

As the Congressman from Indiana said, this is not about Republicans or Democrats. There are certain things we ought to say, it is time to do this; and technology has reached that time. When 40 percent to 50 percent to sometimes as many as 60 percent of the deaths every year from these killer tornadoes are in mobile homes, manufactured housing, and families live in these houses, whether they be our grandparents, our parents, our children, our neighbors, our loved ones, or people we don't even know, you see the devastation here. There were site-built homes here. This is a manufactured house. Twenty-seven manufactured housing units in this area, a mobile home community, no longer existed.

As the gentleman from Indiana said, looking at this picture really doesn't do it justice. People actually commented when they came upon this area which was about half a mile long and 400 yards wide, it looked like a garbage dump. You couldn't tell there had been a community there. It looked like there were a few junk cars because the cars were rolled over and over.

We can rebuild these communities; but CJ, we can't bring him back. We can't bring Whitney's little brother and father back, but we can do our best for literally pennies to prevent some of these deaths.

I think that is why 55 TV stations throughout this Nation have made this their cause. They visited us in Washington last year. They said, Look, we will get the warning out and there are shelters available. But please require the installation of a \$12 radio so we can bridge that gap between warning and safe shelter.

That is what we are here to do today. In this House where we sometimes are in conflict and at loggerheads, can't we this time come together in a united way in an effort that will cost almost nothing and which the manufactured housing industry said we are willing to do this, and require these radios. And not only when a tornado comes or when a devastating flood comes like came to Texas and people were asleep in a mobile home community and several of those homes were swept away. This will save lives.

So I commend CJ Martin's mother. That's what America is about, someone saying I lost my son but I don't want it to happen again. It is about the Crowder family who wrote me a letter, a grandmother saying please push this bill.

We will never go back and know whether CJ could have survived had this legislation been passed. We will never know whether Wesley Crowder and his father would survive, but we do know by talking to people throughout the United States that these radios have in many, many cases already saved lives and will save lives if we install them in manufactured housing.

□ 1430

We have a shot at significantly reducing over half the deaths from tor-

nados simply by taking the step together united, Republicans and Democrats, and passing this legislation.

I commend Chairman FRANK for expeditiously moving this legislation, and I commend the Member from Indiana for his thoughtfulness and his care and dedication to this issue.

Mr. DONNELLY. Mr. Speaker, I want to thank the ranking member for his thoughtful and eloquent remarks; Congressman ELLSWORTH for his tireless effort on behalf of this, and the manufactured housing industry for their assistance.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana (Mr. DONNELLY) that the House suspend the rules and pass the bill, H.R. 2787, 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.

#### PROCEDURAL FAIRNESS FOR SEPTEMBER 11 VICTIMS ACT OF 2007

Mr. NADLER. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2106) to provide nationwide subpoena authority for actions brought under the September 11 Victim Compensation Fund of 2001.

The Clerk read the title of the Senate bill.

The text of the Senate bill is as follows:

#### S. 2106

*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 "Procedural Fairness for September 11 Victims Act of 2007".

#### SEC. 2. FINDINGS.

Congress finds the following:

(1) The September 11th Victims Compensation Fund of 2001 (49 U.S.C. 40101 note) establishes a Federal cause of action in the United States District Court for the Southern District of New York as the exclusive remedy for damages arising out of the hijacking and subsequent crash of American Airlines flights 11 and 77, and United Airlines flights 93 and 175, on September 11, 2001.

(2) Rules 45(b)(2) and 45(c)(3)(A)(ii) of the Federal Rules of Civil Procedure effectively limit service of a subpoena to any place within, or within 100 miles of, the district of the court by which it is issued, unless a statute of the United States expressly provides that the court, upon proper application and cause shown, may authorize the service of a subpoena at any other place.

(3) Litigating a Federal cause of action under the September 11 Victims Compensation Fund of 2001 is likely to involve the testimony and the production of other documents and tangible things by a substantial number of witnesses, many of whom may not reside, be employed, or regularly transact business in, or within 100 miles of, the Southern District of New York.

#### SEC. 3. NATIONWIDE SUBPOENAS.

Section 408(b) of the September 11 Victims Compensation Fund of 2001 (49 U.S.C. 40101 note) is amended by adding at the end the following:

“(4) NATIONWIDE SUBPOENAS.—

“(A) IN GENERAL.—A subpoena requiring the attendance of a witness at trial or a hearing conducted under this section may be served at any place in the United States.

“(B) RULE OF CONSTRUCTION.—Nothing in this subsection is intended to diminish the authority of a court to quash or modify a subpoena for the reasons provided in clause (i), (iii), or (iv) of subparagraph (A) or subparagraph (B) of rule 45(c)(3) of the Federal Rules of Civil Procedure.”.

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

The Chair recognizes the gentleman from New York.

#### GENERAL LEAVE

Mr. NADLER. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

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

There was no objection.

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

Mr. Speaker, I rise in support of S. 2106, the Procedural Fairness for September 11 Victims Act of 2007. This bill is substantially identical to H.R. 3921, a bill that the House Judiciary Committee reported by voice vote without amendment on October 24.

This legislation would provide immediate procedural relief to the victims of the terrorist attacks of September 11, 2001, by implementing a technical fix to a bill that this Congress passed in the wake of those horrible events.

Eleven days after the September 11 attacks, we passed comprehensive legislation, the Transportation and Systems Stabilization Act. That Act, among other things, created a Victims Compensation Fund to provide relief for victims without the need for litigation. It also allowed victims to opt-out of the fund and seek relief in court.

The bill limited jurisdiction over any civil litigation to the United States District Court for the Southern District of New York.

An unintended consequence of our actions, under operation of the Federal Rules of Civil Procedure, was that subpoena power to secure testimony or documents from nonparty witnesses to any litigation has generally been limited to persons and documents located within 100 miles of the Southern District of New York.

The law we passed in 2001 did not take this 100-mile rule into account. Unfortunately, many of the events relevant to the September 11 tragedy occurred in Boston, where American Airlines Flight 11 and United Airlines Flight 175 originated, and in the Washington, DC, area where the Pentagon is

located and where American Airlines Flight 77 originated. Both of these locations are far outside the 100-mile limit from the Southern District of New York.

The bill before the House today would remedy this problem by providing for nationwide subpoena service for all parties in the litigation, victims, victims' families and defendants, to ensure that all parties involved have an opportunity to obtain the witnesses and evidence they need to obtain a fair hearing. That was Congress' intent, and we should not allow the unintended interplay between the 9/11 legislation and the Federal Rules of Civil Procedure to undermine that legislative purpose.

The bill also makes clear that the existing power of the Federal court under rule 45(c) to quash or modify a subpoena in order to protect a subpoenaed person from undue hardship or expense is maintained. That is the current rule, and the bill makes it clear that this important protection for witnesses will remain.

Congress has previously approved nationwide subpoena power in other contexts. For example, nationwide subpoena power is available under the False Claims Act, the Veterans Benefit Act and the Civil RICO statute.

This bill has bipartisan support. It passed the Senate by unanimous consent in committee and on the Senate floor. The House version, which is substantively identical to the Senate version, was reported by the House Judiciary Committee by voice vote.

Six years ago, Mr. Speaker, Congress and the Nation came together to provide prompt and equitable assistance for September 11 victims. I urge my colleagues to ensure that the laudable goals of that effort are not frustrated by the unintended effect of the Federal Rules of Civil Procedure in this particular case.

I urge the adoption of this measure.

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

Mr. KING of Iowa. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, I support S. 2106, the Procedural Fairness for September 11 Victims Act of 2007.

In the wake of the 9/11 terrorist attacks, Congress created an operational alternative compensation program for victims killed or injured during the attacks.

This statute mandates that liability for all claims resulting from the 9/11 attacks is limited to an amount no greater than the limits of liability coverage maintained by the air carriers involved.

The statute further provides that compensation may only be obtained pursuant to a Federal cause of action brought in U.S. District Court for the Southern District of New York, where a consolidated action is already pending.

Representatives of several passengers, ground victims and others are

suing airline companies, airport security firms, airport authorities, and other defendants. The litigation focuses on events in New York; Washington, DC; Boston Logan Airport; and other areas around the country.

In most civil litigation brought in Federal court, rule 45, mentioned by my colleague from New York, of the Federal Rules of Civil Procedure limits the service of trial subpoenas to nonparty witnesses to the district and State where the case was filed "or at any place without the district that is within 100 miles of the place of trial." This limitation precludes the issuance of some subpoenas in the 9/11 litigation.

However, rule 45 also states, Mr. Speaker, that service may take place elsewhere pursuant to another Federal statute. For example, Congress allows for nationwide service under the False Claims Act, under the Veterans Benefits Act, and under the Civil RICO statute.

If this nationwide service feature is not extended to the 9/11 victims compensation law, a number of important witnesses will not be able to testify in person during the litigation.

There are alternatives to S. 2106, such as conducting pretrial, nonparty depositions around the country or videoconferencing, but they might prove costly. They're more likely to deny the jury the benefit of live, firsthand testimony.

Mr. Speaker, the bill applies equally to plaintiffs and defendants. The legislation promotes justice that is based on Federal precedent in other areas of law.

On this subject matter in this particular case, I agree with my colleague. This is a piece of legislation that did pass out of the full Judiciary Committee by voice vote, without any discernible opposition, something that brings us together here in this Congress, and I urge adoption.

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

Mr. NADLER. I would add, it's somewhat rare in the Judiciary Committee, as my colleague knows.

Mr. Speaker, I now yield 5 minutes to the gentleman from New York (Mr. BISHOP).

Mr. BISHOP of New York. I thank my colleague from New York for yielding.

On behalf of my colleagues of New York's congressional delegation, and as one who represents families of the first responders and victims of the September 11 terrorist attacks, I'm proud to rise as the sponsor of the House companion to this important legislation.

I also wish to thank my 11 cosponsors and the distinguished chairman of the Judiciary Committee, Mr. CONYERS, as well as the Democratic leadership for expediting the consideration of this bill.

The Procedural Fairness for September 11 Victims Act of 2007, as its

title implies, ensures fairness for the victims of the terrorist attacks by correcting a shortcoming in the Federal Rules of Civil Procedure and by reversing an unintended consequence of the bill that established the September 11 Victim Compensation Fund.

Although I was not yet in Congress, many of my colleagues who were here at that time will recall when this body passed the bill creating the compensation fund in 2001.

Shortly thereafter, the Justice Department administered how the fund could allow victims of the terrorist attacks or their families to apply for financial assistance following the loss of loved ones who perished on that tragic day.

The Justice Department also designated the Southern District of New York as the only court in which 9/11 claims could be litigated if victims and their families chose to opt out of the fund.

As a result of this designation and a flaw in the Federal Rules of Civil Procedure, families of the victims, as well as the defendants in the 9/11 cases, cannot gain access to testimony or documents from witnesses who did not live within 100 miles of the Southern District of New York.

But there's really no logical reason why victims and their families should be prevented from securing documents and witnesses just because they happen to be more than 100 miles outside the Southern District.

It is obvious that many of the victims aboard the four airliners that crashed and those who were killed inside the World Trade Center and at the Pentagon, as well as those who witnessed these horrific events, resided well outside of this 100-mile radius of the Southern District of New York.

And it should be assumed that many of the families of the victims who are involved in the 9/11 claims, or those who will seek compensation at a later date, as well as the witnesses, still live in the same locations across the country. Therefore, geography simply should have no role in how they seek compensation.

In response to this problem, this bill amends the Air Transportation Safety and System Stabilization Act to provide for nationwide subpoena power to all parties involved, victims, their families and the defendants, when litigating 9/11 claims.

Simply put, this bill establishes a full measure of justice by allowing subpoenas to be served anywhere in the country, ensuring that all the parties involved in the 9/11 suits can gain all of the information necessary to try these cases fully and fairly.

My colleagues on both sides of the aisle can agree that justice requires that all the parties to cases arising under the Victims Compensation Fund have access to all the testimony and documents relevant to their claims, regardless of where the witnesses or documents are located in the United States.

Therefore, Mr. Speaker, I encourage my colleagues to support the Procedural Fairness for September 11 Victims Act of 2007. Once again, I want to thank the Judiciary Committee for reporting this measure to the floor so promptly, and I thank the leadership for moving it.

Mr. KING of Iowa. Mr. Speaker, I yield myself so much time as I may consume. I just conclude with some of the time that I yield to myself, and I will do so briefly. Sometimes we put a lot of words into our dialogue here, and I just wanted to put it into the simple words.

This bill says a subpoena may be served at any place in the United States with regard to this Act. Very simple. It's something that I do believe provides a better opportunity for justice and equity for those who are involved in a cause of action on this 9/11 victims compensation, and so I urge adoption of this bill.

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

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

Mr. Speaker, the complicated debate over this bill is not so complicated. It's a very simple bill, as you heard. There's unanimous agreement on it. It ought to pass. I thank the leadership. I thank the leadership and the minority leadership on the Judiciary Committee for expediting the bill to where it is now. I urge my colleagues to support this legislation.

S. 2106

Mr. HALL of New York. I am very pleased that today the House passed S. 2106, the Procedural Fairness for September 11 Victims Act. This bill is the Senate companion to an important piece of legislation I sponsored along with my good friend Representative TIM BISHOP of Long Island.

To start off I'd like to thank Mr. BISHOP for introducing this important bill in the House, and Mr. BIDEN for introducing it in the Senate. This is a simple bill, but a vital one to the people who it will affect, and I applaud both gentlemen for calling it to my attention, and that of the Congress as a whole.

Shortly after the 9/11 attacks, Congress passed legislation to the effect that those victims and families of victims seeking legal redress as a result of the events of 9/11 may do so only in the federal court in the Southern District of New York. However, under the Federal Rules of Civil Procedure, parties can only issue subpoenas for testimony and documents located within 100 miles of the District. This means that a significant percentage of evidence that might be relevant to the case is unobtainable to the participants only because it is not located within the New York City metropolitan area.

When Congress mandated that only one specific court could hear lawsuits from those people who opted out of the 9/11 Compensation Fund, no one foresaw that the decision would prove to be a barrier for those people who seek evidence from outside the jurisdiction of this court. But there is no alternative as to where they can bring suit.

I am proud to support this bill because it fixes this unintended flaw by providing nation-

wide subpoena power to all the parties involved in litigating 9/11 claims. The 9/11 attacks were an attack on the whole country. It was a tragedy that greatly affected us all. There's no reason why victims should be prevented from obtaining possibly vital evidence, just because it happens to be outside the jurisdiction's direct subpoena power.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today in support of S. 2106, the Senate companion to H.R. 3921, the "Procedural Fairness for September 11th Victims Act of 2007." This legislation amends the Air Transportation Safety and System Stabilization Act to allow those September 11th victims and their families who opted out of receiving compensation through the September 11th Victims Compensation Fund to have nation-wide subpoena power when litigating September 11th claims. It is necessary to make this change because presently all parties involved in litigating September 11th claims—victims, victims' families and defendants—must do so in the U.S. District Court for the Southern District of New York. The problem occurs because under the Federal Rules of Civil Procedure, no party may compel testimony or documents from non-party witnesses who do not live within 100 miles of the Southern District of New York. This bill would provide for nation-wide subpoena power for all parties. The court however, would retain its authority to modify or quash any subpoena that it determined to be too burdensome.

Mr. Speaker, within 11 days of the September 11th attacks, Congress drafted, debated, adopted and signed into law the Air Transportation Safety and Systems Stabilization Act (ATSSSA), 49 U.S.C. Section 40101. Among other things, this legislation included assistance to the airline industry and created an optional alternative compensation program for individual victims killed or injured by the events of September 11th (the September 11th Compensation Fund). The United States District Court for the Southern District of New York was designated as the only court with "original and exclusive jurisdiction over all actions brought" arising out of the attacks of September 11th. The objective was to consolidate all litigation arising out of September 11th events in one location before a single court that could adjudicate all the claims in a thorough, efficient, equitable and fair proceeding.

Given the justifiable interest of Congress in expediting assistance to the airline industry and creating a mechanism to provide compensation to the persons who bore the brunt of the national trauma occurring on September 11th, it is understandable that the Congress did not give due regard to Federal Rule of Civil Procedure 45, which provides for service of trial subpoena to non-party witnesses in the district or State where the case was filed or anyplace within 100 miles of the district that the court proceedings will take place (the "100 mile bulge").

The upshot, Mr. Speaker, is that in the absence of this minor change, subpoenas would be limited to within 100 miles of the Southern District of New York (within 100 miles of Manhattan) and could not reach the geographically significant and relevant locales of Boston, Massachusetts (from where flights American Airlines 11 and United Airlines 175 originated) and Washington Dulles Airport (from where American Airlines flight 77 originated).

Pending before the District Court for the Southern District of New York is the consoli-

dated action, In re September 11 Litigation, in which representatives of a number of passengers and ground victims (including claims brought by those who came to the World Trade Center disaster site to assist with the debris removal effort following the attacks), as well as an array of parties suing for property damage and consequential economic loss are seeking recovery from a group of defendants including airline companies, airport security firms, airport authorities, the Boeing Corporation and others.

This litigation focuses not only on the events that occurred at the Twin Towers in Manhattan but also hundreds of miles away at Washington's Dulles Airport, Boston's Logan Airport and various other locations around the Nation, including the headquarters for each of the various airlines and security companies. It has become clear that in order for the September 11th victims, their families, and the defendants to have access to all the evidence relevant to the case, it is necessary to make available at trial non-party witnesses from Massachusetts, Virginia, and elsewhere. The legislation before us accomplishes this limited objective.

H.R. 3921 is non-controversial, bipartisan and bicameral. There has been no opposition to the bill from any interested sectors. The legislation is identical to S. 2106, which was introduced by Senator BIDEN of Delaware on September 27, 2007 and passed by unanimous consent in the Judiciary Committee and the full Senate the following day. That bill was referred to the House Judiciary Committee as the sole referral. Mr. Speaker, for the reasons stated, I strongly support H.R. 3921 and urge my colleagues to join me in voting for this wise and beneficial legislation.

Mr. NADLER. 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 New York (Mr. NADLER) that the House suspend the rules and pass the Senate bill, S. 2106.

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

A motion to reconsider was laid on the table.

□ 1445

### THIRD HIGHER EDUCATION EXTENSION ACT OF 2007

Mr. YARMUTH. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2258) to temporarily extend the programs under the Higher Education Act of 1965, to amend the definition of an eligible not-for-profit holder, and for other purposes.

The Clerk read the title of the Senate bill.

The text of the Senate bill is as follows:

S. 2258

*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 "Third Higher Education Extension Act of 2007".

#### SEC. 2. EXTENSION OF PROGRAMS.

Section 2(a) of the Higher Education Extension Act of 2005 (Public Law 109-81; 20