

## EXTENSIONS OF REMARKS

### IMPROPER TAXATION OF NATIVE AMERICANS

#### HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 2000

Mr. GEORGE MILLER of California. Mr. Speaker, I rise to highlight an ongoing injustice: state taxation of the income of Native American servicemen and women.

The law is clear that a state may not tax the income of tribal members who live on and derive their income from activity within the reservation. Similarly, a state may not tax the income of tribal members who serve in the military and claim their reservation as their home. Nevertheless, these tribal members continue to be taxed by several states. This practice has likely deprived thousands of Native Americans of millions of dollars.

By withholding federal wages of these Native American service personnel for state income taxes, the Department of Defense may unwittingly be assisting this improper taxation. To date, the burden has fallen on individual servicemen and women to press their claims and seek recovery of their federal wages from the states. To redress this wrong on a systemic basis. Mr. YOUNG of Alaska, Chairman of the Committee on Resources, Mr. SKELTON, Ranking Democratic Member of the Committee on Armed Services, and I have asked the Secretary of Defense to ensure that federal withholding procedures do not abet or perpetuate this practice.

I submit for the RECORD the letter to the Secretary of Defense:

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON RESOURCES,  
Washington, DC, March 7, 2000.

Hon. WILLIAM S. COHEN,  
Department of Defense, Office of the Secretary,  
The Pentagon, Washington, DC.

DEAR SECRETARY COHEN: We are writing on behalf of Native American servicemen and women who, with the Department of Defense's (DOD's) aid, are subject to improper taxation by the states. As you know, Native Americans have a strong tradition of military service and have served their country in proportions greater than that of the general population. Nearly 16% of the Indian population 16 years and older—over 150,000 people—are veterans.

It is well-established that a state may not tax the income of tribal members who live on and derive their income from activity within the reservation. See, e.g., *Oklahoma Tax Commission v. Chickasaw*, 515 U.S. 450 (1995); *McClanahan v. Arizona Tax Commission*, 411 U.S. 164 (1973). The Soldiers' and Sailors' Civil Relief Act, 50 U.S.C. App. §574, provides that service members do not lose their domicile for taxation purposes when on military assignment. Accordingly, tribal members who claim their reservation as their home when serving in the military are not subject to state income taxation. See *Fatt v. Utah State Tax Commissioner*, 884 P.2d 1233 (Utah 1994); *Turner v. Wisconsin Department of Revenue*, Tax Appeals Commission, No. I-9755 (June 19, 1986); *Beck v. North Carolina Depart-*

*ment of Revenue*, Opinion of the Tax Commissioner, No. 99-386 (January 25, 2000).

Although the law is clear, tribal members domiciled on the reservation who are serving their country continue to be taxed by several states. DOD is instrumental in facilitating this improper taxation by withholding federal wages for state income taxes pursuant to 5 U.S.C. §5517. That statute authorizes federal agencies to enter into agreements with states to withhold state income tax from the wages of federal employees.

We are writing to request that DOD review and revise the records of Native American service personnel to ensure that this practice of withholding federal wages for state income tax cease for those claiming the reservation as their home. Over the years, this practice has likely deprived thousands of Native American servicemen and women of millions of dollars. We note that while immediate action on your part will stop this unjust practice and inform states and tribal members of the law, it will not provide retroactive relief for tribal members.

Please let us know of the steps you plan to take to redress this wrong and your progress towards that goal. Thank you for your attention to this important matter.

Sincerely,

GEORGE MILLER,  
Senior Democratic  
Member,  
IKE SKELTON,  
Senior Democratic  
Member,  
Committee on Armed  
Services,  
DON YOUNG,  
Chairman.

### HONORING LEBANON CATHOLIC HIGH SCHOOL'S GIRLS' AND BOYS' BASKETBALL TEAMS

#### HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 2000

Mr. GEKAS. Mr. Speaker, today I rise to recognize the incredible achievements of the girls' and boys' basketball teams of Lebanon Catholic High School in Lebanon, Pennsylvania. For the first time ever, the Lebanon Catholic Beavers have captured district basketball championships with both the boys' and girls' teams.

The boys' basketball team captured their first District Three Class A title after a come-from-behind victory of 51-45. The Beaver girls were also successful in their pursuit of the District 3 title. The girls' victory made Lebanon Catholic only the third school in the history of this district's playoffs to capture the title with both the boys' and girls' teams.

Their success was not bought with a short road to victory. The many hours of practice and hard work that these fine young men and women have invested has paid off as they celebrate not only successful seasons, but district championships as well. The athletes on these two extraordinary teams have, undoubtedly, learned valuable lessons of motivation, dedication, and team work.

These young athletes deserve the admiration of their families, teachers, and fellow students for their great accomplishments. I am proud to represent such a fine group of young people from Pennsylvania's 17th District. I know the entire House of Representatives joins me in congratulating this outstanding group of young people from Lebanon Catholic High School. Congratulations and continued success.

### TRIBUTE TO THE EDWIN J. LEYANNA V.F.W. POST 671 HONOR GUARD IN DEWITT MICHIGAN

#### HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 2000

Mr. CAMP. Mr. Speaker, today I pay tribute to a group of noble veterans.

There is no more honorable cause or purpose than serving one's nation. As history illustrates, our nation has enjoyed unwavering support as millions of men and women have answered the call for duty. It is their sacrifice that has helped build and protect our great nation.

For many, service does not end at discharge. For them serving means honoring those Veterans who pass on. The Honor Guard at VFW Post 671 in DeWitt, Michigan, is composed of 35 selfless veterans who are quick to heed the call for their services when one of their compatriots passes on. Since the group was formed in 1986, these men have performed some 720 military funerals. Whether it rains or snows, these veterans—who average 69 years of age—answer the call to duty.

Appreciation for our military and for the many sacrifices of those who serve does not always get the attention it so richly deserves. Post 671's Honor Guard ensures that proper recognition will be accorded those who so bravely defended our freedom on the occasion of their final internment. Just as the brave men and women being remembered put their country before themselves, the Honor Guard places the needs of the area's veterans and their families ahead of their own.

Mr. Speaker, please join me and the proud citizens of DeWitt and surrounding communities in saluting these great patriots. I thank the Edwin J. Leyanna V.F.W. Post 671 Honor Guard for their dedication to the fallen heroes of this great nation.

### SAVE MONEY FOR PRESCRIPTION DRUG RESEARCH ACT OF 2000

#### HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 27, 2000

Mr. STARK. Mr. Speaker, I rise today to introduce the Save Money for Prescription Drug

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