currently drafted, would certainly not run afoul of anything in it for several reasons.

The court made clear in the case that Congress may attach appropriate conditions to Federal taxing and spending programs to preserve its control over the use of Federal funds. That is what the bill does: deny the use of Federal economic development funds to jurisdictions that have demonstrated their willingness to abuse eminent domain and thereby demonstrated their willingness to use Federal funds to further future abuses of eminent domain if allowed to do so.

The court went on to cite the South Dakota v. Dole case, in which a Federal law threatened to withhold 5 percent of a State's Federal Highway Fund if the State did not raise its drinking age to 21. The court found that the condition was directly related to one of the main purposes for which highway funds are expended: safe interstate travel.

In the same way, the bill's restrictions are directly related to one of the main purposes for which Congress should intend Federal economic development funds to be expended: economic development that does not infringe on the property rights of individual property owners.

The court pointed out that, in the South Dakota v. Dole case, the Federal funds at stake constituted less than one-half of 1 percent of South Dakota's budget at the time; whereas, the potential loss of funds at issue in NFIB v.

Sebelius were such that Medicaid spending accounts were over 20 percent of the average State's total budget.

No one is claiming that Federal economic development funds, however defined, would constitute anything near 20 percent of a State's total budget.

In NFIB v. Sebelius, the court also cited the Pennhurst v. Halderman case and characterized its holdings as, though Congress' power to legislate under the Spending Clause is broad, it does not include surprising participating States with post-acceptance or retroactive conditions.

That, of course, is not the case with the bill, which applies its prohibition upon the receipt of Federal economic development funds only after a State had been found by a court, in a final judgment on the merits, to have violated the act.

Finally, not only is it implausible that the bill would ever run afoul of Supreme Court precedent due to the relatively small size of Federal economic development funds in the context of a State or a locality's entire annual budget; the bill contains a further safety valve in that it gives the attorney general the discretion to promulgate precisely which Federal funding streams are Federal economic development funds under the bill. So, if a constitutional issue ever arose, the attorney general could simply scale back the size of its promulgated list accordingly.

It seems to me it can't be claimed this bill is unconstitutional under any reasonable reading of any existing Supreme Court precedent.

Regarding federalism values generally, the key point is that there actually is a very close nexus between Federal development funding and eminent domain, even if the funding is not used on eminent domain projects.

Money is fungible, of course. If the bill were amended to disallow only the use of Federal economic development funds on eminent domain projects, it would be very easy for an offending jurisdiction to game the system by artificially segmenting a project into parts that use eminent domain and parts that don't. That segmentation would happen both vertically, by dividing a project into stages, and horizontally, by dividing a single project into very small geographic segments.

The entirely appropriate federalism message the base bill sends to States and localities is that, if you are going to do economic development but abuse eminent domain, that is fine, but you will be on your own for a while and go without Federal taxpayer complicity in your abuse of eminent domain.

Mr. Speaker, this is good legislation. The concerns addressed by the minority are addressed clearly in this legislation. There is strong bipartisan support for this bill. Mr. Speaker, I urge my colleagues to pass this and, once again, send it to the United States Senate, where we can only hope that they will someday see the wisdom of protecting the constitutional rights of law-abiding citizens.

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 Virginia (Mr. GOODLATTE) that the House suspend the rules and pass the bill, H.R. 1689.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

ANTI-TERRORISM CLARIFICATION ACT OF 2018

Mr. GOODLATTE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5954) to amend title 18, United States Code, to clarify the meaning of the terms ''act of war'' and ''blocked asset'', and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 5954

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 ''Anti-Terrorism Clarification Act of 2018''.

SEC. 2. CLARIFICATION OF THE TERM "ACT OF WAR".

(a) IN GENERAL.—Section 2331 of title 18, United States Code, is amended—

(1) in paragraph (4), by striking ''and'' at the end;

(2) in paragraph (5), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(6) the term 'military force' does not include any person that—

''(A) has been designated as a—

''(i) foreign terrorist organization by the Secretary of State under section 219 of the Immigration and Nationality Act (8 U.S.C. 1189); or

''(ii) specially designated global terrorist (as such term is defined in section 594.310 of title 31, Code of Federal Regulations) by the Secretary of State or the Secretary of the Treasury; or

''(B) has been determined by the court to not be a 'military force'.''.

(b) APPLICABILITY.—The amendments made by this section shall apply to any civil action pending on or commenced after the date of the enactment of this Act.

SEC. 3. SATISFACTION OF JUDGMENTS AGAINST TERRORISTS.

(a) IN GENERAL.—Section 2333 of title 18, United States Code, is amended by inserting at the end following:

''(e) USE OF BLOCKED ASSETS TO SATISFY JUDGMENTS OF U.S. NATIONALS.—For purposes of section 201 of the Terrorism Risk Insurance Act of 2002 (28 U.S.C. 1610 note), in any action in which a national of the United States has obtained a judgment against a terrorist party pursuant to this section, the term 'blocked asset' shall include any asset of that terrorist party (including the blocked assets of any agency or instrumentality of that party) seized or frozen by the United States under section 805(b) of the Foreign Narcotics Kingpin Designation Act (21 U.S.C. 1904(b)).''.

(b) APPLICABILITY.—The amendments made by this section shall apply to any judgment entered before, on, or after the date of enactment of this Act.

SEC. 4. CONSENT OF CERTAIN PARTIES TO PERSONAL JURISDICTION.

(a) IN GENERAL.—Section 2334 of title 18, United States Code, is amended by adding at the end the following:

''(e) CONSENT OF CERTAIN PARTIES TO PERSONAL JURISDICTION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), for purposes of any civil action under section 2333 of this title, a defendant shall be deemed to have consented to personal jurisdiction in such civil action if, regardless of the date of the occurrence of the act of international terrorism upon which such civil action was filed, the defendant—

''(A) after the date that is 120 days after the date of enactment of this subsection, accepts—

''(i) any form of assistance, however provided, under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 et seq.);

''(ii) any form of assistance, however provided, under section 481 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291) for international narcotics control and law enforcement; or

''(iii) any form of assistance, however provided, under chapter 9 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2349bb et seq.); or

''(B) in the case of a defendant benefiting from a waiver or suspension of section 1003 of the Anti-Terrorism Act of 1987 (22 U.S.C. 5202) after the date that is 120 days after the date of enactment of this subsection—

''(i) continues to maintain any office, headquarters, premises, or other facilities or establishments within the jurisdiction of the United States; or

''(ii) establishes or procures any office, headquarters, premises, or other facilities or establishments within the jurisdiction of the United States.

''(2) APPLICABILITY.—Paragraph (1) shall not apply to any defendant who ceases to engage in the conduct described in paragraphs (1)(A) and (1)(B) for 5 consecutive calendar years.''.

(b) APPLICABILITY.—The amendments made by this section shall take effect on the date of enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. GOODLATTE) and the gentleman from New York (Mr. NADLER) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia.

□ 1615

GENERAL LEAVE

Mr. GOODLATTE. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous materials on H.R. 5954, currently under consideration.

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

There was no objection.

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

Mr. Speaker, Congress enacted the Anti-Terrorism Act of 1992 in order to help combat international terrorism and to provide some level of financial