

NATIONAL MUSEUM OF THE
AMERICAN INDIAN ACT AMEND-
MENTS OF 1996

Mr. THOMAS. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1970) to amend the National Museum of the American Indian Act to make improvements in the Act, and for other purposes.

The Clerk read as follows:

S. 1970

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

SECTION 1. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the “National Museum of the American Indian Act Amendments of 1996”.

(b) REFERENCES.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of the National Museum of the American Indian Act (20 U.S.C. 80q et seq.).

SEC. 2. BOARD OF TRUSTEES.

Section 5(f)(1)(B) (20 U.S.C. 80q-3(f)(1)(B)) is amended by striking “an Assistant Secretary” and inserting “a senior official”.

SEC. 3. INVENTORY.

(a) IN GENERAL.—Section 11(a) (20 U.S.C. 80q-9(a)) is amended—

(1) by striking “(1)” and inserting “(A)”;

(2) by striking “(2)” and inserting “(B)”;

(3) by inserting “(1)” before “The Secretary”; and

(4) by adding at the end the following new paragraphs:

“(2) The inventory made by the Secretary of the Smithsonian Institution under paragraph (1) shall be completed not later than June 1, 1998.

“(3) For purposes of this subsection, the term ‘inventory’ means a simple, itemized list that, to the extent practicable, identifies, based upon available information held by the Smithsonian Institution, the geographic and cultural affiliation of the remains and objects referred to in paragraph (1).”.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 11(f) (20 U.S.C. 80q-9(f)) is amended by striking “to carry out this section” and inserting “to carry out this section and section 11A”.

SEC. 4. SUMMARY AND REPATRIATION OF UNASSOCIATED FUNERARY OBJECTS, SACRED OBJECTS, AND CULTURAL PATRIMONY.

The National Museum of the American Indian Act (20 U.S.C. 80q et seq.) is amended by inserting after section 11 the following new section:

“SEC. 11A. SUMMARY AND REPATRIATION OF UNASSOCIATED FUNERARY OBJECTS, SACRED OBJECTS, AND CULTURAL PATRIMONY.

“(a) SUMMARY.—Not later than December 31, 1996, the Secretary of the Smithsonian Institution shall provide a written summary that contains a summary of unassociated funerary objects, sacred objects, and objects of cultural patrimony (as those terms are defined in subparagraphs (B), (C), and (D), respectively, of section 2(3) of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001(3)), based upon available information held by the Smithsonian Institution. The summary required under this section shall include, at a minimum, the information required under section 6 of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3004).

“(b) REPATRIATION.—Where cultural affiliation of Native American unassociated fu-

nerary objects, sacred objects, and objects of cultural patrimony has been established in the summary prepared pursuant to subsection (a), or where a requesting Indian tribe or Native Hawaiian organization can show cultural affiliation by a preponderance of the evidence based upon geographical, kinship, biological, archaeological, anthropological, linguistic, folkloric, oral traditional, historical, or other relevant information or expert opinion, then the Smithsonian Institution shall expeditiously return such unassociated funerary object, sacred object, or object of cultural patrimony where—

“(1) the requesting party is the direct lineal descendant of an individual who owned the unassociated funerary object or sacred object;

“(2) the requesting Indian tribe or Native Hawaiian organization can show that the object was owned or controlled by the Indian tribe or Native Hawaiian organization; or

“(3) the requesting Indian tribe or Native Hawaiian organization can show that the unassociated funerary object or sacred object was owned or controlled by a member thereof, provided that in the case where an unassociated funerary object or sacred object was owned by a member thereof, there are no identifiable lineal descendants of said member or the lineal descendants, upon notice, have failed to make a claim for the object.

“(c) STANDARD OF REPATRIATION.—If a known lineal descendant or an Indian tribe or Native Hawaiian organization requests the return of Native American unassociated funerary objects, sacred objects, or objects of cultural patrimony pursuant to this Act and presents evidence which, if standing alone before the introduction of evidence to the contrary, would support a finding that the Smithsonian Institution did not have the right of possession, then the Smithsonian Institution shall return such objects unless it can overcome such inference and prove that it has a right of possession to the objects.

“(d) MUSEUM OBLIGATION.—Any museum of the Smithsonian Institution which repatriates any item in good faith pursuant to this Act shall not be liable for claims by an aggrieved party or for claims of fiduciary duty, public trust, or violations of applicable law that are inconsistent with the provisions of this Act.

“(e) STATUTORY CONSTRUCTION.—Nothing in this section may be construed to prevent the Secretary of the Smithsonian Institution, with respect to any museum of the Smithsonian Institution, from making an inventory or preparing a written summary or carrying out the repatriation of unassociated funerary objects, sacred objects, or objects of cultural patrimony in a manner that exceeds the requirements of this Act.

“(f) NATIVE HAWAIIAN ORGANIZATION DEFINED.—For purposes of this section, the term ‘Native Hawaiian organization’ has the meaning provided that term in section 2(11) of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001(11)).”.

SEC. 5. SPECIAL COMMITTEE.

Section 12 (20 U.S.C. 80q-10) is amended—

(1) in the first sentence of subsection (a), by inserting “and unassociated funerary objects, sacred objects, and objects of cultural patrimony under section 11A” before the period; and

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking “five” and inserting “7”;

(B) in paragraph (1)—

(i) by striking “three” and inserting “4”; and

(ii) by striking “and” at the end;

(C) by redesignating paragraph (2) as paragraph (3); and

(D) by inserting after paragraph (1) the following:

“(2) at least 2 members shall be traditional Indian religious leaders; and”.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. THOMAS] and the gentleman from California [Mr. FAZIO] each will control 20 minutes.

The Chair recognizes the gentleman from California [Mr. THOMAS].

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

Mr. Speaker, S. 1970, legislation by the Senator from Arizona [Mr. MCCAIN] takes the law that was passed in 1989 that established the Museum of the American Indian, which incidentally we have seen the conclusion of the architectural contest which will produce a marvelous museum on the mall between the Capitol and the Air and Space Museum, universally applauded for the architectural rendering, but all of us understand that any edifice is there for what it contains, and this is the American Indian Museum.

But that act, passed in 1989, is in part in conflict with the act passed in 1990, the Native American Graves and Repatriation Act. What this legislation does is conform the National Museum of the American Indian Act passed in 1989 with the Native American Graves and Repatriation Act passed in 1990. To a certain extent it codifies what the Smithsonian was already doing with Native American remains.

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

Mr. FAZIO of California. Mr. Speaker, I thank the gentleman from California [Mr. THOMAS] for his explanation of the bill. I support this initiative and believe it to be in the best interests of all parties involved.

Mr. Speaker, I do not have anyone on my side requesting any time, so assuming the majority has no further speakers, I yield back the balance of my time.

Mr. THOMAS. Mr. Speaker, yielding myself such time as I may consume, I do want to thank the gentleman from Alaska [Mr. YOUNG], the chairman of the Committee on Resources, which has jurisdiction over the repatriation issue, for his willingness to assist us in bringing this to the floor in the expeditious manner in which we have been able to do so.

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. THOMAS] that the House suspend the rules and pass the Senate bill, S. 1970.

The question was taken; and two-thirds having voted in favor thereof—the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

INTERNET ELECTION
INFORMATION ACT OF 1996

Mr. THOMAS. Mr. Speaker, I move to suspend the rules and pass the bill

(H.R. 3700) to amend the Federal Election Campaign Act of 1971 to permit interactive computer services to provide their facilities free of charge to candidates for Federal offices for the purpose of disseminating campaign information and enhancing public debate, as amended.

The Clerk read as follows:

H.R. 3700

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 "Internet Election Information Act of 1996".

SEC. 2. FINDINGS.

Congress finds the following:

(1) For the purposes of enhancing public debate and awareness, candidates for Federal office should be encouraged to provide voters with meaningful and substantive information about their candidacy and important public policy issues.

(2) The Internet and other interactive computer services did not exist when the laws that currently govern Federal elections were enacted, and these services represent a new medium where voters can obtain meaningful and substantive information about issues and candidates.

SEC. 3. EXEMPTION OF DONATED INTERACTIVE COMPUTER SERVICES FROM COVERAGE UNDER FEDERAL ELECTION CAMPAIGN ACT OF 1971.

(a) EXEMPTION FROM TREATMENT AS CONTRIBUTION.—Section 301(8)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)(B)) is amended—

(1) by striking "and" at the end of clause (xiii);

(2) by striking the period at the end of clause (xiv) and inserting "; and"; and

(3) by adding at the end the following new clause:

"(xv) the value of services provided without charge to a candidate by an interactive computer service (defined as any information service that is generally available to the public or access software provider that provides or enables computer access by multiple users to computer server, including specifically a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions) in permitting the candidate to use its facilities for distributing election or candidate information, posting position papers, responding to campaign related inquiries, soliciting lawful contributions, convening electronic campaign forums, or otherwise lawfully utilizing the resources of the interactive computer service, if the service permits its facilities to be used for such purposes under the same terms and conditions by all other candidates in the election for the same office."

(b) EXEMPTION FROM TREATMENT AS EXPENDITURE.—Section 301(9)(B) of such Act (2 U.S.C. 431(9)(B)) is amended—

(1) by striking "and" at the end of clause (ix);

(2) by striking the period at the end of clause (x) and inserting "; and"; and

(3) by adding at the end the following new clause:

"(xi) any direct costs incurred by an interactive computer service (defined as any information service that is generally available to the public or access software provider that provides or enables computer access by multiple users to computer server, including specifically a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions) in permitting the candidate to use its facilities for distributing election or candidate information, posting position papers, responding to campaign related inquiries, soliciting lawful contributions, convening electronic campaign fo-

rum, or otherwise lawfully utilizing the resources of the interactive computer service, if the service permits its facilities to be used for such purposes under the same terms and conditions by all other candidates in the election for the same office."

SEC. 4. EFFECTIVE DATE.

The amendments shall take effect on the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. THOMAS] and the gentleman from California [Mr. FAZIO] each will control 20 minutes.

The Chair recognizes the gentleman from California [Mr. THOMAS].

Mr. THOMAS. Mr. Speaker, this piece of legislation passed the Committee on House Oversight on September 19, 1996, by unanimous vote, and we will probably see additional legislation in the near future dealing with what all of us now are becoming more and more aware is a fundamental change in the way in which Americans, indeed many people around the world, communicate.

The Federal Elections Campaign Act, as it was written, would not allow folks to provide equal access to the Internet, even though it would have been done on a universal availability basis for any candidates in a particular election. The gentleman from Washington [Mr. WHITE], who is chair of the Internet Caucus, quite wisely introduced legislation which would allow this to occur, notwithstanding the fact that under other circumstances it might appear to be a corporate contribution which is banned under the Federal Election Act.

I think all of us would agree that the ability to enhance communication and provide information that would otherwise not be available to voters through access to the Internet is indeed something that should be allowed, and H.R. 3700 does just that.

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

Mr. FAZIO of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I listened carefully to Chairman THOMAS' explanation of the bill. I think we can all agree that the goals of this bill are laudable. We must encourage the development and use of new technologies like the Internet. Therefore, I intend to support H.R. 3700.

I do have some concerns about the bill, and because of the fact that it may not become law in this Congress, I will simply include those in my remarks for the RECORD at this time.

Mr. Speaker, we all agree that the goals of this bill are laudable. We must encourage the development and use of new technologies like the Internet. Therefore, I will support H.R. 3700.

The Internet has changed forever the way that Americans communicate. As such, there is no doubt that the Internet will play an important part in future congressional campaigns.

On the Internet, we can speak directly to our constituents—without the filter of the news media or the high cost of television. Moreover, our constituents can respond directly to us—without going through pollsters or reporters or other intermediaries. These changes are profound, and they are profoundly good for our democracy.

While I support H.R. 3700, and expect that it will pass the House, there is little chance

that the Senate will consider this bill or that it will become law. It is far more likely that we will revisit this issue in the early days of the 105th Congress. With that in mind, I believe there are several areas in which this bill can be improved.

The bill, for example, does not really limit who may provide free services to candidates. This creates a loophole for the expanded use of soft money. In particular, the bill would permit a political party committee or an interest group to use soft money to set up an interactive computer service to communicate with Members about Federal elections. This stands in stark contrast to the rules governing broadcast and print media, which cannot be owned by political parties or political committees.

Similarly, H.R. 3700 has no real limit on the services that can be provided for free. This is particularly risky as Internet technology advances in ways we cannot anticipate. For example, companies soon will offer long distance telephone service over the Internet. This bill presumably would allow them to provide free long distance service to candidates. Even now, the lack of limits could cause problems, for example, a service provider could send employees out to set up and administer home pages for candidates.

Now does H.R. 3700 truly guarantee equal access for all candidates. Although the bill requires a service provider to make the same services available to all candidates, it does not require a service provider to inform all candidates that free services are available. In addition, the bill permits service providers to pick and choose which elections they will participate in. That choice can be manipulated to benefit favored candidates, for example, a service provider could choose only to provide free access for Republican primaries—or races involving candidates that the company wants to influence.

Finally, H.R. 3700 lacks any meaningful enforcement mechanism to deal with violations. Presumably, a candidate who is denied access would be required to file a complaint with the FEC, and then to wait months or even years for remedial action. Under this scenario, remedial action likely cannot be taken until an election is over and the dispute is moot. This same problem permeates the election law.

In conclusion, Mr. Speaker, I support H.R. 3700 because it will increase communication between candidates and voters—and that communication lies at the heart of our democratic process. However, H.R. 3700 has serious potential problems, and I hope that we can correct those problems before the bill becomes law.

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

Mr. THOMAS. Mr. Speaker, yielding myself such time as I may consume, I do understand the concerns of the gentleman from California [Mr. FAZIO]. This is an area in which we are beginning to learn our way as to what is, or is not appropriate.

For example, during its meeting on September 19 the Committee on House Oversight unanimously approved an amendment which is included in the bill, and the amendment clarifies the definition of "interactive computer services," to ensure it applies only to providers of Internet software and information services that are available to the public.

The line between private and public continues to be explored as we move legislation, and we will be very careful as we examine legislation, as the gentleman from California [Mr. FAZIO] indicated, to make sure that what we intend to do, we do, and no more.

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

Mr. WHITE. Mr. Speaker, until about 20 months ago I had never held public office before. I ran for Congress because I felt that it was time to make some changes to the way our Government works and to make our Government smaller, more open, and more efficient.

On my first day in public office, I voted for a package of reforms that made some much needed changes to the way Congress did business. We voted to apply all laws to Congress, we voted to cut committee staff by one-third, we set term limits for committee chairs, and we got rid of three House committees.

That was only on the first day.

Over the past 20 months this Congress has worked hard to make some much needed changes to our Federal laws. We worked to change our Superfund law so that we do a better job of cleaning up hazardous waste sites, we worked to change our welfare system to encourage work and discourage dependency, and we worked to reform our telecommunications laws in order to eliminate Government regulated monopolies. We did not accomplish everything we set out to do but we did make considerable progress in changing the way our Government works.

Today, I am pleased that my colleagues are continuing their commitment to reform by supporting the Internet Election Information Act, a bill I introduced earlier this year to amend the current Federal Election Campaign Act [FECA] of 1971.

This bill is not as significant as the passage of our first day reforms or our welfare reform bill, but this reform is needed in order to give voters more information and more access to the positions held by candidates for Federal office.

This bill is necessary in order to update our current Federal campaign laws. The current laws were passed in the early 1970's before the Internet was a widely used medium. Today, people use the Internet to send and receive information. In my office, the Internet is a valuable tool for providing my constituents with more information and for allowing the people in my district to communicate with my office. As technology continues to change, we need to make sure that the Federal Government is doing what it can to keep up with those changes.

That is why I introduced the Internet Election Information Act. It's time to debug our Federal election laws in order to bring the Federal Government into the 21st century. With a simple technical change to the law we can help promote more open debate in cyberspace. This change will give Federal candidates—challengers and incumbents alike—the chance to use the Internet to bring their message and ideas directly to the American people.

Under this bill, the Federal Election Campaign Act of 1971 will be amended to allow interactive computer services to provide free access to their online resources for campaign purposes. The bill allows online services to in-

clude: First, election or candidate information; second, candidate position papers; third, responses to campaign questions; fourth, solicitations of lawful contributions; and fifth, conveyance of electronic campaign forums.

But this is not an incumbent protection plan as so many of the campaign finance reform bills that have been introduced in Congress. Instead, the bill requires that all services must be offered to all candidates for the same office under the same terms and conditions. It's a very simple change that will produce very significant results.

In closing I want to state that this bill in no way replaces the need for a major overhaul of our campaign finance laws. As I have said time and time again in this Chamber and to my constituents—we need to dramatically reform our campaign finance laws in a way that does not favor incumbent members. That is still a goal I will continue to pursue.

But today we will take a small step forward in changing our existing campaign finance laws in a way that will give voters more information, more access to Federal candidates and a better understanding of the issues being debated.

Ms. DUNN of Washington. Mr. Speaker, let me first commend my colleague, Representative RICK WHITE, for his leadership on high technology issues. His service and technological literacy is vitally important to an institution which, prior to the Republican-led 104th Congress, had still been using pencil and paper to balance its financial books. Mr. WHITE has been an integral part of our efforts to bring the U.S. Congress into the 21st century.

We have entered an era when the average American may sit down at a computer and gain access to information on anything from current research on the lifespan of the honeybee to what's playing at their neighborhood theater. Congress is changing with the times, and in that spirit, I rise in support of H.R. 3700, The Internet Election Information Act of 1996.

This legislation enables online service providers to voluntarily offer web sites to candidate—without giving an advantage to any one candidate, and without the site being considered an in-king contribution to the campaign. This will enhance the ability of all Americans to make informed choices and to more fully participate in the democratic process.

The laws governing campaign finance—written in the mid-1970's—were passed before the advent of the personal computer and the phenomenon known as the Internet. H.R. 3700 updates our campaign finance laws to account for the reality of this information-gathering mechanism. I support this legislation and praise Representative WHITE for his foresight on the issue. The Internet Election Information Act of 1996 achieves a common-sense change in Federal elections, while providing a solid benefit to all Americans interested in learning more about the candidates asking for the honor of their vote. The power of knowledge and access to information—without preference to any party or any

candidate—is what this bill secures, and is another step forward toward governing in the 21st century.

Ms. JACKSON-LEE of Texas. Mr. Speaker, before us today is H.R. 3700, the Internet Election Information Act. This legislation will amend the Federal Election Campaign Act of 1971 to permit interactive computer services to provide their facilities free of charge to candidates for Federal offices.

This legislation was introduced after Internet providers were barred from offering free websites to candidates during the last congressional election. The bill proposes changes to the Federal Election Campaign Act of 1971 to allow donated interactive computer services from coverage; and direct costs incurred by a donated interactive computer services from treatment as an expenditure if the service permits its facilities to be used for such purposes for all other candidates in the election for the same office.

This bill is in the spirit of full Internet access and participation of our citizens in our Nation's political process.

However, there are a few problems with the way this bill is drafted. There are no requirements that an interactive computer service provider inform the other candidates in a Federal election that they are supplying a website to their opponent. Further there are no provisions to ensure equal or nontechnical assistance for the development of a candidate's website in a Federal election.

Campaign finance reform is an important issue to my Houston district constituents and their best interest are not served if we do not ensure fairness in the political process.

I am a strong supporter of full Internet access and participation, but I would caution us to be careful with how we go about legislating this access.

Mr. FAZIO of California. Mr. Speaker, I have no further requests for time, so I suppose if it were appropriate I would yield back the balance of my time and we could move on to the next item.

Mr. THOMAS. Mr. Speaker, yielding myself such time as I may consume, I would tell the gentleman from California it is probably appropriate, but this gentleman from California is looking for the author of the bill. But knowing our schedules and how difficult it is oftentimes, I will tell the gentleman if he yields back, I will yield back.

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

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. THOMAS] that the House suspend the rules and pass the bill, H.R. 3700, 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.

DISMISSAL OF CONTESTED ELECTIONS BY UNANIMOUS CONSENT

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