H.R. 2442 will officially acknowledge the denial of human rights and freedoms of Italian Americans during World War II by the United States government. While many Americans know the sad history of our nation's treatment of Japanese-Americans following Pearl Harbor and our entry into World War II, remarkably few Americans know that shortly after that attack, the attention and concern of the U.S. government was similarly focused on Italian-Americans. More than 600,000 Italian Americans were determined to be enemy aliens by their own government. More than 10,000 were forcibly evicted from their homes, 52,000 were subject to strict curfew regulations, and hundreds were shipped to internment camps. Constitutional guarantees of due process were unrecognized.

Although they had family members whose basic rights had been revoked, more than a half million Italian Americans served this nation with honor and valor to defeat fascism during World War II. Thousands made the ultimate sacrifice.

The Wartime Violation of Italian American Civil Liberties Act directs the Department of Justice to prepare a comprehensive report detailing the unjust policies against Italian Americans during this period of American history. It is vital to the foundations of our democratic governance that the people be fully informed of these devastating actions. This legislation recognizes the thousands of innocent victims, and honors those who suffered. In a country that so cherishes its equality, we must recognize and atone for the mistakes of our past.

Mrs. BONO. 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 gentlewoman from California (Mrs. BONO) that the House suspend the rules and concur in the Senate amendments to the bill, H.R. 2442.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendments were concurred in.

A motion to reconsider was laid on the table.

MERIT SYSTEMS PROTECTION BOARD ADMINISTRATIVE DISPUTE RESOLUTION ACT OF 2000

Mrs. BONO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3312) to clarify the Administrative Dispute Resolution Act of 1996 to authorize the Merit Systems Protection Board to establish under such Act a 3-year pilot program that will provide a voluntary early intervention alternative dispute resolution process to assist Federal agencies and employees in resolving certain personnel actions and disputes in administrative programs, as amended.

The Clerk read as follows:

H.R. 3312

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 ''Merit Systems Protection Board Administrative Dispute Resolution Act of 2000''.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Workplace disputes waste resources of the Federal Government, take up too much time, and deflect managers and employees from their primary job functions.

(2) The Merit Systems Protection Board (hereafter in this Act referred to as the ''Board'') has already taken steps to encourage agency use of ADR before appeals are filed with the Board, including extending the regulatory time limit for filing appeals when the parties agree to try ADR, but high levels of litigation continue.

(3) The Board's administrative judges, who decide appeals from personnel actions by Federal agencies, find that by the time cases are formally filed with the Board, the positions of the parties have hardened, communication between the parties is difficult and often antagonistic, and the parties are not amenable to open discussion of alternatives to litigation.

(4) Early intervention by an outside neutral, after the first notice of a proposed action by an agency but before an appeal is filed with the Board, will allow the parties to explore settlement outside the adversarial context. However, without the encouragement of a neutral provided without cost, agencies are reluctant to support an early intervention ADR program.

(5) A short-term pilot program allowing the Board, upon the joint request of the parties, to intervene early in a personnel dispute is an effective means to test whether ADR at that stage can resolve disputes, limit appeals to the Board, and reduce time and money expended in such matters.

(6) The Board is well equipped to conduct a voluntary early intervention pilot program testing the efficacy of ADR at the initial stages of a personnel dispute. The Board can provide neutrals who are already well versed in both ADR techniques and personnel law. The Board handles a diverse workload including removals, suspensions for more than 14 days, and other adverse actions, the resolution of which entails complex legal and factual questions.

SEC. 3. MERIT SYSTEMS PROTECTION BOARD ALTERNATIVE DISPUTE RESOLUTION PILOT PROGRAM.

(a) AMENDMENT TO CHAPTER 5 OF TITLE 5.—Chapter 5 of title 5, United States Code, is amended by adding immediately after section 584 the following:

''§ 585. Establishment of voluntary early intervention alternative dispute resolution pilot program for Federal personnel disputes

''(a) IN GENERAL.—

''(1) The Board is authorized under section 572 to establish a 3-year pilot program to provide Federal employees and agencies with voluntary early intervention alternative dispute resolution (in this section referred to as 'ADR') processes to apply to certain personnel disputes. The Board shall provide ADR services, upon joint request of the parties, in matters involving removals, suspensions for more than 14 days, other adverse actions under section 7512, and removals and other actions based on unacceptable performance under section 4303.

''(2) The Board shall test and evaluate a variety of ADR techniques, which may include—

''(A) mediation conducted by private neutrals, Board staff, or neutrals from appropriate Federal agencies other than the Board;

''(B) mediation through use of neutrals agreed upon by the parties and credentialed under subsection (c)(5); and

''(C) non-binding arbitration.

''(b) EARLY INTERVENTION ADR.—

''(1) AUTHORITY.—The Board is authorized to establish an early intervention ADR process, which the agency involved and employee may jointly request, after an agency has issued a notice letter of a proposed action to an employee under section 4303 or 7513 but before an appeal is filed with the Board.

''(2) NOTICE IN PERSONNEL DISPUTES.—During the term of the pilot program, an agency shall, in the notice letter of a proposed personnel action under section 4303 or 7513—

''(A) advise the employee that early intervention ADR is available from the neutral Board, subject to the standards developed pursuant to subsection (c)(1)(A), and that the agency and employee may jointly request it; and

''(B) provide a description of the program, including the standards developed pursuant to subsection (c)(1)(A).

''(3) REQUEST.—Any agency and employee may seek early intervention ADR from the Board by filing a joint request with the Board pursuant to the program standards adopted under subsection (c)(1)(A). All personnel dispute matters appealable to the Board under section 4303 or 7513 shall be eligible for early intervention ADR, upon joint request of the parties, unless the Board determines that the matter is not appropriate for the program subject to any applicable collective bargaining agreement established under chapter 71.

''(4) CONFIDENTIALITY AND WITHDRAWAL.—The consent of an agency or an employee with respect to an early intervention ADR process is confidential and shall not be disclosed in any subsequent proceeding. Either party may withdraw from the ADR process at any time.

''(5) ANCILLARY MATTER.—In any personnel dispute accepted by the Board for the ADR pilot program authorized by this section, the Board may attempt to resolve any ancillary matter which the Board would be authorized to decide if the personnel action were effected under section 4303 or 7513, including—

''(A) a claim of discrimination as described in section 7702(a)(1)(B);

''(B) a prohibited personnel practice claim as described in section 2302(b); or

''(C) a claim that the agency's action is or would be, if effected, not in accordance with law.

''(c) IMPLEMENTATION.—

''(1) PROGRAM DUTIES.—In carrying out the program under this section, the Board shall—

''(A) develop and prescribe standards for selecting and handling cases in which ADR has been requested and is to be used;

''(B) take such actions as may be necessary upon joint request of the parties, including waiver of all statutory, regulatory, or Board imposed adjudicatory time frames; and

''(C) establish a time target within which it intends to complete the ADR process.

''(2) EXTENSION.—The Board, upon the joint request of the parties, may extend the time period as it finds appropriate.

''(3) ADVOCACY AND OUTREACH.—The Board shall conduct briefings and other outreach, on a non-reimbursable basis, aimed at increasing awareness and understanding of the ADR program on the part of the Federal workforce—including executives, managers, and other employees.

''(4) RECRUITMENT.—The Chairman of the Board may contract on a reimbursable basis with officials from other Federal agencies and contract with other contractors or temporary staff to carry out the provisions of this section.

''(5) TRAINING AND CREDENTIALLING OF NEUTRALS.—The Board shall develop a training and credentialing program to ensure that all individuals selected by the Board to serve as program neutrals have a sufficient understanding of the issues that arise before the Board and are sufficiently skilled in the

practice of meditation or any other relevant form of ADR.

''(6) REGULATIONS.—The Board is authorized to prescribe such regulations as may be necessary to implement the ADR program established by this section.

''(d) EVALUATION.—

''(1) CRITERIA.—The Board's Office of Policy and Evaluation shall establish criteria for evaluating the ADR pilot program and prepare a report containing findings and recommendations as to whether voluntary early intervention ADR is desirable, effective, and appropriate for cases subject to section 4303 or 7513.

''(2) REPORT CONTENT.—The report, subject to subsection (b)(4) and section 574, shall include—

''(A) the number of cases subject to the ADR program, the agencies involved, the results, and the resources expended;

''(B) a comprehensive analysis of the effectiveness of the program, including associated resource and time savings (if any), and the effect on the Board's caseload and average case processing time;

''(C) a survey of customer satisfaction; and

''(D) a recommendation regarding the desirability of extending the ADR program beyond the prescribed expiration date and any recommended changes.

The recommendation under subparagraph (D) shall discuss the relationship between the Board's pilot ADR program and those workplace ADR programs conducted by other Federal agencies.

''(3) REPORT DATE.—The report shall be submitted to the President and the Congress 180 days before the close of the ADR pilot program.''.

(b) APPROPRIATIONS.—

(1) IN GENERAL.—For the purpose of carrying out the ADR pilot program established by this section, there are authorized to be appropriated such sums as may be necessary for each of the 3 fiscal years beginning after the date of enactment of this Act.

(2) NO REDUCTIONS.—The authorization of appropriations by paragraph (1) shall not have the effect of reducing any funds appropriated for the Board for the purpose of carrying out its statutory mission under section 1204.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect no later than the close of the 60th day after the enactment of appropriations authorized by subsection (b)(1) and shall remain in effect for 3 years from the effective date.

(d) CONFORMING AMENDMENT.—The table of sections for subchapter IV of chapter 5 of title 5, United States Code, is amended by adding after the item relating to section 584 the following new item:

''585. Establishment of voluntary early intervention alternative dispute resolution pilot program for Federal personnel disputes.''.

SEC. 4. MERIT SYSTEMS PROTECTION BOARD ADMINISTRATIVE JUDGES.

(a) AMENDMENT TO CHAPTER 53 OF TITLE 5.—Chapter 53 of title 5, United States Code, is amended by adding immediately after section 5372a the following:

''§ 5372b. Merit Systems Protection Board administrative judges

''(a) DEFINITIONS.—For the purposes of this section—

''(1) the term 'administrative judge (AJ)' means an employee of the Merit Systems Protection Board appointed to an administrative judge position and paid under the MSPB Administrative Judge Schedule established by subsection (b); and

''(2) the term 'administrative judge (GS)' means an employee of the Merit Systems Protection Board appointed to an administrative judge position and paid under the General Schedule described in section 5332 of this title.

''(b) IN GENERAL.—There is established the MSPB Administrative Judge Pay Schedule which shall have 4 levels of pay, designated as AJ–1, AJ–2, AJ–3, and AJ–4. Each administrative judge (AJ) shall be paid at one of those levels in accordance with subsection (c).

''(c) RATES OF PAY.—

''(1) BASIC PAY.—The rates of basic pay for the levels of the MSPB Administrative Judge Pay Schedule established by subsection (b) shall be as follows:

''(A) AJ–1: 70 percent of the next to highest rate of basic pay for the Senior Executive Service.

''(B) AJ–2: 80 percent of the next to highest rate of basic pay for the Senior Executive Service.

''(C) AJ–3: 90 percent of the next to highest rate of basic pay for the Senior Executive Service.

''(D) AJ–4: 92 percent of the next to highest rate of basic pay for the Senior Executive Service.

''(2) LOCALITY PAY.—Locality pay as provided by section 5304 shall be applied to the basic pay for administrative judges (AJ) paid under the MSPB Administrative Judge Pay Schedule.

''(d) APPOINTMENT AND ADVANCEMENT.—

''(1) INITIAL APPOINTMENT.—Except as provided in paragraph (5), an initial appointment of an administrative judge (AJ) to the AJ pay schedule shall be at the AJ–1 level.

''(2) CONVERSION TO MSPB ADMINISTRATIVE JUDGE PAY SCHEDULE.—An administrative judge (GS) who is serving as of the effective date of this section shall be eligible for conversion to the MSPB Administrative Judge Pay Schedule and appointment as an administrative judge (AJ) in accordance with subparagraph (A), (B), or (C) below:

''(A) If the administrative judge (GS) occupies a position at the grade 15 level of the General Schedule and has served for 3 or more years as of the effective date of this section, the judge shall be converted to the MSPB Administrative Judge Pay Schedule and appointed as an administrative judge (AJ) on the effective date of this section so long as the judge's last 3 performance appraisals of record are at the 'exceeds fully successful' level or higher. An administrative judge (AJ) so converted shall be placed in the appropriate pay level prescribed in paragraph (3), based on the amount of time the administrative judge (AJ) has served as an administrative judge (GS).

''(B) If the administrative judge (GS) occupies a position at the grade 15 level of the General Schedule and has served for less than 3 years as of the effective date of this section, the judge shall be converted to the MSPB Administrative Judge Pay Schedule and appointed as an administrative judge (AJ) on the date the judge completes 3 years of service at the grade 15 level so long as the judge's overall performance appraisal ratings for the 3-year period are at the 'exceeds fully successful' level or higher.

''(C) If the administrative judge (GS) occupies a position at a level below grade 15 of the General Schedule on the effective date of this section and is subsequently advanced to grade 15 of the General Schedule, the judge shall, after serving for 3 years at the grade 15 level, be converted to the MSPB Administrative Judge Pay Schedule and appointed as an administrative judge (AJ) so long as the judge's overall performance appraisal ratings for the 3-year period at the grade 15 level are at the 'exceeds fully successful' level or higher.

''(3) ADVANCEMENT.—An administrative judge (AJ) shall be advanced to the AJ–2 pay level upon completion of 104 weeks of service with an appraisal rating for such weeks at the 'exceeds fully successful' level or higher, to the AJ–3 pay level upon completion of 104 weeks of service at the next lower level with an appraisal rating for such weeks at the 'exceeds fully successful' level or higher, and to the AJ–4 pay level upon completion of 52 weeks of service at the next lower level so long as the judge's overall performance appraisal ratings for the period are at the 'exceeds fully successful' level or higher.

''(4) REVIEW BOARD.—If at any time the MSPB establishes a pass-fail or other performance appraisal system that does not include an overall performance appraisal rating of 'exceeds fully successful', upon completion of the applicable qualifying time-in-service requirement and receipt of a 'pass' or equivalent performance appraisal rating for the 3 most recent rating periods, an administrative judge (AJ) shall be eligible for consideration to advancement to the next pay level subject to the approval of a review board made up of senior MSPB officials, as designated by the Chairman.

''(5) EXCEPTIONS.—

''(A) Notwithstanding paragraph (1), the Chairman of the Merit Systems Protection Board may provide for initial appointment of an administrative judge (AJ) at a level higher than AJ–1 under such circumstances as the Chairman may determine appropriate.

''(B) Notwithstanding paragraph (2), the Chairman of the Merit Systems Protection Board may, in exceptional cases, provide for the conversion of an administrative judge (GS) to the MSPB Administrative Judge Pay Schedule under such circumstances as the Chairman may determine appropriate.''.

(b) TRANSITION PROVISIONS.—

(1) LIMITATION ON PAY INCREASES.—Notwithstanding the rates of basic pay prescribed under section 5372b(c) of title 5, United States Code, as added by subsection (a), the Chairman of the Merit Systems Protection Board may, on the effective date of this section and each year for a period of 7 years thereafter, limit the pay increase for each administrative judge (AJ) to an adjustment equal to—

(A) the percentage pay adjustment received by members of the Senior Executive Service under section 5382(c) of this title, if any;

(B) locality pay under section 5304; and

(C) an additional $3,000.

The Senior Executive Service percentage pay adjustment, if any, shall be included in basic pay. Annual adjustments in pay after the effective date of this section will be made on the first day of the first pay period of each calendar year. The limitation on pay increases under this subsection may continue during the time period prescribed by this subsection until such time as the pay of each administrative judge (AJ) reaches the appropriate rate of basic pay under section 5372b(c) of title 5, United States Code, as added by subsection (a). The Chairman may waive any limitation on pay under this subsection in the case of an administrative judge (AJ) serving as a chief administrative judge.

(2) PAY IN RELATION TO GRADE 15 OF THE GENERAL SCHEDULE.—In no case shall an administrative judge (AJ) who is converted in accordance with section 5372b(d)(2) of title 5, United States Code, or whose pay increase in any year is limited under paragraph (1), be paid after the effective date of this section at a rate that is less than the administrative judge's (AJ) rate of pay would have been had the administrative judge (AJ) remained as an administrative judge (GS) occupying the grade 15 level of the General Schedule.

(3) DEFINITIONS.—For purposes of this subsection—

(A) the term ''administrative judge (AJ)'' means an employee of the Merit Systems Protection Board appointed to an administrative judge position and paid under the MSPB Administrative Judge Pay Schedule established by the amendment made by subsection (a); and

(B) the term ''administrative judge (GS)'' means an employee of the Merit Systems Protection Board appointed to an administrative judge position and paid under the General Schedule described in section 5332 of title 5, United States Code.

(c) APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated such sums as are necessary for the purpose of carrying out this section.

(2) NO REDUCTION.—The authorization of appropriations by paragraph (1) shall not have the effect of reducing any funds appropriated for the Board for the purpose of carrying out its statutory mission under section 1204 of title 5, United States Code.

(d) EFFECTIVE DATE.—This section shall take effect on the first day of the first pay period of the calendar year immediately following the date of enactment of appropriations authorized by subsection (c)(1).

(e) CONFORMING AMENDMENT.—The table of sections for subchapter VII of chapter 53 of title 5, United States Code, is amended by adding after the item relating to section 5372a the following new item:

''5372b. Merit Systems Protection Board administrative judges.''.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from California (Mrs. BONO) and the gentleman from Virginia (Mr. SCOTT) each will control 20 minutes.

The Chair recognizes the gentlewoman from California (Mrs. BONO).

GENERAL LEAVE

Mrs. BONO. 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 the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

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

The Committee on the Judiciary has reported H.R. 3312, a bill to establish a pilot, 3-year, early intervention alternative dispute resolution program at the Merit Systems Protection Board. Support for ADR enjoys a rare consensus among those knowledgeable with formal litigation and administrative dispute processes. Resulting savings redound to the benefit of those involved and are, more broadly, to the taxpayers at large.

The MSPB is an independent adjudicatory body that hears appeals from Federal agency personnel disputes. MSPB judges hear a broad range of complex personnel cases that affect thousands of Federal employees and the agencies for which they work. Over the last decade, MSPB judges have seen their jurisdictions steadily increase without a corresponding increase in resources. Last year, the board handled nearly 8,000 cases with a staff of only 71 administrative judges. H.R. 3312, as amended, would help reduce this caseload by encouraging Federal agencies and employees to explore alternatives to costly litigation before the board.

Until 1990, MSPB judges received compensation equivalent to that provided Immigration, Social Security and Administrative Law judges. Since 1990, however, the wage disparity between MSPB judges and other administrative judges has detrimentally affected the board's ability to attract and retain top judges. Over the last 4 years alone, the board has lost nearly 20 percent of its judges to other adjudicatory agencies.

The conference report to the 1999 Omnibus Appropriations Act recognized the need to accord pay equity to MSPB, Immigration and Administrative Law judges. Last year, H.R. 2946 was introduced to address this inequality. Like H.R. 2946, H.R. 3312, as amended, restores a measure of fairness to MSPB judge compensation vis-a-vis Immigration, Social Security and Administrative Law judges. H.R. 3312, as amended, is notable for the spirit of bipartisan cooperation that has surrounded its consideration. It enjoys the support of the Merit Systems Protection Board, Department of Justice, Federal Mediation and Conciliation Service, and Federal employees. The Committee on the Judiciary and Subcommittee on Commercial and Administrative Law, which is chaired by the gentleman from Pennsylvania (Mr. GEKAS), unanimously reported the bill. Finally, the distinguished chairman of the Committee on Government Reform, the gentleman from Indiana (Mr. BURTON), to whose committee H.R. 3312 was referred, has waived jurisdiction and indicated there is no objection to either H.R. 3312 or the provisions of H.R. 2946, also referred to the Committee on Government Reform.

Mr. Speaker, I enclose for the RECORD the letters of exchange concerning committee jurisdiction between the gentleman from Indiana (Mr. BURTON) and the gentleman from Illinois (Mr. HYDE).

Passage of H.R. 3312, as amended, will help combat debilitating MSPB attrition rates and further reduce costs to taxpayers by ensuring the retention of an experienced cadre of board judges to effectively implement the pilot program. Support for H.R. 3312, as amended, is broad and its advantages are clear. I urge support for this bill.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC, October 3, 2000.

Hon. DAN BURTON,
Chairman, Committee on Government Reform, Washington, DC.

DEAR MR. CHAIRMAN: The Committee on the Judiciary favorably reported H.R. 3312 on September 20, 2000 and has requested to have it considered under suspension of the rules before the end of the session. The bill authorizes the Merit Systems Protection Board (MSPB) to conduct an alternative dispute resolution pilot program. Legislation (H.R. 2946) was earlier introduced by Mr. Gekas, Chairman of the Subcommittee on Commercial and Administrative Law, to establish such a program, but his measure contained additional language establishing an administrative judge pay schedule for administrative judges employed by the MSPB. Because this additional language contains a matter within the Rule X jurisdiction of your committee, the bill was referred to the Committee on Government Reform.

As we understand it, there is no objection by your committee to the matter proposed by that language, but action on it cannot be expected because of the lateness of the session. Recognizing your Rule X jurisdiction over the matter, we would therefore request that you waive that jurisdiction so that the matter can be considered by the House together with H.R. 3312.

Sincerely,

HENRY J. HYDE,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON GOVERNMENT REFORM,
Washington, DC, October 17, 2000.

Hon. HENRY J. HYDE,
Chairman, Committee on the Judiciary, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter regarding H.R. 3312, which the Committee on the Judiciary has ordered reported, and H.R. 2946, legislation that would, among other things, establish a new pay scale for administrative judges at the Merit Systems Protection Board. Both of these measures fall within the jurisdiction of the Committee on Government Reform under House Rule X, and I appreciate the close cooperation your staff has provided mine with respect to both bills.

We do not object to either the reported version of H.R. 3312. I understand that you wish to include in a manager's amendment to H.R. 3312 the pay language that has been agreed to by the Civil Service Subcommittee. We also have no objection to that language. Accordingly, in order to expedite floor consideration of this measure, we will not exercise our jurisdiction over either H.R. 3312 or the pay provisions that will be included in the manager's amendment.

Our decision not to exercise our jurisdiction over this measure is not intended or designed to waive or limit our jurisdiction over any future consideration of related matters.

Sincerely,

DAN BURTON,
Chairman.

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

Mr. SCOTT. Mr. Speaker, I ask unanimous consent that the gentleman from Washington (Mr. BAIRD) be permitted to manage the time allocated to this side.

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

There was no objection.

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

Mr. Speaker, I rise in support of H.R. 3312, the Merit System Protection Board Administrative Dispute Resolution Act of 1999.

1515

This bipartisan legislation would establish a 3-year alternative dispute resolution pilot program. Under the terms of the bill, Federal agencies and employees would be given assistance in voluntarily resolving personnel action and disputes in administrative agencies through mediation, arbitration and mini trials or combinations of these procedures.

Although formal hearings and litigation are available to both Federal agencies and employees, these methods are often expensive and lengthy. By contrast, the voluntary dispute resolution process offers a potentially less costly alternative system that can encourage examine compromise and settlement. Under the legislation, matters such as removals, suspensions, reduction in pay and pay grade, furlough and performance actions may all be addressed outside the formal court system.

This legislation would not replace litigation but simply offer a voluntary early intervention program. It is the intent of the legislation to provide ADR on a voluntary basis and not compromise or modify contractual or collective bargaining rights of Federal employees.

This bipartisan bill is an excellent example of a method that will relieve the burdened legal system of matters that may be more easily and more effectively resolved using a nonadversarial approach.

I would also note that, under the manager's amendment, administrative judges of the Merit Systems Protection Board will receive an increase in compensation to account for their expanded duties under this bill. This is designed to help ensure that we can recruit and retain these highly qualified judicial officials.

I strongly support H.R. 3312 and urge my fellow Members to vote yes on this legislation.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today in support of HR 3312, the Merit Systems Protection Board Administrative Dispute Resolution Act of 2000. The bill rightly enjoys bipartisan support and my colleagues should be commended for reaching consensus on this issue.

HR 3312 would authorize the Merits Systems Protection Board to establish a 3-year pilot program that provides voluntary early intervention alternative disputes resolution (ADR) to assist federal agencies and employees in resolving certain personnel actions and disputes. The bill represents an important step forward in identifying innovative ways to resolve disputes that would be better kept outside the domain of the courts.

The Merit Systems Protection Board ("the Board") is an independent adjudicatory agency established by the Civil Service Reform Act of 1978. It has served the nation well. Since its inception, the Board has heard tens of thousands of cases while providing federal employees with an impartial forum for resolving their employment disputes with federal agencies.

Nevertheless, the expanded responsibilities and heavy caseload of the Board is taking a toll. Congress has expanded the jurisdiction of the Board without a requisite level of judicial resources. In 1999, the Board's 71 administrative judges heard nearly 8,000 appeals, or 100 decisions each.

Alternative dispute resolution such as arbitration, facilitation, mini-trials are all used voluntarily to resolve significant issues in controversy. HR 3312 appropriately focuses on encouraging the agency and employee in a dispute to resolve disputes without litigation. The covered disputes include removal, a suspension of more than 14 days, a reduction in pay grade, a furlough of 30 days or less, and an action passed on unacceptable performance. According to the Findings and Purposes of HR 3312, ADR would be more successful if it were utilized earlier in the process. Voluntary early intervention is, of course, a sensible solution.

I share my colleagues enthusiasm for the changes made during a subcommittee markup of the bill; I supported the bill once when it reached the full committee. I am pleased that the changes to HR 3312 clarified the bill's voluntariness provisions. To accomplish this, the amendment makes absolutely clear that the parties in a dispute can only be subject to early intervention ADR by the Merit System Protection Board upon their joint request. As introduced, the bill required that the notice letter in personnel disputes advise the employees as the availability of ADR. The substitute supplements the bill's notice letter requirement to include a description of this pilot program and of standards the Board will use to select from among eligible cases. In addition, it is noteworthy that the amendment clarifies the bill's language regarding arbitration to make clear that it would be non-binding.

Indeed, to further emphasize the voluntary nature of the early intervention ADR offer by the Board under the bill, the substitute added the words "upon joint request of parties" or some variant. As a result of these changes, the only cases eligible for early intervention ADR by the Board are those which both agency and the employee request jointly.

Additionally, the original version of H.R. 3312 compels an agency to advise an employee as the availability of early intervention ADR in the notice letter of proposed personnel action. The substitute expanded this requirement to include (a) a description of this program and (b) a description of the standards the Board must develop for selecting and handling cases. This will clarify the two step process a dispute must entertain before early intervention ADR. First, the parties jointly request ADR from the Board. Then, the Board determines whether or not the matter is "appropriate for the program." These are welcome improvements to the ADR process.

The bill further stipulates that the Board's acceptance of a case for ADR must be subject to any applicable collective bargaining agreement. We can never overestimate the importance of collective bargaining agreements—and the bill reinforces the importance of safeguarding this matter.

Mr. Speaker, I urge my colleagues to support this measure to make the voluntary nature of the ADR process more accessible and perhaps more efficient to potential litigants.

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

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

The SPEAKER pro tempore (Mr. HANSEN). The question is on the motion offered by the gentlewoman from California (Mrs. BONO) that the House suspend the rules and pass the bill, H.R. 3312, 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.

The title of the bill was amended so as to read:

"A bill to clarify the Administrative Dispute Resolution Act of 1996 to authorize the Merit Systems Protection Board to establish under such Act a 3-year pilot program that will provide a voluntary early intervention alternative dispute resolution process to assist Federal agencies and employees in resolving certain personnel actions."

A motion to reconsider was laid on the table.

VESSEL WORKER TAX FAIRNESS ACT

Mrs. BONO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 893) to amend title 46, United States Code, to provide equitable treatment with respect to State and local income taxes for certain individuals who perform duties on vessels.

The Clerk read as follows:

S. 893

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

SECTION 1. AMENDMENT OF CHAPTER 111 OF TITLE 46, UNITED STATES CODE.

Section 11108 of title 46, United States Code, is amended—

(1) by inserting "(a) WITHHOLDING.—" before "WAGES"; and

(2) by adding at the end the following:

"(b) LIABILITY.—

"(1) LIMITATION ON JURISDICTION TO TAX.—An individual to whom this subsection applies is not subject to the income tax laws of a State or political subdivision of a State, other than the State and political subdivision in which the individual resides, with respect to compensation for the performance of duties described in paragraph (2).

"(2) APPLICATION.—This subsection applies to an individual—

"(A) engaged on a vessel to perform assigned duties in more than one State as a pilot licensed under section 7101 of this title or licensed or authorized under the laws of a State; or

"(B) who performs regularly-assigned duties while engaged as a master, officer, or crewman on a vessel operating on the navigable waters of more than one State.".

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from California (Mrs. BONO) and the gentleman from Virginia (Mr. SCOTT) each will control 20 minutes.

The Chair recognizes the gentlewoman from California (Mrs. BONO).

GENERAL LEAVE

Mrs. BONO. 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 S. 893.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

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

Mr. Speaker, the right of States to tax economic activities within their borders is a key feature of federalism rooted in the Constitution and long recognized by Congress. State taxing power is not absolute, however, and