

HOUSE OF REPRESENTATIVES—Tuesday, January 17, 1995

The House met at 9:30 a.m. and was called to order by the Speaker pro tempore [Mr. BARRETT of Nebraska].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
January 17, 1995.

I hereby designate the Honorable BILL BARRETT to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

MORNING BUSINESS

The SPEAKER pro tempore. Pursuant to the order of the House of January 4, 1995, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates.

The Chair will alternate recognition between the parties, with each party limited to 30 minutes and each Member other than the majority and minority leaders limited to 5 minutes.

The Chair recognizes the gentleman from Kentucky [Mr. BUNNING] for 5 minutes.

(Mr. BUNNING asked and was given permission to revise and extend his remarks.)

MAJOR LEAGUE BASEBALL

Mr. BUNNING. Mr. Speaker, last week, the owners of major league baseball visited Capitol Hill to urge Members of Congress to leave their exemption from the antitrust laws alone.

Many of you may also have seen a letter which went out last week from Acting Major League Baseball Commissioner Bud Selig, which outlined a number of reasons that he felt vindicated the existence of the antitrust exemption.

I thought it was time that you heard the other side of the story.

Mr. Selig, in his letter, insisted that major league baseball does not operate as an economic cartel.

That is wrong. Major league baseball operates as a cartel in classic monopoly fashion. The owners, not market forces, dictate how the supply of its product will be allocated. The antitrust exemption shields major league baseball from market forces and makes competition impossible. That sounds like a monopoly to me.

Mr. Selig also insists that repeal of the antitrust exemption would not end the baseball strike. Wrong again. All signs point the other way. Don Fehr, the head of the Major League Baseball Players Association, has publicly stated many times that if the exemption were repealed, he would strongly urge the players to end the strike.

Mr. Selig insisted that the players should agree to a salary cap because it is good and because it has worked for football and basketball.

Wrong yet again. Football and basketball do have salary caps, but those caps were negotiated through the collective bargaining process. The baseball owners want to impose the cap unilaterally.

Baseball has a problem because the owners have been unable to reach agreement on how to share revenues between small market teams and large market teams.

But, instead of hammering out an agreement, they are now trying to arbitrarily impose a salary cap on the players to force the players to solve the owners' problem for them.

Mr. Selig said that the antitrust exemption has not hurt the players. That is as wrong as wrong can be. I know it is hard to feel sorry for baseball players with median salaries of half a million dollars. And it is also true that the baseball players union has been very effective in the past several decades and has been able to win—through collective bargaining—some of the rights that other American workers have been guaranteed by law.

But the antitrust exemption does hurt players. It is a constant threat hanging over their heads. The owners know—that because of the exemption—that if they are able to break the union, the players have no place to turn.

Mr. Selig, in his letter, insisted that repealing the exemption would hurt baseball, fans, and communities that have franchises.

He is wrong again. The other major professional sports do not have an antitrust exemption but franchise movement has been slight.

After eight work stoppages in the last 24 years, and the current strike that has destroyed one season and threatens another, it is hard to imagine anyone suggesting that the antitrust exemption is good for the fans.

And then Mr. Selig dredged up the old trusty line that repealing the antitrust exemption would destroy the minor leagues.

This is a very effective line because minor league teams are scattered around the country and touch the lives and economies of small towns throughout the Nation.

But the plain truth of the matter is major league baseball has to have the minor leagues. It traditionally takes longer to develop professional baseball players than football or basketball players.

If the minor leagues were done away with, the decline in quality would be devastating to the integrity of the game and destroy baseball. The owners are smart enough not to jeopardize their investments in their teams by letting that happen.

The minor leagues are indispensable to the future of major league baseball. Repeal of the exemption does not threaten them in any way. That's a smoke screen.

Through it all, I can understand where Mr. Selig is coming from.

Major league baseball has to have this exemption removed for the good of the fans, the game, and anybody else that wants a season in 1995.

THE LEGISLATIVE SEASON

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from West Virginia [Mr. WISE] is recognized during morning business for 5 minutes.

Mr. WISE. Mr. Speaker, the gentleman before me spoke about the baseball season. I want to speak some about the legislative season. It has had its opening day and now goes into the first games of the season. The first game, obviously, being this Thursday and Friday as I understand it, the unfunded mandates bill that will be on the floor of the House.

I have no problems with voting on this issue. I have no problems with voting on any of the issues that are in the so-called Contract With America that the Republican Party is bringing forth. Indeed, I think that the debate is wholesome and worthwhile to have on many of these issues.

To debate though means debate. It means having the opportunity. It means being able to play, using the baseball analogy, it means being able to play a full nine innings. But what does not help this House is when you go immediately from the opening ball to the ninth inning. That is what is happening in the unfunded mandates bill. That is my concern about what is happening with the important balanced

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

budget amendment and others. Let me explain.

As a member of the Committee on Government Reform and Oversight, which has the unfunded mandates bill, I had the chance to participate last week in an extraordinary process, a process by which the committee, which had not met previously, suddenly comes into session in its opening session, which is traditionally known as its organizing meeting, that is where you go through the amenities and announce who is on what committee, and then launched from the point into taking up the unfunded mandates bill without a hearing, without a hearing. That is right. A bill which is going to rewrite the relationship between Federal, State, and local governments and, indeed, in some cases the private sector was taken up without a hearing.

There was a hearing of sorts. The gentleman from the Republican side was permitted, who is not a member of the committee but is a sponsor of the bill, was permitted to address the committee for a number of minutes about the reasons he thought it was a good bill, describing what was in it. Our side was not permitted to ask questions. Our side was not permitted to offer its own witness, if such be the case, if that be a proper description of what the gentleman testifying was doing.

We were told it was not a hearing. But at the same time we could not bring our folks in. At that point then we asked about the, whether we would have the opportunity to ask questions throughout. We would, except then we learned subsequently every amendment was limited to 5 minutes for the proponents, 5 minutes for the opponents.

It did not stop there. As we were going through the bill, looking forward to offering some amendments at certain parts, certain sections, some of those sections were removed from our committee's jurisdiction. It probably was the most extraordinary procedure that I have seen.

I have great respect for the Chair of our committee, who is known on both sides of the aisle for being eminently fair. I have great respect for our committee, because our committee, I believe, in the past has worked on a bipartisan basis. I have been assured that this is not going to be the usual run of business. Yet it sets a very disturbing tone.

Could there not have been a hearing, 1 day? We have been several days now waiting to get this bill to the floor. We are going to be here until Thursday and then take the bill and the rule up Thursday, as I understand it, and begin the amendment process on Friday. Could there not have been a 1 day's delay so that there could have been a hearing so the proponents and opponents could have had their chance? One of things, for instance, that concerns me is what happens to coal mine safety

laws? I am told, "Don't worry, Bob, they won't be affected, particularly those that are passed before this bill becomes law." Well, perhaps.

What happens to occupational safety and health? What happens to regulation of banking industry and the financial industries? What happens to all of this important area?

So that is why I think it would have been wise and appropriate to at least hold a hearing. Balanced budget amendments will come up, amendments were cut off by 6 the previous, in the committee markup then. And so I hope and urge the Republican majority to recognize the importance of the procedure here.

We want to, we all want to play in this baseball game, but we want to make sure there are equal times at bat, equal opportunities to pitch, equal opportunities to fully participate in this game and that we do not run, go immediately from opening pitch to the ninth inning and then the game is called.

So if the American people are going to truly have faith in this process, and in this contract, which the majority has vowed to have voted on by the 100 days, then it must know that there has been a full process there.

As far as the unfunded mandates bill, I have no problem with requiring that there be an analysis of what the cost is to State and local governments. I have no problem with greater consideration being given to those issues. I have no problem with saying that Congress, before you pass something onto somebody else, every one ought to know how much it costs and be able to evaluate.

What I do have a problem with is where we have an opportunity to participate fully and to explore this bill.

RECESS

The SPEAKER pro tempore. There being no further requests for morning business, pursuant to clause 12, rule I, the House will stand in recess until 11 a.m.

Accordingly (at 9 o'clock and 43 minutes a.m.) the House stood in recess until 11 a.m.

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 11 a.m.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Our hearts are grateful, O loving God, that we are surrounded by others who support us in our worries, who celebrate with us in our victories, and whose presence is ever with us. At our

best moments we acknowledge that we do not walk alone or possess all the strengths or energy or courage to face the opportunities and the challenges of each day. With appreciation and with thanksgiving, we remember those whose lives are bound with ours and whose grace is ever with us. In Your name we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. The gentleman from Nebraska [Mr. CHRISTENSEN] will lead the House in the Pledge of Allegiance.

Mr. CHRISTENSEN led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

SELECTION OF MEMBERS OF COMMITTEE ON WAYS AND MEANS AS OFFICIAL ADVISERS TO VARIOUS U.S. DELEGATIONS RELATING TO TRADE AGREEMENTS

The SPEAKER. Pursuant to the provisions of section 161(a) of the Trade Act of 1974 (19 U.S.C. 2211) and upon the recommendation of the chairman of the Committee on Ways and Means, the Chair has selected the following members of that committee to be accredited by the President as official advisers to the U.S. delegations to international conferences, meetings, and negotiation sessions relating to trade agreements during the 1st session of the 104th Congress:

Mr. ARCHER of Texas;
Mr. CRANE of Illinois;
Mr. THOMAS of California;
Mr. GIBBONS of Florida; and
Mr. RANGEL of New York.

CONTRACT WITH AMERICA

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, our contract with America states, on the first day of Congress, a Republican House will: force Congress to live under the same laws as everyone else; cut one-third of committee staff, and cut the congressional budget.

We have done that.

In the next 87 days, we will vote on the following 10 items:

No. 1, a balanced budget amendment and line-item veto;

No. 2, a new crime bill to stop violent criminals;

No. 3, welfare reform to encourage work, not dependence;

No. 4, family reinforcement to crack down on deadbeat dads and protect our children;

No. 5, tax cuts for families to lift Government's burden from middle-income Americans and senior citizens too;

No. 6, national security restoration to protect our freedoms and our military chain of command;

No. 7, Senior Citizens' Equity Act to allow our seniors to work without Government penalties from their Government;

No. 8, Government regulation and unfunded mandate reforms;

No. 9, commonsense legal reform to end frivolous lawsuits that are costly, and

No. 10, congressional term limits to make Congress a citizen legislature.

This is our Contract with America. This will happen.

RUSSIAN AID

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the new \$64,000 question for Congress: Is Boris Yeltsin Russia's George Washington? Or is Boris Yeltsin just another Joseph Stalin? One thing is for sure, we have a national debt that is out of sight, a trade deficit that continues to grow. The American people are worried about losing their homes, losing their jobs, and we keep sending billions of dollars over to Russia and we keep wining and dining Boris Yeltsin.

Ladies and gentlemen, we turned our back when it was only 140 of the Old Guard he slaughtered. Now he is attacking citizens in Chechnya. I say one thing is very sure, we have very little money. If we have any, we should spend it in America. Even when we do, we call it pork. Well, if it is pork in America, let me tell you we are sending a prize-winning Porky the Pig over there in Russia. And if there is going to be freedom in Russia, the Russian people should die for it.

Think about it.

ANNOUNCEMENT REGARDING RULES COMMITTEE MEETINGS

(Mr. SOLOMON asked and was given permission to address the House for 1 minutes.)

Mr. SOLOMON. Mr. Speaker, I want to remind my colleagues that the Rules Committee will meet tomorrow at 11 a.m., to report an open rule for the consideration of H.R. 5, the Unfunded Mandate Reform Act of 1995.

The rule may include and this is why I rise today, to let Members know, a

provision giving priority in recognition to Members who have caused their amendments to be printed in the amendment section of the CONGRESSIONAL RECORD prior to their consideration—though this would not be mandatory.

General debate is scheduled for Thursday of this week on the floor, and the amendment process will begin on Friday, so Members wishing to have priority recognition should submit their amendments for printing in the RECORD no later than Thursday.

I would point out that it is not necessary to submit your amendments to the Rules Committee or to come up and testify, since we do plan on providing an open amendment process.

Members should use the Office of Legislative Counsel to ensure that their amendments are properly drafted to an amendment in the nature of a substitute, we will make in order the changes recommended by the committees of jurisdiction.

Mr. Speaker, I also would like to let the membership know that we intend to meet at 1 p.m. on Monday, January 23, to take testimony on a rule for the consideration of House Joint Resolution 1, which is the balanced budget constitutional amendment.

As I announced last Wednesday on the floor and through a "Dear Colleague" letter sent to all Members last week, the rule may include a provision permitting only the offering of amendments in the nature of a substitute by Members who have caused their amendments to be printed in the amendment section of the CONGRESSIONAL RECORD, and this is the important part, no later than this coming Friday, January 20.

Mr. Speaker, Members wishing to testify in support of their substitutes at next Monday's hearing should contact the Rules Committee at extension 5-9191 by Friday of this week.

Mrs. SCHROEDER. Mr. Speaker, will the gentleman yield for an inquiry?

Mr. SOLOMON. If I have the time I will be glad to yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Speaker, the only inquiry I have is that members of the Committee on the Judiciary were concerned because the committee did not have a 7-day notice before the markup, and had written the chairman of the Judiciary Committee asking him to reopen it because many amendments were not presented in the markup of that constitutional amendment.

My understanding is the Parliamentarian said we should have to deal with the 7-day notice. Will the Rules Committee delay the meeting on the rule until we have had the 7-day notice?

Mr. SOLOMON. I would say to the gentlewoman we could not do that. We are under a time constraint, as the gentlewoman knows, and since January 4 we have set the time schedule so

that Members developing alternatives in the nature of a substitute have had plenty of time. I for one am interested in that myself and we have been discussing it with Members on both sides of the aisle. I believe by this coming Friday, 3 weeks will have passed and we all will have had time to develop our alternatives if we have them. And we are going to consider all of those alternatives, as you know, up in the Rules Committee.

Mrs. SCHROEDER. If the gentleman will yield further, the issue was not that per se, but that the Committee on the Judiciary, which marked up the constitutional amendment, did not get 7 days' notice as of the markup, which under the rules of the House is required, and we did not get to deal with the issues that go right to the core of that balanced budget amendment; Judicial review and standing. Those to me go right to the core of whether it works or not. So that is our issue.

Should not the committee finish that, because we will not know what kind of substitutes?

The SPEAKER. The Chair recognized the gentleman from New York for 1 minute. This is not debate time beyond that.

Mr. SOLOMON. I thank the Speaker. We cannot take up more of the time. I will tell the gentlewoman I will be glad to discuss it with the chairman and ranking member of the committee. I believe the 7 days' time has been ample, but we will discuss it with them. And I thank the gentlewoman for her inquiry.

□ 1110

PROTECT SOCIAL SECURITY

(Ms. FURSE asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. FURSE. Mr. Speaker, the Republican leadership has repeatedly said that when it came to cutting spending, everything was on the table except Social Security, and I agree wholeheartedly.

But now I find, to my dismay, that the Contract With America's balanced budget amendment does exactly the opposite. It leaves Social Security wide open to raiding. In addition, last week the Republicans voted down a proposal to show America exactly how they are going to balance the budget. They also rejected a proposal to apply the unfunded mandates bill to the Contract With America.

I think we should be honest with the American people. I think we should support honesty in budgeting and support a balanced budget amendment which protects Social Security.

The people who elected us have only our word to rely on. That is the real contract with our constituents.

URGING PASSAGE OF BALANCED BUDGET AMENDMENT WITH THREE-FIFTHS PROVISION

(Mr. CHRISTENSEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHRISTENSEN. Mr. Speaker, on November 8, the American people sent Washington a message that the Federal Government is too big, too powerful, and spends too much money.

That is why they overwhelmingly support a balanced budget amendment.

But not just any amendment.

The American people want an amendment that makes it more difficult to raise taxes and forces Congress to make tough spending decisions.

That is why it is imperative that the balanced budget amendment include strong taxpayer protection.

The three-fifths provision does just that.

It requires not just a simple majority, but a three-fifths supermajority to raise taxes.

If we do not ensure the inclusion of the three-fifths provision in a balanced budget amendment, then we are giving this body license to continue its cycle of wasteful spending and irresponsible tax increases.

Mr. Speaker, I want the Government's license revoked.

We must empower people, not Government. Passage of the balanced budget amendment with the three-fifths provision is the first step in the right direction.

THE PLOT THICKENS

(Mr. MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of California. Mr. Speaker and Members of the House, the plot surrounding our Speaker's book deal continues to thicken.

We find that while the Contract With America is committed to open meetings that the Speaker is, in fact, committed to a series of closed meetings; first, the closed meetings between he and Rupert Murdoch at which \$4.5 million is on the table and the future of telecommunications policy and foreign ownership of our airwaves is also on the table, a meeting the Speaker said never took place, and now there are four or five versions of what took place at that meeting.

Now we see that the Republican leadership is now committed to a closed meeting between the heads of the telecommunications corporations in this country and the Republican membership, no cameras, no press, no Democrats, no balance, but to privately have a meeting because it is only in private that they could have an honest discussion about the future of America's airwaves and multi-billion-dollar decisions for the consumers.

Somehow the Contract With America's commitment to open meetings rings a little hollow when the real meetings are held in private and in violation of House rules. The plot thickens.

THE AMERICAN PEOPLE WANT A BALANCED BUDGET

(Mr. HAYWORTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYWORTH. Mr. Speaker, 81 percent of Americans support a balanced budget amendment, but a few folks are trying to put on the brakes. They say they will not support a balanced budget amendment unless they know exactly how we are going to pay for it.

Mr. Speaker, when President Kennedy stood at this podium behind me here and said we needed to put a man on the Moon, Americans did not demand at the outset to know the type of launching pad or rocket that was going to be used. We set the goal first; then methods for achieving that goal evolved.

The truth is some in this Chamber do not want Congress to balance the budget and have to live with the same kind of fiscal discipline that every family in America experiences every day. They want to continue runaway spending while our constituents are balancing their checkbooks and working hard to make ends meet.

The American people have told us with a resounding voice they want us to balance the budget. For the sake of all our children, let us provide the leadership once and for all to solve this problem.

Where there is a will, there is a way. We will find a way to balance the budget. What we need is the will now to honor our Contract With America.

TIME FOR FULL DISCLOSURE OF BOOK DEAL

(Mr. DURBIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DURBIN. Mr. Speaker, this morning's Wall Street Journal discloses that the conservative Heritage Foundation is holding a closed-door, Republicans-only meeting to discuss changes in Federal telecommunications policy, changes involving billions of dollars.

The list of participants include Chairman Rupert Murdoch, owner of the same publishing company that has offered the Speaker a multimillion-dollar book contract.

Mr. Speaker, this closed-door meeting and the special interests attending it make it clear why your multimillion-dollar book deal is an issue

which will not go away. It is time for at least full disclosure of your book deal, and as painful as it may be, it is time to realize good government may require you, Mr. Speaker, to end this book deal once and for all.

TAKING OUR STREETS BACK ACT OF 1995

(Mr. BARR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARR. Mr. Speaker, the House Committee on the Judiciary Subcommittee on Crime is scheduled to conduct hearings on the Taking Our Streets Back Act of 1995 later this week.

This bill, of which I am proud to be an original sponsor, is a crucial first step in restoring the right of the American people to be secure in their person and property. I say the first step because this bill cannot remedy all of the shortcomings now existing in Federal anticrime programs. A number of initiatives will be required, because unfortunately the Federal role in crime prevention has suffered misdirection by this body for decades. The most recent example is last year's crime bill which attained new heights in wasteful pork-barrel spending and social spending programs.

Crime is not reduced by expanding bureaucracies. Our first priority must be to remove the violent criminals so that we can reclaim our communities.

In the days ahead I will detail how our new bill delivers on the promise to reduce crime my colleagues and I pledged as part of the Contract With America.

WHAT IS GOING ON?

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, the stories surrounding the meeting between Speaker GINGRICH and Rupert Murdoch have turned into a political chameleon, changing its colors with each new cycle.

First, the Speaker's office could not recall the meeting. Then the Gingrich spokesman said nothing serious was discussed at the meeting, and it was merely a courtesy call. The following day, the account of the meeting changed again. The Speaker said he and Murdoch discussed the FEC complaint against Murdoch's ownership of Fox television, but that it only came up in passing. Now we learn that Fox Television's top lobbyist was in the meeting.

It is time for the Speaker to come clean on his multi-million-dollar book deal and his secret meeting with Mr. Murdoch.

We were promised open government and not closed-door deals. The Wall Street Journal said this morning there was another closed-door meeting this week with Mr. Murdoch and telecommunications leaders that is planned.

What is going on? The Speaker needs to come clean. We need an outside counsel to review this mess.

CHANGING THE SUBJECT

(Mr. JONES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JONES. Mr. Speaker, in last November's election, the American people decided to change the direction of the Federal Government. The people decided they wanted to pay less taxes. The people wanted fewer Federal mandates. The people wanted less government.

The American people want to change the Congress. House Democrats want to change the subject. Rather than join with Republicans in passing the Contract With America, Democrats are trying to sabotage the process. Rather than arguing about policy, Democrats talk about GOPAC. Rather than embracing the balanced-budget amendment, some Democrats find excuses to vote against it.

Mr. Speaker, this is sad. When it comes to reform, House Democrats would rather change the subject than change the Congress.

HOW ABOUT LOAN GUARANTEES FOR WEST VIRGINIA?

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

Mr. WISE. Mr. Speaker, I want to rise and challenge the loan guarantee program that is going to get rammed through this House probably this week. It started out a couple of weeks ago as a \$9 billion loan guarantee program as the Mexican peso was devalued. Then it rose to \$18 billion, then \$25 billion, and the last I saw in the newspaper, \$40 billion loan guarantee program.

As I traveled the Second District of West Virginia this weekend, I ran into questions. In Calhoun County, for instance, where they are running short of money for the Arnoldsburg sewer project, why can we not have a loan guarantee program that will help that project? What about the eastern panhandle homebuilders I met with? When the farmers' home money has run out, hundreds of homebuilders are sitting there without homes they are able to finance. How about a loan guarantee program for them?

How about central West Virginia as we try to renovate the Western State Hospital? That could use a loan guarantee program. Or in the Kanawha Val-

ley as we try to move ahead in economic development and some threatened extinction of the Economic Development Administration that creates jobs; how about a loan guarantee program for that?

Forty billion dollars is a large guarantee.

□ 1120

WE NEED A BALANCED-BUDGET AMENDMENT

(Mrs. SMITH of Washington asked and was given permission to address the House for 1 minute.)

Mrs. SMITH of Washington. Mr. Speaker, the honor of serving the people of Washington's Third District sometimes makes it difficult to spend enough time at home with my family. So I usually devote Sundays for that purpose to spend time with my kids and grandkids. I did, however, come back to a transcript on my desk waiting for me that was rather disturbing. It was a transcript of NBC's "Meet the Press" from Sunday. I was disappointed to read that Secretary Reich's comments said the President is against simply balancing the budget.

I went on to read because I thought he cannot, certainly, be saying that, not after he said that he supported it. But he went on to say the goal of a balanced budget is not my goal.

Well, Mr. Speaker, the balanced-budget amendment may be the most important measure that this Congress brings up this session, not because the American people said it, not because the Republicans made it their top goal, but because it is the most important thing we can do for our children and grandchildren.

I spent the day with my grandchildren this Sunday, and it is very clear that if I am not going to hand them a debt, I have to get busy right now and take action.

WE ARE THE TRUSTEES OF THE PUBLIC AIRWAVES

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, Americans all know that when they hear a fox is guarding the chicken house, they should be very concerned. They soon are going to know that when a different kind of fox comes with their lobbyists to meet with the Speaker, they ought to also be concerned because the airwaves are supposed to be public. We now are learning more and more about Mr. Murdoch's meeting with his lobbyist, Mr. Murdoch representing the Fox Broadcasting Network, and how he is trying to get different privileges versus NBC, all of which are supposed to be on the public

airwaves, which, of course, we are supposed to be trustees of. All that going on with the little book deal on the side.

I think we need to get the cloud out of this Chamber that that has caused. We need to get it to a special prosecutor. We need to get on with it. And we really need to bring back the faith the American people have here that this is not a coin-operated legislative machine, that people can come as citizens and bring their petitions and that we truly are going to be the trustees of the public airwaves.

HOW THE AMERICAN PEOPLE BALANCE THEIR BUDGET

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

Mr. SCARBOROUGH. Mr. Speaker, we have a new Congress that is moving forward with true reforms, with great changes for this country, for the 21st century.

Yet all we hear from some obstructionists are stories about foxes guarding chicken houses, about GOPAC, about making up imaginary Nazi historians and anything else to distract the American voters from the simple truth that we are moving forward with true reform.

Not only do they cause a disservice to this country but they also cause a disservice to the entire body and prevent us from answering the simple question that they have continually asked time and time again: How do we balance the budget?

Well, we do not do it by demagogery and stories about foxes and hounds and chicken houses and Nazi historians. We do it by sticking to the facts and getting to go to work and doing what needed to be done for the past 40 years while the Democrats held the checkbook. We do it the way the middle-class American family does it, by only spending what we have.

BALANCED BUDGET AMENDMENT NOT A GOAL OF THE CLINTON ADMINISTRATION

(Mrs. CHENOWETH asked and was given permission to address the House for 1 minute.)

Mrs. CHENOWETH. Mr. Speaker, this weekend the Secretary of Labor did state, as we heard on national TV, that balancing the budget is not a goal of the Clinton administration. And you and I both know that without the authority of the President, the Secretary would not have said that nor reflected that view. At a time when every single hardworking American is calling on the Federal Government to get its act together and balance the budget, the Clinton administration is saying, "No, we won't." At a time when every hardworking American family is demanding that Government balance their budgets

just like they have to balance their checkbook, the Clinton administration is saying, "No, we won't." At a time when the American people are demanding that the bitter defenders of the old order change their ways and support the concept of balancing the Federal budget, the Clinton administration is saying, "No, we won't."

Mr. Speaker, I stand here today and I say, "Yes, we will." I have heard the people's message as have you, loud and clear, and they want a smaller, smarter Government that costs less and is less intrusive in their lives.

PREVIOUS PRESIDENTS COULD HAVE STOPPED SPENDING IN ITS TRACKS

(Mr. HOYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOYER. Mr. Speaker, I had not intended to give a 1-minute, but I hear this carping about the balanced budget amendment. Twelve out of the last 14 years, we have had a Republican President. Not once, not once did any one of those Republican Presidents submit a balanced budget to the Congress of the United States, not once.

Second, one person, from 1982 to 1989, could have stopped spending in its tracks: Ronald Reagan.

And from 1989 to January 1993, one person, one person, one person could have stopped spending in its tracks: George Bush.

We went from a budget deficit of \$945 billion in 1980 to a budget deficit of \$4.5 trillion, 12 years into Republican leadership of the country.

CONGRESS HAS AUTHORITY FOR SPENDING THE MONEY

(Mr. CHAMBLISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHAMBLISS. Mr. Speaker, I came here with a 1-minute speech on unfunded mandates, but as I just listened to my colleague from the other side of the aisle, I cannot help but ask one question. That is: How much money can the President of the United States spend? The Congress of the United States has authority for spending money.

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. CHAMBLISS. No, I will not.

THE AMERICAN PEOPLE WANT A BALANCED BUDGET AMENDMENT

(Mr. WELDON of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELDON of Florida. Mr. Speaker, I too rise to speak on the issue of

the recent quote from our Secretary of Labor, where he said the President is against simply balancing the budget. I believe the American people have clearly spoken this year that they really want serious action, and the fact that they have elected, for the first time in 40 years, a Republican House of Representatives, they are expecting and demanding serious action be taken on this issue of a deficit.

People are concerned; they are concerned about the future for themselves, for their children and their grandchildren. To hear our Secretary of Labor stating that the goal of the balanced budget "is not my goal," and the President is against simply balancing the budget, Mr. Speaker, I believe is a grave disappointment, and the American people need to speak to our President, they need to speak to our Secretary of Labor so that they get the message.

The people want the budget balanced.

WE NEED TO MAKE TOUGH CHOICES TO BALANCE OUR BUDGET

(Mr. GRAHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GRAHAM. Mr. Speaker, I too rise to speak on an important topic to everybody in this Nation; that is, the balanced budget amendment.

I will comment on what my colleague across the aisle said. If you want to blame people, that is fine, there is plenty of blame to go around. The only thing the balanced budget threatens is politicians' ability to spend money beyond their means. We simply cannot write bad checks up here and get away with it.

If you want to stop that at home, let people know that you want a bad check from the Congress, and that would be the only one I know who is against a balanced budget amendment.

When we do that, and I hope we do, we have to make some hard choices. The National Corporation for Public Broadcasting, PBS, and the National Endowment for the Arts are things that mean a lot to me personally. But when it comes time to balance the budget, we are going to have to say "no" to groups of people we have never said "no" to before.

That is what you do every day at home, you have to do things that you have to do within your budget constraints; you have to say "no" to yourself. That is a new and novel idea up here, to say "no."

But let the great debate begin, once the balanced budget amendment passes, I hope we will have the courage to say "no," even to worthwhile projects.

□ 1130

PROVIDING FOR LUMP SUM PAYMENT FOR ACCRUED ANNUAL LEAVE TO ELIGIBLE FORMER EMPLOYEES OF THE HOUSE OF REPRESENTATIVES

Mr. THOMAS. Mr. Speaker, I ask unanimous consent that the Committee on House Oversight be discharged from further consideration of the resolution (H. Res. 35) providing for payment of a lump sum for accrued annual leave to eligible former employees of the House of Representatives, and ask for its immediate consideration in the House.

The Clerk read the title of the resolution.

The SPEAKER pro tempore (Mr. DREIER). Is there objection to the request of the gentleman from California?

Mr. HOYER. Mr. Speaker, reserving the right to object, under my reservation, I will be glad to yield to the gentleman from California [Mr. THOMAS], the chairman of the Committee on House Oversight, for the purpose of explaining the objectives of this legislation.

Mr. THOMAS. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from California.

Mr. THOMAS. Mr. Speaker, I thank the gentleman from Maryland [Mr. HOYER] for yielding, and I would tell my colleague that the House Republican transition team has developed a plan for wholesale restructuring of the administration of the House officer. As the gentleman knows, the restructuring involves the transfers of various functions of the new House officers with clear probability of consolidation, reclassification and, to a certain extent, elimination of positions that are under the Committee on House Oversight's jurisdiction.

House rules adopted on opening day, January 4, 1995, require that committee staff be reduced by one-third from corresponding levels in the 103d Congress. In addition to that, three committees have been eliminated. Because of this the Speaker has publicly announced his intention to provide a mechanism for the payment of accrued leave for up to 30 days for departing committee and administrative support employees. Currently there is no provision in House rules, or in public law, for the lump sum payment of accrued leave, and on January 11, 1995, as the gentleman well knows, the Committee on House Oversight passed a motion to instruct the chairman of the committee to introduce this particular resolution that is in front of us.

The resolution that we are looking at, House Resolution 35, authorizes compensation to departing committee and administrative support employees in the form of a lump sum payment for

any accrued leave, up to a maximum of 30 days, as certified by their committee chairmen or the relevant employing authority. It also allows Members, not just committees, but Members, in this Congress to compensate any departing personal office staff for any annual leave accrued under each Member's office policy. Any employee who is rehired in the legislative branch within 30 days will not receive that accrued leave payment since there was a simple interruption of employment rather than termination.

Accrued leave compensation for departing committee staff will be paid out of the appropriate House account. Compensation for departing Member office employees will be paid from the Member's 1995 clerk hire account. Compensation for departing administrative support employees will be paid from funds already appropriated for the relevant employing authority for fiscal year 1995 operations. Further, any committee or administrative support employee who is terminated prior to July 1, 1995, as a result of the continuing restructuring will also be entitled to compensation under this resolution for accrued leave up to 30 days.

I will also tell the gentleman that there is an amendment at the desk, which I will offer at the appropriate time, which makes a date change in the resolution from January 3, 1995, which was the date in the motion that passed the committee, to December 31, 1994. It was not the intent of the committee to exclude from eligibility for accrued leave payments those employees who may have been taken off the payroll between December 31 and January 3, and so the amendment simply backs up the time from January 3 to include December 31, January 1, and January 2.

Mr. HOYER. Mr. Speaker, further reserving the right to object, I want to congratulate the chairman of the Committee on House Oversight for bringing this legislation forward. There have been a lot of discussions. We have a lot of individuals who, as a result of the changeover in terms of the Republican leadership of the House of Representatives, there has been a substantial change of personnel. This policy was very important, in my opinion, and shared on this side of the aisle, and shared, I think, in a bipartisan fashion to treat those departing employees fairly so that in, at minimum, they received consideration for the annual leave they had accrued during the course of their service for the Congress and for individual Members, and I congratulate the gentleman from California [Mr. THOMAS] for his leadership in this effort in a bipartisan fashion.

We have adopted this; it is a good policy.

Mr. THOMAS. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from California.

Mr. THOMAS. Mr. Speaker, I thank the gentleman from Maryland [Mr. HOYER] for yielding, and I do want to underscore the fact that, as the gentleman knows, and he was very cooperative in moving this forward, we have actually extended this policy beyond the specific discussion of those committee and administrative personnel who were leaving to make sure that the Members' personnel offices were treated in a similar fashion. Since there is no policy on the books, this is a policy which will now be established which I do believe is useful, not only in the transition, but in the professional handling of staff which will be further seen in the bill on accountability to come up just after this, and I thank the gentleman.

Mr. HOYER. Mr. Speaker, further reserving the right to object, I understand the gentleman has no further speakers on this issue. If that is the case, I will withdraw my reservation of objection.

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

The Clerk read the resolution, as follows:

H. RES. 35

Resolved,

SECTION 1. LUMP-SUM PAYMENT FOR ACCRUED ANNUAL LEAVE.

(a) IN GENERAL.—An eligible employee of the House of Representatives—

(1) who is separated from employment involuntarily;

(2) whose last day of employment is during the period beginning on January 3, 1995, and ending on June 30, 1995; and

(3) who is not reemployed by the House of Representatives, the Senate, or an agency of the legislative branch within 30 days after such last day of employment;

shall be paid a lump sum for the accrued annual leave of the employee.

(b) PAYMENT.—The lump sum—

(1) shall be paid, as certified under subsection (c), in an amount equal to the value of the total accrued annual leave of the employee or the value of 30 days of accrued annual leave of the employee, whichever is less;

(2) shall be paid—

(A) for clerk hire employees, from the clerk hire allowance of the Member for calendar year 1995;

(B) for committee employees, from amounts appropriated for committees; and

(C) for other employees, from amounts appropriated to the employing authority for fiscal year 1995; and

(3) shall be computed using the rate of pay in effect with respect to the employee on the last day of employment of the employee.

(c) CERTIFICATION.—For purposes of this resolution, accrued annual leave of an employee shall be certified by the appropriate employing authority—

(1) as of December 31, 1994, in the case of an employee whose last day of employment is January 3, 1995; and

(2) as of the last day of employment of the employee, in the case of an employee whose

last day of employment is after January 3, 1995, and before July 1, 1995.

SEC. 2. REGULATIONS.

The Committee on House Oversight shall have authority to prescribe regulations to carry out this resolution.

SEC. 3. DEFINITIONS.

As used in this resolution—

(1) the term "eligible employee" means, with respect to the House of Representatives, an employee whose pay is disbursed by the Clerk of the House of Representatives or the Chief Administrative Officer of the House of Representatives, as applicable, except that such term does not include—

(A) an employee under the clerk hire allowance whose appointing Member is not a Member of the House of Representatives in the One Hundred Fourth Congress; or

(B) a uniformed or civilian support employee under the Capitol Police Board; and

(2) The term "agency of the legislative branch" means the Office of the Architect of the Capitol, the Botanic Garden, the General Accounting Office, the Government Printing Office, the Library of Congress, the Office of Technology Assessment, and the Congressional Budget Office.

AMENDMENT OFFERED BY MR. THOMAS

Mr. THOMAS. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. THOMAS: Page 1, line 9, strike out "January 3, 1995" and insert in lieu thereof "December 31, 1994".

Page 3, beginning on line 5, strike out "January 3, 1995" and insert in lieu thereof "December 31, 1994, or January 1, 2, or 3, 1995".

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from California [Mr. THOMAS].

The amendment was agreed to.

The resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on the motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall vote, if postponed, will be taken after debate has concluded on the motion to suspend the rules, but not before 5 p.m. today.

CONGRESSIONAL ACCOUNTABILITY ACT OF 1995

Mr. THOMAS. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2) to make certain laws applicable to the legislative branch of the Federal Government.

The Clerk read as follows:

S. 2

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

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the "Congressional Accountability Act of 1995".

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.

TITLE I—GENERAL

Sec. 101. Definitions.

Sec. 102. Application of laws.

TITLE II—EXTENSION OF RIGHTS AND PROTECTIONS**PART A—EMPLOYMENT DISCRIMINATION, FAMILY AND MEDICAL LEAVE, FAIR LABOR STANDARDS, EMPLOYEE POLYGRAPH PROTECTION, WORKER ADJUSTMENT AND RETRAINING, EMPLOYMENT AND REEMPLOYMENT OF VETERANS, AND INTIMIDATION**

Sec. 201. Rights and protections under title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the Rehabilitation Act of 1973, and title I of the Americans With Disabilities Act of 1990.

Sec. 202. Rights and protections under the Family and Medical Leave Act of 1993.

Sec. 203. Rights and protections under the Fair Labor Standards Act of 1938.

Sec. 204. Rights and protections under the Employee Polygraph Protection Act of 1988.

Sec. 205. Rights and protections under the Worker Adjustment and Retraining Notification Act.

Sec. 206. Rights and protections relating to veterans' employment and reemployment.

Sec. 207. Prohibition of intimidation or reprisal.

PART B—PUBLIC SERVICES AND ACCOMMODATIONS UNDER THE AMERICANS WITH DISABILITIES ACT OF 1990

Sec. 210. Rights and protections under the Americans with Disabilities Act of 1990 relating to public services and accommodations; procedures for remedy of violations.

PART C—OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

Sec. 215. Rights and protections under the Occupational Safety and Health Act of 1970; procedures for remedy of violations.

PART D—LABOR-MANAGEMENT RELATIONS

Sec. 220. Application of chapter 71 of title 5, United States Code, relating to Federal service labor-management relations; procedures for remedy of violations.

PART E—GENERAL

Sec. 225. Generally applicable remedies and limitations.

PART F—STUDY

Sec. 230. Study and recommendations regarding General Accounting Office, Government Printing Office, and Library of Congress.

TITLE III—OFFICE OF COMPLIANCE

Sec. 301. Establishment of Office of Compliance.

Sec. 302. Officers, staff, and other personnel.

Sec. 303. Procedural rules.

Sec. 304. Substantive regulations.

Sec. 305. Expenses.

TITLE IV—ADMINISTRATIVE AND JUDICIAL DISPUTE-RESOLUTION PROCEDURES

Sec. 401. Procedure for consideration of alleged violations.

Sec. 402. Counseling.

Sec. 403. Mediation.

Sec. 404. Election of proceeding.

Sec. 405. Complaint and hearing.

Sec. 406. Appeal to the Board.

Sec. 407. Judicial review of Board decisions and enforcement.

Sec. 408. Civil action.

Sec. 409. Judicial review of regulations.

Sec. 410. Other judicial review prohibited.

Sec. 411. Effect of failure to issue regulations.

Sec. 412. Expedited review of certain appeals.

Sec. 413. Privileges and immunities.

Sec. 414. Settlement of complaints.

Sec. 415. Payments.

Sec. 416. Confidentiality.

TITLE V—MISCELLANEOUS PROVISIONS

Sec. 501. Exercise of rulemaking powers.

Sec. 502. Political affiliation and place of residence.

Sec. 503. Nondiscrimination rules of the House and Senate.

Sec. 504. Technical and conforming amendments.

Sec. 505. Judicial branch coverage study.

Sec. 506. Savings provisions.

Sec. 507. Use of frequent flyer miles.

Sec. 508. Sense of Senate regarding adoption of simplified and streamlined acquisition procedures for Senate acquisitions.

Sec. 509. Severability.

TITLE I—GENERAL**SEC. 101. DEFINITIONS.**

Except as otherwise specifically provided in this Act, as used in this Act:

(1) **BOARD.**—The term "Board" means the Board of Directors of the Office of Compliance.

(2) **CHAIR.**—The term "Chair" means the Chair of the Board of Directors of the Office of Compliance.

(3) **COVERED EMPLOYEE.**—The term "covered employee" means any employee of—

- (A) the House of Representatives;
- (B) the Senate;
- (C) the Capitol Guide Service;
- (D) the Capitol Police;
- (E) the Congressional Budget Office;
- (F) the Office of the Architect of the Capitol;
- (G) the Office of the Attending Physician;
- (H) the Office of Compliance; or
- (I) the Office of Technology Assessment.

(4) **EMPLOYEE.**—The term "employee" includes an applicant for employment and a former employee.

(5) **EMPLOYEE OF THE OFFICE OF THE ARCHITECT OF THE CAPITOL.**—The term "employee of the Office of the Architect of the Capitol" includes any employee of the Office of the Architect of the Capitol, the Botanic Garden, or the Senate Restaurants.

(6) **EMPLOYEE OF THE CAPITOL POLICE.**—The term "employee of the Capitol Police" includes any member or officer of the Capitol Police.

(7) **EMPLOYEE OF THE HOUSE OF REPRESENTATIVES.**—The term "employee of the House of Representatives" includes an individual occupying a position the pay for which is disbursed by the Clerk of the House of Representatives, or another official designated by the House of Representatives, or any employment position in an entity that is paid with funds derived from the clerk-hire allow-

ance of the House of Representatives but not any such individual employed by any entity listed in subparagraphs (C) through (I) of paragraph (3).

(8) **EMPLOYEE OF THE SENATE.**—The term "employee of the Senate" includes any employee whose pay is disbursed by the Secretary of the Senate, but not any such individual employed by any entity listed in subparagraphs (C) through (I) of paragraph (3).

(9) **EMPLOYING OFFICE.**—The term "employing office" means—

(A) the personal office of a Member of the House of Representatives or of a Senator;

(B) a committee of the House of Representatives or the Senate or a joint committee;

(C) any other office headed by a person with the final authority to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an employee of the House of Representatives or the Senate; or

(D) the Capitol Guide Board, the Capitol Police Board, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, the Office of Compliance, and the Office of Technology Assessment.

(10) **EXECUTIVE DIRECTOR.**—The term "Executive Director" means the Executive Director of the Office of Compliance.

(11) **GENERAL COUNSEL.**—The term "General Counsel" means the General Counsel of the Office of Compliance.

(12) **OFFICE.**—The term "Office" means the Office of Compliance.

SEC. 102. APPLICATION OF LAWS.

(a) **LAWS MADE APPLICABLE.**—The following laws shall apply, as prescribed by this Act, to the legislative branch of the Federal Government:

(1) The Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.).

(2) Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.).

(3) The Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

(4) The Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.).

(5) The Family and Medical Leave Act of 1993 (29 U.S.C. 2611 et seq.).

(6) The Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

(7) Chapter 71 (relating to Federal service labor-management relations) of title 5, United States Code.

(8) The Employee Polygraph Protection Act of 1988 (29 U.S.C. 2001 et seq.).

(9) The Worker Adjustment and Retraining Notification Act (29 U.S.C. 2101 et seq.).

(10) The Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.).

(11) Chapter 43 (relating to veterans' employment and reemployment) of title 38, United States Code.

(b) **LAWS WHICH MAY BE MADE APPLICABLE.**—

(1) **IN GENERAL.**—The Board shall review provisions of Federal law (including regulations) relating to (A) the terms and conditions of employment (including hiring, promotion, demotion, termination, salary, wages, overtime compensation, benefits, work assignments or reassignments, grievance and disciplinary procedures, protection from discrimination in personnel actions, occupational health and safety, and family and medical and other leave) of employees, and (B) access to public services and accommodations.

(2) **BOARD REPORT.**—Beginning on December 31, 1996, and every 2 years thereafter, the Board shall report on (A) whether or to what degree the provisions described in paragraph

(1) are applicable or inapplicable to the legislative branch, and (B) with respect to provisions inapplicable to the legislative branch, whether such provisions should be made applicable to the legislative branch. The presiding officers of the House of Representatives and the Senate shall cause each such report to be printed in the Congressional Record and each such report shall be referred to the committees of the House of Representatives and the Senate with jurisdiction.

(3) REPORTS OF CONGRESSIONAL COMMITTEES.—Each report accompanying any bill or joint resolution relating to terms and conditions of employment or access to public services or accommodations reported by a committee of the House of Representatives or the Senate shall—

(A) describe the manner in which the provisions of the bill or joint resolution apply to the legislative branch; or

(B) in the case of a provision not applicable to the legislative branch, include a statement of the reasons the provision does not apply.

On the objection of any Member, it shall not be in order for the Senate or the House of Representatives to consider any such bill or joint resolution if the report of the committee on such bill or joint resolution does not comply with the provisions of this paragraph. This paragraph may be waived in either House by majority vote of that House.

TITLE II—EXTENSION OF RIGHTS AND PROTECTIONS

PART A—EMPLOYMENT DISCRIMINATION, FAMILY AND MEDICAL LEAVE, FAIR LABOR STANDARDS, EMPLOYEE POLYGRAPH PROTECTION, WORKER ADJUSTMENT AND RETRAINING, EMPLOYMENT AND REEMPLOYMENT OF VETERANS, AND INTIMIDATION

SEC. 201. RIGHTS AND PROTECTIONS UNDER TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, THE AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967, THE REHABILITATION ACT OF 1973, AND TITLE I OF THE AMERICANS WITH DISABILITIES ACT OF 1990.

(a) DISCRIMINATORY PRACTICES PROHIBITED.—All personnel actions affecting covered employees shall be made free from any discrimination based on—

(1) race, color, religion, sex, or national origin, within the meaning of section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2);

(2) age, within the meaning of section 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a); or

(3) disability, within the meaning of section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791) and sections 102 through 104 of the Americans With Disabilities Act of 1990 (42 U.S.C. 12112-12114).

(b) REMEDY.—

(1) CIVIL RIGHTS.—The remedy for a violation of subsection (a)(1) shall be—

(A) such remedy as would be appropriate if awarded under section 706(g) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(g)); and

(B) such compensatory damages as would be appropriate if awarded under section 1977 of the Revised Statutes (42 U.S.C. 1981), or as would be appropriate if awarded under sections 1977A(a)(1), 1977A(b)(2), and, irrespective of the size of the employing office, 1977A(b)(3)(D) of the Revised Statutes (42 U.S.C. 1981a(a)(1), 1981a(b)(2), and 1981a(b)(3)(D)).

(2) AGE DISCRIMINATION.—The remedy for a violation of subsection (a)(2) shall be—

(A) such remedy as would be appropriate if awarded under section 15(c) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a(c)); and

(B) such liquidated damages as would be appropriate if awarded under section 7(b) of such Act (29 U.S.C. 626(b)).

In addition, the waiver provisions of section 7(f) of such Act (29 U.S.C. 626(f)) shall apply to covered employees.

(3) DISABILITIES DISCRIMINATION.—The remedy for a violation of subsection (a)(3) shall be—

(A) such remedy as would be appropriate if awarded under section 505(a)(1) of the Rehabilitation Act of 1973 (29 U.S.C. 794a(a)(1)) or section 107(a) of the Americans With Disabilities Act of 1990 (42 U.S.C. 12117(a)); and

(B) such compensatory damages as would be appropriate if awarded under sections 1977A(a)(2), 1977A(a)(3), 1977A(b)(2), and, irrespective of the size of the employing office, 1977A(b)(3)(D) of the Revised Statutes (42 U.S.C. 1981a(a)(2), 1981a(a)(3), 1981a(b)(2), and 1981a(b)(3)(D)).

(c) APPLICATION TO GENERAL ACCOUNTING OFFICE, GOVERNMENT PRINTING OFFICE, AND LIBRARY OF CONGRESS.—

(1) SECTION 717 OF THE CIVIL RIGHTS ACT OF 1964.—Section 717(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16) is amended by—

(A) striking “legislative and”;

(B) striking “branches” and inserting “branch”; and

(C) inserting “Government Printing Office, the General Accounting Office, and the” after “and in the”.

(2) SECTION 15 OF THE AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967.—Section 15(a) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a(a)) is amended by—

(A) striking “legislative and”;

(B) striking “branches” and inserting “branch”; and

(C) inserting “Government Printing Office, the General Accounting Office, and the” after “and in the”.

(3) SECTION 509 OF THE AMERICANS WITH DISABILITIES ACT OF 1990.—Section 509 of the Americans With Disabilities Act of 1990 (42 U.S.C. 12209) is amended—

(A) by striking subsections (a) and (b) of section 509;

(B) in subsection (c), by striking “(c) INSTRUMENTALITIES OF CONGRESS.—” and inserting “The General Accounting Office, the Government Printing Office, and the Library of Congress shall be covered as follows.”;

(C) by striking the second sentence of paragraph (2);

(D) in paragraph (4), by striking “the instrumentalities of the Congress include” and inserting “the term ‘instrumentality of the Congress’ means”, by striking “the Architect of the Capitol, the Congressional Budget Office”, by inserting “and” before “the Library”, and by striking “the Office of Technology Assessment, and the United States Botanic Garden”;

(E) by redesignating paragraph (5) as paragraph (7) and by inserting after paragraph (4) the following new paragraph:

“(5) ENFORCEMENT OF EMPLOYMENT RIGHTS.—The remedies and procedures set forth in section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16) shall be available to any employee of an instrumentality of the Congress who alleges a violation of the rights and protections under sections 102 through 104 of this Act that are made applicable by this section, except that the authorities of the Equal Employment Opportunity Commission shall be exercised by the chief official of the instrumentality of the Congress.”; and

(F) by amending the title of the section to read “INSTRUMENTALITIES OF THE CONGRESS”.

(d) EFFECTIVE DATE.—This section shall take effect 1 year after the date of the enactment of this Act.

SEC. 202. RIGHTS AND PROTECTIONS UNDER THE FAMILY AND MEDICAL LEAVE ACT OF 1993.

(a) FAMILY AND MEDICAL LEAVE RIGHTS AND PROTECTIONS PROVIDED.—

(1) IN GENERAL.—The rights and protections established by sections 101 through 105 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611 through 2615) shall apply to covered employees.

(2) DEFINITION.—For purposes of the application described in paragraph (1)—

(A) the term “employer” as used in the Family and Medical Leave Act of 1993 means any employing office, and

(B) the term “eligible employee” as used in the Family and Medical Leave Act of 1993 means a covered employee who has been employed in any employing office for 12 months and for at least 1,250 hours of employment during the previous 12 months.

(b) REMEDY.—The remedy for a violation of subsection (a) shall be such remedy, including liquidated damages, as would be appropriate if awarded under paragraph (1) of section 107(a) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2617(a)(1)).

(c) APPLICATION TO GENERAL ACCOUNTING OFFICE AND LIBRARY OF CONGRESS.—

(1) AMENDMENTS TO THE FAMILY AND MEDICAL LEAVE ACT OF 1993.—

(A) COVERAGE.—Section 101(4)(A) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611(4)(A)) is amended by striking “and” at the end of clause (ii), by striking the period at the end of clause (iii) and inserting “; and”, and by adding after clause (iii) the following:

“(iv) includes the General Accounting Office and the Library of Congress.”.

(B) ENFORCEMENT.—Section 107 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2617) is amended by adding at the end the following:

“(f) GENERAL ACCOUNTING OFFICE AND LIBRARY OF CONGRESS.—In the case of the General Accounting Office and the Library of Congress, the authority of the Secretary of Labor under this title shall be exercised respectively by the Comptroller General of the United States and the Librarian of Congress.”.

(2) CONFORMING AMENDMENT TO TITLE 5, UNITED STATES CODE.—Section 6381(1)(A) of title 5, United States Code, is amended by striking “and” after “District of Columbia” and inserting before the semicolon the following: “, and any employee of the General Accounting Office or the Library of Congress”.

(d) REGULATIONS.—

(1) IN GENERAL.—The Board shall, pursuant to section 304, issue regulations to implement the rights and protections under this section.

(2) AGENCY REGULATIONS.—The regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) except insofar as the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Subsections (a) and (b) shall be effective 1 year after the date of the enactment of this Act.

(2) GENERAL ACCOUNTING OFFICE AND LIBRARY OF CONGRESS.—Subsection (c) shall be

effective 1 year after transmission to the Congress of the study under section 230.

SEC. 203. RIGHTS AND PROTECTIONS UNDER THE FAIR LABOR STANDARDS ACT OF 1938.

(a) **FAIR LABOR STANDARDS.**—

(1) **IN GENERAL.**—The rights and protections established by subsections (a)(1) and (d) of section 6, section 7, and section 12(c) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206 (a)(1) and (d), 207, 212(c)) shall apply to covered employees.

(2) **INTERNS.**—For the purposes of this section, the term "covered employee" does not include an intern as defined in regulations under subsection (c).

(3) **COMPENSATORY TIME.**—Except as provided in regulations under subsection (c)(3), covered employees may not receive compensatory time in lieu of overtime compensation.

(b) **REMEDY.**—The remedy for a violation of subsection (a) shall be such remedy, including liquidated damages, as would be appropriate if awarded under section 16(b) of the Fair Labor Standards Act of 1938 (29 U.S.C. 216(b)).

(c) **REGULATIONS TO IMPLEMENT SECTION.**—
(1) **IN GENERAL.**—The Board shall, pursuant to section 304, issue regulations to implement this section.

(2) **AGENCY REGULATIONS.**—Except as provided in paragraph (3), the regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) except insofar as the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

(3) **IRREGULAR WORK SCHEDULES.**—The Board shall issue regulations for covered employees whose work schedules directly depend on the schedule of the House of Representatives or the Senate that shall be comparable to the provisions in the Fair Labor Standards Act of 1938 that apply to employees who have irregular work schedules.

(d) **APPLICATION TO THE GOVERNMENT PRINTING OFFICE.**—Section 3(e)(2)(A) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(e)(2)(A)) is amended—

(1) in clause (iii), by striking "legislative or";

(2) by striking "or" at the end of clause (iv), and

(3) by striking the semicolon at the end of clause (v) and inserting ", or" and by adding after clause (v) the following:

"(vi) the Government Printing Office;"

(e) **EFFECTIVE DATE.**—Subsections (a) and (b) shall be effective 1 year after the date of the enactment of this Act.

SEC. 204. RIGHTS AND PROTECTIONS UNDER THE EMPLOYEE POLYGRAPH PROTECTION ACT OF 1988.

(a) **POLYGRAPH PRACTICES PROHIBITED.**—

(1) **IN GENERAL.**—No employing office, irrespective of whether a covered employee works in that employing office, may require a covered employee to take a lie detector test where such a test would be prohibited if required by an employer under paragraph (1), (2), or (3) of section 3 of the Employee Polygraph Protection Act of 1988 (29 U.S.C. 2002 (1), (2), or (3)). In addition, the waiver provisions of section 6(d) of such Act (29 U.S.C. 2005(d)) shall apply to covered employees.

(2) **DEFINITIONS.**—For purposes of this section, the term "covered employee" shall include employees of the General Accounting

Office and the Library of Congress and the term "employing office" shall include the General Accounting Office and the Library of Congress.

(3) **CAPITOL POLICE.**—Nothing in this section shall preclude the Capitol Police from using lie detector tests in accordance with regulations under subsection (c).

(b) **REMEDY.**—The remedy for a violation of subsection (a) shall be such remedy as would be appropriate if awarded under section 6(c)(1) of the Employee Polygraph Protection Act of 1988 (29 U.S.C. 2005(c)(1)).

(c) **REGULATIONS TO IMPLEMENT SECTION.**—
(1) **IN GENERAL.**—The Board shall, pursuant to section 304, issue regulations to implement this section.

(2) **AGENCY REGULATIONS.**—The regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsections (a) and (b) except insofar as the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

(d) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), subsections (a) and (b) shall be effective 1 year after the date of the enactment of this Act.

(2) **GENERAL ACCOUNTING OFFICE AND LIBRARY OF CONGRESS.**—This section shall be effective with respect to the General Accounting Office and the Library of Congress 1 year after transmission to the Congress of the study under section 230.

SEC. 205. RIGHTS AND PROTECTIONS UNDER THE WORKER ADJUSTMENT AND RETRAINING NOTIFICATION ACT.

(a) **WORKER ADJUSTMENT AND RETRAINING NOTIFICATION RIGHTS.**—

(1) **IN GENERAL.**—No employing office shall be closed or a mass layoff ordered within the meaning of section 3 of the Worker Adjustment and Retraining Notification Act (29 U.S.C. 2102) until the end of a 60-day period after the employing office serves written notice of such prospective closing or layoff to representatives of covered employees or, if there are no representatives, to covered employees.

(2) **DEFINITIONS.**—For purposes of this section, the term "covered employee" shall include employees of the General Accounting Office and the Library of Congress and the term "employing office" shall include the General Accounting Office and the Library of Congress.

(b) **REMEDY.**—The remedy for a violation of subsection (a) shall be such remedy as would be appropriate if awarded under paragraphs (1), (2), and (4) of section 5(a) of the Worker Adjustment and Retraining Notification Act (29 U.S.C. 2104(a)(1), (2), and (4)).

(c) **REGULATIONS TO IMPLEMENT SECTION.**—
(1) **IN GENERAL.**—The Board shall, pursuant to section 304, issue regulations to implement this section.

(2) **AGENCY REGULATIONS.**—The regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) except insofar as the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

(d) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), subsections (a) and (b) shall be

effective 1 year after the date of the enactment of this Act.

(2) **GENERAL ACCOUNTING OFFICE AND LIBRARY OF CONGRESS.**—This section shall be effective with respect to the General Accounting Office and the Library of Congress 1 year after transmission to the Congress of the study under section 230.

SEC. 206. RIGHTS AND PROTECTIONS RELATING TO VETERANS' EMPLOYMENT AND REEMPLOYMENT.

(a) **EMPLOYMENT AND REEMPLOYMENT RIGHTS OF MEMBERS OF THE UNIFORMED SERVICES.**—

(1) **IN GENERAL.**—It shall be unlawful for an employing office to—

(A) discriminate, within the meaning of subsections (a) and (b) of section 4311 of title 38, United States Code, against an eligible employee;

(B) deny to an eligible employee reemployment rights within the meaning of sections 4312 and 4313 of title 38, United States Code; or

(C) deny to an eligible employee benefits within the meaning of sections 4316, 4317, and 4318 of title 38, United States Code.

(2) **DEFINITIONS.**—For purposes of this section—

(A) the term "eligible employee" means a covered employee performing service in the uniformed services, within the meaning of section 4303(13) of title 38, United States Code, whose service has not been terminated upon occurrence of any of the events enumerated in section 4304 of title 38, United States Code;

(B) the term "covered employee" includes employees of the General Accounting Office and the Library of Congress; and

(C) the term "employing office" includes the General Accounting Office and the Library of Congress.

(b) **REMEDY.**—The remedy for a violation of subsection (a) shall be such remedy as would be appropriate if awarded under paragraphs (1), (2)(A), and (3) of section 4323(c) of title 38, United States Code.

(c) **REGULATIONS TO IMPLEMENT SECTION.**—
(1) **IN GENERAL.**—The Board shall, pursuant to section 304, issue regulations to implement this section.

(2) **AGENCY REGULATIONS.**—The regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) except to the extent that the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

(d) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), subsections (a) and (b) shall be effective 1 year after the date of the enactment of this Act.

(2) **GENERAL ACCOUNTING OFFICE AND LIBRARY OF CONGRESS.**—This section shall be effective with respect to the General Accounting Office and the Library of Congress 1 year after transmission to the Congress of the study under section 230.

SEC. 207. PROHIBITION OF INTIMIDATION OR REPRISAL.

(a) **IN GENERAL.**—It shall be unlawful for an employing office to intimidate, take reprisal against, or otherwise discriminate against, any covered employee because the covered employee has opposed any practice made unlawful by this Act, or because the covered employee has initiated proceedings, made a charge, or testified, assisted, or participated

in any manner in a hearing or other proceeding under this Act.

(b) **REMEDY.**—The remedy available for a violation of subsection (a) shall be such legal or equitable remedy as may be appropriate to redress a violation of subsection (a).

PART B—PUBLIC SERVICES AND ACCOMMODATIONS UNDER THE AMERICANS WITH DISABILITIES ACT OF 1990

SEC. 210. RIGHTS AND PROTECTIONS UNDER THE AMERICANS WITH DISABILITIES ACT OF 1990 RELATING TO PUBLIC SERVICES AND ACCOMMODATIONS; PROCEDURES FOR REMEDY OF VIOLATIONS.

(a) **ENTITIES SUBJECT TO THIS SECTION.**—The requirements of this section shall apply to—

- (1) each office of the Senate, including each office of a Senator and each committee;
- (2) each office of the House of Representatives, including each office of a Member of the House of Representatives and each committee;
- (3) each joint committee of the Congress;
- (4) the Capitol Guide Service;
- (5) the Capitol Police;
- (6) the Congressional Budget Office;
- (7) the Office of the Architect of the Capitol (including the Senate Restaurants and the Botanic Garden);
- (8) the Office of the Attending Physician;
- (9) the Office of Compliance; and
- (10) the Office of Technology Assessment.

(b) **DISCRIMINATION IN PUBLIC SERVICES AND ACCOMMODATIONS.**—

(1) **RIGHTS AND PROTECTIONS.**—The rights and protections against discrimination in the provision of public services and accommodations established by sections 201 through 230, 302, 303, and 309 of the Americans With Disabilities Act of 1990 (42 U.S.C. 12131–12150, 12182, 12183, and 12189) shall apply to the entities listed in subsection (a).

(2) **DEFINITIONS.**—For purposes of the application of title II of the Americans With Disabilities Act of 1990 (42 U.S.C. 12131 et seq.) under this section, the term “public entity” means any entity listed in subsection (a) that provides public services, programs, or activities.

(c) **REMEDY.**—The remedy for a violation of subsection (b) shall be such remedy as would be appropriate if awarded under section 203 or 308(a) of the Americans With Disabilities Act of 1990 (42 U.S.C. 12133, 12188(a)), except that, with respect to any claim of employment discrimination asserted by any covered employee, the exclusive remedy shall be under section 201 of this title.

(d) **AVAILABLE PROCEDURES.**—

(1) **CHARGE FILED WITH GENERAL COUNSEL.**—A qualified individual with a disability, as defined in section 201(2) of the Americans With Disabilities Act of 1990 (42 U.S.C. 12131(2)), who alleges a violation of subsection (b) by an entity listed in subsection (a), may file a charge against any entity responsible for correcting the violation with the General Counsel within 180 days of the occurrence of the alleged violation. The General Counsel shall investigate the charge.

(2) **MEDIATION.**—If, upon investigation under paragraph (1), the General Counsel believes that a violation of subsection (b) may have occurred and that mediation may be helpful in resolving the dispute, the General Counsel may request, but not participate in, mediation under subsections (b) through (d) of section 403 between the charging individual and any entity responsible for correcting the alleged violation.

(3) **COMPLAINT, HEARING, BOARD REVIEW.**—If mediation under paragraph (2) has not suc-

ceeded in resolving the dispute, and if the General Counsel believes that a violation of subsection (b) may have occurred, the General Counsel may file with the Office a complaint against any entity responsible for correcting the violation. The complaint shall be submitted to a hearing officer for decision pursuant to subsections (b) through (h) of section 405 and any person who has filed a charge under paragraph (1) may intervene as of right, with the full rights of a party. The decision of the hearing officer shall be subject to review by the Board pursuant to section 406.

(4) **JUDICIAL REVIEW.**—A charging individual who has intervened under paragraph (3) or any respondent to the complaint, if aggrieved by a final decision of the Board under paragraph (3), may file a petition for review in the United States Court of Appeals for the Federal Circuit, pursuant to section 407.

(5) **COMPLIANCE DATE.**—If new appropriated funds are necessary to comply with an order requiring correction of a violation of subsection (b), compliance shall take place as soon as possible, but no later than the fiscal year following the end of the fiscal year in which the order requiring correction becomes final and not subject to further review.

(e) **REGULATIONS TO IMPLEMENT SECTION.**—

(1) **IN GENERAL.**—The Board shall, pursuant to section 304, issue regulations to implement this section.

(2) **AGENCY REGULATIONS.**—The regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Attorney General and the Secretary of Transportation to implement the statutory provisions referred to in subsection (b) except to the extent that the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

(3) **ENTITY RESPONSIBLE FOR CORRECTION.**—The regulations issued under paragraph (1) shall include a method of identifying, for purposes of this section and for categories of violations of subsection (b), the entity responsible for correction of a particular violation.

(f) **PERIODIC INSPECTIONS; REPORT TO CONGRESS; INITIAL STUDY.**—

(1) **PERIODIC INSPECTIONS.**—On a regular basis, and at least once each Congress, the General Counsel shall inspect the facilities of the entities listed in subsection (a) to ensure compliance with subsection (b).

(2) **REPORT.**—On the basis of each periodic inspection, the General Counsel shall, at least once every Congress, prepare and submit a report—

(A) to the Speaker of the House of Representatives, the President pro tempore of the Senate, and the Office of the Architect of the Capitol, or other entity responsible, for correcting the violation of this section uncovered by such inspection, and

(B) containing the results of the periodic inspection, describing any steps necessary to correct any violation of this section, assessing any limitations in accessibility to and usability by individuals with disabilities associated with each violation, and the estimated cost and time needed for abatement.

(3) **INITIAL PERIOD FOR STUDY AND CORRECTIVE ACTION.**—The period from the date of the enactment of this Act until December 31, 1996, shall be available to the Office of the Architect of the Capitol and other entities subject to this section to identify any viola-

tions of subsection (b), to determine the costs of compliance, and to take any necessary corrective action to abate any violations. The Office shall assist the Office of the Architect of the Capitol and other entities listed in subsection (a) by arranging for inspections and other technical assistance at their request. Prior to July 1, 1996, the General Counsel shall conduct a thorough inspection under paragraph (1) and shall submit the report under paragraph (2) for the 104th Congress.

(4) **DETAILED PERSONNEL.**—The Attorney General, the Secretary of Transportation, and the Architectural and Transportation Barriers Compliance Board may, on request of the Executive Director, detail to the Office such personnel as may be necessary to advise and assist the Office in carrying out its duties under this section.

(g) **APPLICATION OF AMERICANS WITH DISABILITIES ACT OF 1990 TO THE PROVISION OF PUBLIC SERVICES AND ACCOMMODATIONS BY THE GENERAL ACCOUNTING OFFICE, THE GOVERNMENT PRINTING OFFICE, AND THE LIBRARY OF CONGRESS.**—Section 509 of the Americans With Disabilities Act of 1990 (42 U.S.C. 12209), as amended by section 201(c) of this Act, is amended by adding the following new paragraph:

“(6) **ENFORCEMENT OF RIGHTS TO PUBLIC SERVICES AND ACCOMMODATIONS.**—The remedies and procedures set forth in section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16) shall be available to any qualified person with a disability who is a visitor, guest, or patron of an instrumentality of Congress and who alleges a violation of the rights and protections under sections 201 through 230 or section 302 or 303 of this Act that are made applicable by this section, except that the authorities of the Equal Employment Opportunity Commission shall be exercised by the chief official of the instrumentality of the Congress.”

(h) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—Subsections (b), (c), and (d) shall be effective on January 1, 1997.

(2) **GENERAL ACCOUNTING OFFICE, GOVERNMENT PRINTING OFFICE, AND LIBRARY OF CONGRESS.**—Subsection (g) shall be effective 1 year after transmission to the Congress of the study under section 230.

PART C—OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

SEC. 215. RIGHTS AND PROTECTIONS UNDER THE OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970; PROCEDURES FOR REMEDY OF VIOLATIONS.

(a) **OCCUPATIONAL SAFETY AND HEALTH PROTECTIONS.**—

(1) **IN GENERAL.**—Each employing office and each covered employee shall comply with the provisions of section 5 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 654).

(2) **DEFINITIONS.**—For purposes of the application under this section of the Occupational Safety and Health Act of 1970—

(A) the term “employer” as used in such Act means an employing office;

(B) the term “employee” as used in such Act means a covered employee;

(C) the term “employing office” includes the General Accounting Office, the Library of Congress, and any entity listed in subsection (a) of section 210 that is responsible for correcting a violation of this section, irrespective of whether the entity has an employment relationship with any covered employee in any employing office in which such a violation occurs; and

(D) the term “employee” includes employees of the General Accounting Office and the Library of Congress.

(b) **REMEDY.**—The remedy for a violation of subsection (a) shall be an order to correct the violation, including such order as would be appropriate if issued under section 13(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 662(a)).

(c) **PROCEDURES.**—

(1) **REQUESTS FOR INSPECTIONS.**—Upon written request of any employing office or covered employee, the General Counsel shall exercise the authorities granted to the Secretary of Labor by subsections (a), (d), (e), and (f) of section 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 657 (a), (d), (e), and (f)) to inspect and investigate places of employment under the jurisdiction of employing offices.

(2) **CITATIONS, NOTICES, AND NOTIFICATIONS.**—For purposes of this section, the General Counsel shall exercise the authorities granted to the Secretary of Labor in sections 9 and 10 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 658 and 659), to issue—

(A) a citation or notice to any employing office responsible for correcting a violation of subsection (a); or

(B) a notification to any employing office that the General Counsel believes has failed to correct a violation for which a citation has been issued within the period permitted for its correction.

(3) **HEARINGS AND REVIEW.**—If after issuing a citation or notification, the General Counsel determines that a violation has not been corrected, the General Counsel may file a complaint with the Office against the employing office named in the citation or notification. The complaint shall be submitted to a hearing officer for decision pursuant to subsections (b) through (h) of section 405, subject to review by the Board pursuant to section 406.

(4) **VARIANCE PROCEDURES.**—An employing office may request from the Board an order granting a variance from a standard made applicable by this section. For the purposes of this section, the Board shall exercise the authorities granted to the Secretary of Labor in sections 6(b)(6) and 6(d) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655(b)(6) and 655(d)) to act on any employing office's request for a variance. The Board shall refer the matter to a hearing officer pursuant to subsections (b) through (h) of section 405, subject to review by the Board pursuant to section 406.

(5) **JUDICIAL REVIEW.**—The General Counsel or employing office aggrieved by a final decision of the Board under paragraph (3) or (4), may file a petition for review with the United States Court of Appeals for the Federal Circuit pursuant to section 407.

(6) **COMPLIANCE DATE.**—If new appropriated funds are necessary to correct a violation of subsection (a) for which a citation is issued, or to comply with an order requiring correction of such a violation, correction or compliance shall take place as soon as possible, but not later than the end of the fiscal year following the fiscal year in which the citation is issued or the order requiring correction becomes final and not subject to further review.

(d) **REGULATIONS TO IMPLEMENT SECTION.**—

(1) **IN GENERAL.**—The Board shall, pursuant to section 304, issue regulations to implement this section.

(2) **AGENCY REGULATIONS.**—The regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) except to the extent that the

Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

(3) **EMPLOYING OFFICE RESPONSIBLE FOR CORRECTION.**—The regulations issued under paragraph (1) shall include a method of identifying, for purposes of this section and for different categories of violations of subsection (a), the employing office responsible for correction of a particular violation.

(e) **PERIODIC INSPECTIONS; REPORT TO CONGRESS.**—

(1) **PERIODIC INSPECTIONS.**—On a regular basis, and at least once each Congress, the General Counsel, exercising the same authorities of the Secretary of Labor as under subsection (c)(1), shall conduct periodic inspections of all facilities of the House of Representatives, the Senate, the Capitol Guide Service, the Capitol Police, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, the Office of Compliance, the Office of Technology Assessment, the Library of Congress, and the General Accounting Office to report on compliance with subsection (a).

(2) **REPORT.**—On the basis of each periodic inspection, the General Counsel shall prepare and submit a report—

(A) to the Speaker of the House of Representatives, the President pro tempore of the Senate, and the Office of the Architect of the Capitol or other employing office responsible for correcting the violation of this section uncovered by such inspection, and

(B) containing the results of the periodic inspection, identifying the employing office responsible for correcting the violation of this section uncovered by such inspection, describing any steps necessary to correct any violation of this section, and assessing any risks to employee health and safety associated with any violation.

(3) **ACTION AFTER REPORT.**—If a report identifies any violation of this section, the General Counsel shall issue a citation or notice in accordance with subsection (c)(2)(A).

(4) **DETAILED PERSONNEL.**—The Secretary of Labor may, on request of the Executive Director, detail to the Office such personnel as may be necessary to advise and assist the Office in carrying out its duties under this section.

(f) **INITIAL PERIOD FOR STUDY AND CORRECTIVE ACTION.**—The period from the date of the enactment of this Act until December 31, 1996, shall be available to the Office of the Architect of the Capitol and other employing offices to identify any violations of subsection (a), to determine the costs of compliance, and to take any necessary corrective action to abate any violations. The Office shall assist the Office of the Architect of the Capitol and other employing offices by arranging for inspections and other technical assistance at their request. Prior to July 1, 1996, the General Counsel shall conduct a thorough inspection under subsection (e)(1) and shall submit the report under subsection (e)(2) for the 104th Congress.

(g) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), subsections (a), (b), (c), and (e)(3) shall be effective on January 1, 1997.

(2) **GENERAL ACCOUNTING OFFICE AND LIBRARY OF CONGRESS.**—This section shall be effective with respect to the General Accounting Office and the Library of Congress 1 year after transmission to the Congress of the study under section 230.

PART D—LABOR-MANAGEMENT RELATIONS

SEC. 220. APPLICATION OF CHAPTER 71 OF TITLE 5, UNITED STATES CODE, RELATING TO FEDERAL SERVICE LABOR-MANAGEMENT RELATIONS; PROCEDURES FOR REMEDY OF VIOLATIONS.

(a) **LABOR-MANAGEMENT RIGHTS.**—

(1) **IN GENERAL.**—The rights, protections, and responsibilities established under sections 7102, 7106, 7111 through 7117, 7119 through 7122, and 7131 of title 5, United States Code, shall apply to employing offices and to covered employees and representatives of those employees.

(2) **DEFINITION.**—For purposes of the application under this section of the sections referred to in paragraph (1), the term "agency" shall be deemed to include an employing office.

(b) **REMEDY.**—The remedy for a violation of subsection (a) shall be such remedy, including a remedy under section 7118(a)(7) of title 5, United States Code, as would be appropriate if awarded by the Federal Labor Relations Authority to remedy a violation of any provision made applicable by subsection (a).

(c) **AUTHORITIES AND PROCEDURES FOR IMPLEMENTATION AND ENFORCEMENT.**—

(1) **GENERAL AUTHORITIES OF THE BOARD; PETITIONS.**—For purposes of this section and except as otherwise provided in this section, the Board shall exercise the authorities of the Federal Labor Relations Authority under sections 7105, 7111, 7112, 7113, 7115, 7117, 7118, and 7122 of title 5, United States Code, and of the President under section 7103(b) of title 5, United States Code. For purposes of this section, any petition or other submission that, under chapter 71 of title 5, United States Code, would be submitted to the Federal Labor Relations Authority shall, if brought under this section, be submitted to the Board. The Board shall refer any matter under this paragraph to a hearing officer for decision pursuant to subsections (b) through (h) of section 405, subject to review by the Board pursuant to section 406. The Board may direct that the General Counsel carry out the Board's investigative authorities under this paragraph.

(2) **GENERAL AUTHORITIES OF THE GENERAL COUNSEL; CHARGES OF UNFAIR LABOR PRACTICE.**—For purposes of this section and except as otherwise provided in this section, the General Counsel shall exercise the authorities of the General Counsel of the Federal Labor Relations Authority under sections 7104 and 7118 of title 5, United States Code. For purposes of this section, any charge or other submission that, under chapter 71 of title 5, United States Code, would be submitted to the General Counsel of the Federal Labor Relations Authority shall, if brought under this section, be submitted to the General Counsel. If any person charges an employing office or a labor organization with having engaged in or engaging in an unfair labor practice and makes such charge within 180 days of the occurrence of the alleged unfair labor practice, the General Counsel shall investigate the charge and may file a complaint with the Office. The complaint shall be submitted to a hearing officer for decision pursuant to subsections (b) through (h) of section 405, subject to review by the Board pursuant to section 406.

(3) **JUDICIAL REVIEW.**—Except for matters referred to in paragraphs (1) and (2) of section 7123(a) of title 5, United States Code, the General Counsel or the respondent to the complaint, if aggrieved by a final decision of the Board under paragraphs (1) or (2) of this subsection, may file a petition for judicial review in the United States Court of Appeals

for the Federal Circuit pursuant to section 407.

(4) **EXERCISE OF IMPASSES PANEL AUTHORITY; REQUESTS.**—For purposes of this section and except as otherwise provided in this section, the Board shall exercise the authorities of the Federal Service Impasses Panel under section 7119 of title 5, United States Code. For purposes of this section, any request that, under chapter 71 of title 5, United States Code, would be presented to the Federal Service Impasses Panel shall, if made under this section, be presented to the Board. At the request of the Board, the Executive Director shall appoint a mediator or mediators to perform the functions of the Federal Service Impasses Panel under section 7119 of title 5, United States Code.

(d) **REGULATIONS TO IMPLEMENT SECTION.**—

(1) **IN GENERAL.**—The Board shall, pursuant to section 304, issue regulations to implement this section.

(2) **AGENCY REGULATIONS.**—Except as provided in subsection (e), the regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Federal Labor Relations Authority to implement the statutory provisions referred to in subsection (a) except—

(A) to the extent that the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section; or

(B) as the Board deems necessary to avoid a conflict of interest or appearance of a conflict of interest.

(e) **SPECIFIC REGULATIONS REGARDING APPLICATION TO CERTAIN OFFICES OF CONGRESS.**—

(1) **REGULATIONS REQUIRED.**—The Board shall issue regulations pursuant to section 304 on the manner and extent to which the requirements and exemptions of chapter 71 of title 5, United States Code, should apply to covered employees who are employed in the offices listed in paragraph (2). The regulations shall, to the greatest extent practicable, be consistent with the provisions and purposes of chapter 71 of title 5, United States Code and of this Act, and shall be the same as substantive regulations issued by the Federal Labor Relations Authority under such chapter, except—

(A) to the extent that the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section; and

(B) that the Board shall exclude from coverage under this section any covered employees who are employed in offices listed in paragraph (2) if the Board determines that such exclusion is required because of—

(i) a conflict of interest or appearance of a conflict of interest; or

(ii) Congress' constitutional responsibilities.

(2) **OFFICES REFERRED TO.**—The offices referred to in paragraph (1) include—

(A) the personal office of any Member of the House of Representatives or of any Senator;

(B) a standing, select, special, permanent, temporary, or other committee of the Senate or House of Representatives, or a joint committee of Congress;

(C) the Office of the Vice President (as President of the Senate), the Office of the President pro tempore of the Senate, the Office of the Majority Leader of the Senate, the Office of the Minority Leader of the Sen-

ate, the Office of the Majority Whip of the Senate, the Office of the Minority Whip of the Senate, the Conference of the Majority of the Senate, the Conference of the Minority of the Senate, the Office of the Secretary of the Conference of the Majority of the Senate, the Office of the Secretary of the Conference of the Minority of the Senate, the Office of the Secretary for the Majority of the Senate, the Office of the Secretary for the Minority of the Senate, the Majority Policy Committee of the Senate, the Minority Policy Committee of the Senate, and the following offices within the Office of the Secretary of the Senate: Offices of the Parliamentarian, Bill Clerk, Legislative Clerk, Journal Clerk, Executive Clerk, Enrolling Clerk, Official Reporters of Debate, Daily Digest, Printing Services, Captioning Services, and Senate Chief Counsel for Employment;

(D) the Office of the Speaker of the House of Representatives, the Office of the Majority Leader of the House of Representatives, the Office of the Minority Leader of the House of Representatives, the Offices of the Chief Deputy Majority Whips, the Offices of the Chief Deputy Minority Whips and the following offices within the Office of the Clerk of the House of Representatives: Offices of Legislative Operations, Official Reporters of Debate, Official Reporters to Committees, Printing Services, and Legislative Information;

(E) the Office of the Legislative Counsel of the Senate, the Office of the Senate Legal Counsel, the Office of the Legislative Counsel of the House of Representatives, the Office of the General Counsel of the House of Representatives, the Office of the Parliamentarian of the House of Representatives, and the Office of the Law Revision Counsel;

(F) the offices of any caucus or party organization;

(G) the Congressional Budget Office, the Office of Technology Assessment, and the Office of Compliance; and

(H) such other offices that perform comparable functions which are identified under regulations of the Board.

(f) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), subsections (a) and (b) shall be effective on October 1, 1996.

(2) **CERTAIN OFFICES.**—With respect to the offices listed in subsection (e)(2), to the covered employees of such offices, and to representatives of such employees, subsections (a) and (b) shall be effective on the effective date of regulations under subsection (e).

PART E—GENERAL

SEC. 225. GENERALLY APPLICABLE REMEDIES AND LIMITATIONS.

(a) **ATTORNEY'S FEES.**—If a covered employee, with respect to any claim under this Act, or a qualified person with a disability, with respect to any claim under section 210, is a prevailing party in any proceeding under section 405, 406, 407, or 408, the hearing officer, Board, or court, as the case may be, may award attorney's fees, expert fees, and any other costs as would be appropriate if awarded under section 706(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(k)).

(b) **INTEREST.**—In any proceeding under section 405, 406, 407, or 408, the same interest to compensate for delay in payment shall be made available as would be appropriate if awarded under section 717(d) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16(d)).

(c) **CIVIL PENALTIES AND PUNITIVE DAMAGES.**—No civil penalty or punitive damages may be awarded with respect to any claim under this Act.

(d) **EXCLUSIVE PROCEDURE.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), no person may commence an administrative or judicial proceeding to seek a remedy for the rights and protections afforded by this Act except as provided in this Act.

(2) **VETERANS.**—A covered employee under section 206 may also utilize any provisions of chapter 43 of title 38, United States Code, that are applicable to that employee.

(e) **SCOPE OF REMEDY.**—Only a covered employee who has undertaken and completed the procedures described in sections 402 and 403 may be granted a remedy under part A of this title.

(f) **CONSTRUCTION.**—

(1) **DEFINITIONS AND EXEMPTIONS.**—Except where inconsistent with definitions and exemptions provided in this Act, the definitions and exemptions in the laws made applicable by this Act shall apply under this Act.

(2) **SIZE LIMITATIONS.**—Notwithstanding paragraph (1), provisions in the laws made applicable under this Act (other than the Worker Adjustment and Retraining Notification Act) determining coverage based on size, whether expressed in terms of numbers of employees, amount of business transacted, or other measure, shall not apply in determining coverage under this Act.

(3) **EXECUTIVE BRANCH ENFORCEMENT.**—This Act shall not be construed to authorize enforcement by the executive branch of this Act.

PART F—STUDY

SEC. 230. STUDY AND RECOMMENDATIONS REGARDING GENERAL ACCOUNTING OFFICE, GOVERNMENT PRINTING OFFICE, AND LIBRARY OF CONGRESS.

(a) **IN GENERAL.**—The Administrative Conference of the United States shall undertake a study of—

(1) the application of the laws listed in subsection (b) to—

- (A) the General Accounting Office;
- (B) the Government Printing Office; and
- (C) the Library of Congress; and

(2) the regulations and procedures used by the entities referred to in paragraph (1) to apply and enforce such laws to themselves and their employees.

(b) **APPLICABLE STATUTES.**—The study under this section shall consider the application of the following laws:

(1) Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.), and related provisions of section 2302 of title 5, United States Code.

(2) The Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.), and related provisions of section 2302 of title 5, United States Code.

(3) The Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), and related provisions of section 2302 of title 5, United States Code.

(4) The Family and Medical Leave Act of 1993 (29 U.S.C. 2611 et seq.), and related provisions of sections 6381 through 6387 of title 5, United States Code.

(5) The Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.), and related provisions of sections 5541 through 5550a of title 5, United States Code.

(6) The Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.), and related provisions of section 7902 of title 5, United States Code.

(7) The Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.).

(8) Chapter 71 (relating to Federal service labor-management relations) of title 5, United States Code.

(9) The General Accounting Office Personnel Act of 1980 (31 U.S.C. 731 et seq.).

(10) The Employee Polygraph Protection Act of 1988 (29 U.S.C. 2001 et seq.).

(11) The Worker Adjustment and Retraining Notification Act (29 U.S.C. 2101 et seq.).

(12) Chapter 43 (relating to veterans' employment and reemployment) of title 38, United States Code.

(c) CONTENTS OF STUDY AND RECOMMENDATIONS.—The study under this section shall evaluate whether the rights, protections, and procedures, including administrative and judicial relief, applicable to the entities listed in paragraph (1) of subsection (a) and their employees are comprehensive and effective and shall include recommendations for any improvements in regulations or legislation, including proposed regulatory or legislative language.

(d) DEADLINE AND DELIVERY OF STUDY.—Not later than December 31, 1996—

(1) the Administrative Conference of the United States shall prepare and complete the study and recommendations required under this section and shall submit the study and recommendations to the Board; and

(2) the Board shall transmit such study and recommendations (with the Board's comments) to the head of each entity considered in the study, and to the Congress by delivery to the Speaker of the House of Representatives and President pro tempore of the Senate for referral to the appropriate committees of the House of Representatives and of the Senate.

TITLE III—OFFICE OF COMPLIANCE

SEC. 301. ESTABLISHMENT OF OFFICE OF COMPLIANCE.

(a) ESTABLISHMENT.—There is established, as an independent office within the legislative branch of the Federal Government, the Office of Compliance.

(b) BOARD OF DIRECTORS.—The Office shall have a Board of Directors. The Board shall consist of 5 individuals appointed jointly by the Speaker of the House of Representatives, the Majority Leader of the Senate, and the Minority Leaders of the House of Representatives and the Senate. Appointments of the first 5 members of the Board shall be completed not later than 90 days after the date of the enactment of this Act.

(c) CHAIR.—The Chair shall be appointed from members of the Board jointly by the Speaker of the House of Representatives, the Majority Leader of the Senate, and the Minority Leaders of the House of Representatives and the Senate.

(d) BOARD OF DIRECTORS QUALIFICATIONS.—

(1) SPECIFIC QUALIFICATIONS.—Selection and appointment of members of the Board shall be without regard to political affiliation and solely on the basis of fitness to perform the duties of the Office. Members of the Board shall have training or experience in the application of the rights, protections, and remedies under one or more of the laws made applicable under section 102.

(2) DISQUALIFICATIONS FOR APPOINTMENTS.—

(A) LOBBYING.—No individual who engages in, or is otherwise employed in, lobbying of the Congress and who is required under the Federal Regulation of Lobbying Act to register with the Clerk of the House of Representatives or the Secretary of the Senate shall be eligible for appointment to, or service on, the Board.

(B) INCOMPATIBLE OFFICE.—No member of the Board appointed under subsection (b) may hold or may have held the position of Member of the House of Representatives or Senator, may hold the position of officer or employee of the House of Representatives,

Senate, or instrumentality or other entity of the legislative branch, or may have held such a position (other than the position of an officer or employee of the General Accounting Office Personnel Appeals Board, an officer or employee of the Office of Fair Employment Practices of the House of Representatives, or officer or employee of the Office of Senate Fair Employment Practices) within 4 years of the date of appointment.

(3) VACANCIES.—A vacancy on the Board shall be filled in the manner in which the original appointment was made.

(e) TERM OF OFFICE.—

(1) IN GENERAL.—Except as provided in paragraph (2), membership on the Board shall be for 5 years. A member of the Board who is appointed to a term of office of more than 3 years shall only be eligible for appointment for a single term of office.

(2) FIRST APPOINTMENTS.—Of the members first appointed to the Board—

(A) 1 shall have a term of office of 3 years, and
(B) 2 shall have a term of office of 4 years, and

(C) 2 shall have a term of office of 5 years, 1 of whom shall be the Chair,

as designated at the time of appointment by the persons specified in subsection (b).

(f) REMOVAL.—

(1) AUTHORITY.—Any member of the Board may be removed from office by a majority decision of the appointing authorities described in subsection (b), but only for—

(A) disability that substantially prevents the member from carrying out the duties of the member,

(B) incompetence,

(C) neglect of duty,

(D) malfeasance, including a felony or conduct involving moral turpitude, or

(E) holding an office or employment or engaging in an activity that disqualifies the individual from service as a member of the Board under subsection (d)(2).

(2) STATEMENT OF REASONS FOR REMOVAL.—In removing a member of the Board, the Speaker of the House of Representatives and the President pro tempore of the Senate shall state in writing to the member of the Board being removed the specific reasons for the removal.

(g) COMPENSATION.—

(1) PER DIEM.—Each member of the Board shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Board. The rate of pay of a member may be prorated based on the portion of the day during which the member is engaged in the performance of Board duties.

(2) TRAVEL EXPENSES.—Each member of the Board shall receive travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

(h) DUTIES.—The Office shall—

(1) carry out a program of education for Members of Congress and other employing authorities of the legislative branch of the Federal Government respecting the laws made applicable to them and a program to inform individuals of their rights under laws applicable to the legislative branch of the Federal Government;

(2) in carrying out the program under paragraph (1), distribute the telephone number

and address of the Office, procedures for action under title IV, and any other information appropriate for distribution, distribute such information to employing offices in a manner suitable for posting, provide such information to new employees of employing offices, distribute such information to the residences of covered employees, and conduct seminars and other activities designed to educate employing offices and covered employees; and

(3) compile and publish statistics on the use of the Office by covered employees, including the number and type of contacts made with the Office, on the reason for such contacts, on the number of covered employees who initiated proceedings with the Office under this Act and the result of such proceedings, and on the number of covered employees who filed a complaint, the basis for the complaint, and the action taken on the complaint.

(4) CONGRESSIONAL OVERSIGHT.—The Board and the Office shall be subject to oversight (except with respect to the disposition of individual cases) by the Committee on Rules and Administration and the Committee on Governmental Affairs of the Senate and the Committee on House Oversight of the House of Representatives.

(5) OPENING OF OFFICE.—The Office shall be open for business, including receipt of requests for counseling under section 402, not later than 1 year after the date of the enactment of this Act.

(6) FINANCIAL DISCLOSURE REPORTS.—Members of the Board and officers and employees of the Office shall file the financial disclosure reports required under title I of the Ethics in Government Act of 1978 with the Clerk of the House of Representatives.

SEC. 302. OFFICERS, STAFF, AND OTHER PERSONNEL.

(a) EXECUTIVE DIRECTOR.—

(1) APPOINTMENT AND REMOVAL.—

(A) IN GENERAL.—The Chair, subject to the approval of the Board, shall appoint and may remove an Executive Director. Selection and appointment of the Executive Director shall be without regard to political affiliation and solely on the basis of fitness to perform the duties of the Office. The first Executive Director shall be appointed no later than 90 days after the initial appointment of the Board of Directors.

(B) QUALIFICATIONS.—The Executive Director shall be an individual with training or expertise in the application of laws referred to in section 102(a).

(C) DISQUALIFICATIONS.—The disqualifications in section 301(d)(2) shall apply to the appointment of the Executive Director.

(2) COMPENSATION.—The Chair may fix the compensation of the Executive Director. The rate of pay for the Executive Director may not exceed the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(3) TERM.—The term of office of the Executive Director shall be a single term of 5 years, except that the first Executive Director shall have a single term of 7 years.

(4) DUTIES.—The Executive Director shall serve as the chief operating officer of the Office. Except as otherwise specified in this Act, the Executive Director shall carry out all of the responsibilities of the Office under this Act.

(b) DEPUTY EXECUTIVE DIRECTORS.—

(1) IN GENERAL.—The Chair, subject to the approval of the Board, shall appoint and may remove a Deputy Executive Director for the Senate and a Deputy Executive Director for

the House of Representatives. Selection and appointment of a Deputy Executive Director shall be without regard to political affiliation and solely on the basis of fitness to perform the duties of the office. The disqualifications in section 301(d)(2) shall apply to the appointment of a Deputy Executive Director.

(2) **TERM.**—The term of office of a Deputy Executive Director shall be a single term of 5 years, except that the first Deputy Executive Directors shall have a single term of 6 years.

(3) **COMPENSATION.**—The Chair may fix the compensation of the Deputy Executive Directors. The rate of pay for a Deputy Executive Director may not exceed 96 percent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(4) **DUTIES.**—The Deputy Executive Director for the Senate shall recommend to the Board regulations under section 304(a)(2)(B)(i), maintain the regulations and all records pertaining to the regulations, and shall assume such other responsibilities as may be delegated by the Executive Director. The Deputy Executive Director for the House of Representatives shall recommend to the Board the regulations under section 304(a)(2)(B)(ii), maintain the regulations and all records pertaining to the regulations, and shall assume such other responsibilities as may be delegated by the Executive Director.

(c) **GENERAL COUNSEL.**—

(1) **IN GENERAL.**—The Chair, subject to the approval of the Board, shall appoint a General Counsel. Selection and appointment of the General Counsel shall be without regard to political affiliation and solely on the basis of fitness to perform the duties of the Office. The disqualifications in section 301(d)(2) shall apply to the appointment of a General Counsel.

(2) **COMPENSATION.**—The Chair may fix the compensation of the General Counsel. The rate of pay for the General Counsel may not exceed the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(3) **DUTIES.**—The General Counsel shall—

(A) exercise the authorities and perform the duties of the General Counsel as specified in this Act; and

(B) otherwise assist the Board and the Executive Director in carrying out their duties and powers, including representing the Office in any judicial proceeding under this Act.

(4) **ATTORNEYS IN THE OFFICE OF THE GENERAL COUNSEL.**—The General Counsel shall appoint, and fix the compensation of, and may remove, such additional attorneys as may be necessary to enable the General Counsel to perform the General Counsel's duties.

(5) **TERM.**—The term of office of the General Counsel shall be a single term of 5 years.

(6) **REMOVAL.**—

(A) **AUTHORITY.**—The General Counsel may be removed from office by the Chair but only for—

(i) disability that substantially prevents the General Counsel from carrying out the duties of the General Counsel,

(ii) incompetence,

(iii) neglect of duty,

(iv) malfeasance, including a felony or conduct involving moral turpitude, or

(v) holding an office or employment or engaging in an activity that disqualifies the individual from service as the General Counsel under paragraph (1).

(B) **STATEMENT OF REASONS FOR REMOVAL.**—In removing the General Counsel, the Speak-

er of the House of Representatives and the President pro tempore of the Senate shall state in writing to the General Counsel the specific reasons for the removal.

(d) **OTHER STAFF.**—The Executive Director shall appoint, and fix the compensation of, and may remove, such other additional staff, including hearing officers, but not including attorneys employed in the office of the General Counsel, as may be necessary to enable the Office to perform its duties.

(e) **DETAILED PERSONNEL.**—The Executive Director may, with the prior consent of the department or agency of the Federal Government concerned, use on a reimbursable or nonreimbursable basis the services of personnel of any such department or agency, including the services of members or personnel of the General Accounting Office Personnel Appeals Board.

(f) **CONSULTANTS.**—In carrying out the functions of the Office, the Executive Director may procure the temporary (not to exceed 1 year) or intermittent services of consultants.

SEC. 303. PROCEDURAL RULES.

(a) **IN GENERAL.**—The Executive Director shall, subject to the approval of the Board, adopt rules governing the procedures of the Office, including the procedures of hearing officers, which shall be submitted for publication in the Congressional Record. The rules may be amended in the same manner.

(b) **PROCEDURE.**—The Executive Director shall adopt rules referred to in subsection (a) in accordance with the principles and procedures set forth in section 553 of title 5, United States Code. The Executive Director shall publish a general notice of proposed rulemaking under section 553(b) of title 5, United States Code, but, instead of publication of a general notice of proposed rulemaking in the Federal Register, the Executive Director shall transmit such notice to the Speaker of the House of Representatives and the President pro tempore of the Senate for publication in the Congressional Record on the first day on which both Houses are in session following such transmittal. Before adopting rules, the Executive Director shall provide a comment period of at least 30 days after publication of a general notice of proposed rulemaking. Upon adopting rules, the Executive Director shall transmit notice of such action together with a copy of such rules to the Speaker of the House of Representatives and the President pro tempore of the Senate for publication in the Congressional Record on the first day on which both Houses are in session following such transmittal. Rules shall be considered issued by the Executive Director as of the date on which they are published in the Congressional Record.

SEC. 304. SUBSTANTIVE REGULATIONS.

(a) **REGULATIONS.**—

(1) **IN GENERAL.**—The procedures applicable to the regulations of the Board issued for the implementation of this Act, which shall include regulations the Board is required to issue under title II (including regulations on the appropriate application of exemptions under the laws made applicable in title II) are as prescribed in this section.

(2) **RULEMAKING PROCEDURE.**—Such regulations of the Board—

(A) shall be adopted, approved, and issued in accordance with subsection (b); and

(B) shall consist of 3 separate bodies of regulations, which shall apply, respectively, to—

(i) the Senate and employees of the Senate;

(ii) the House of Representatives and employees of the House of Representatives; and

(iii) all other covered employees and employing offices.

(b) **ADOPTION BY THE BOARD.**—The Board shall adopt the regulations referred to in subsection (a)(1) in accordance with the principles and procedures set forth in section 553 of title 5, United States Code, and as provided in the following provisions of this subsection:

(1) **PROPOSAL.**—The Board shall publish a general notice of proposed rulemaking under section 553(b) of title 5, United States Code, but, instead of publication of a general notice of proposed rulemaking in the Federal Register, the Board shall transmit such notice to the Speaker of the House of Representatives and the President pro tempore of the Senate for publication in the Congressional Record on the first day on which both Houses are in session following such transmittal. Such notice shall set forth the recommendations of the Deputy Director for the Senate in regard to regulations under subsection (a)(2)(B)(i), the recommendations of the Deputy Director for the House of Representatives in regard to regulations under subsection (a)(2)(B)(ii), and the recommendations of the Executive Director for regulations under subsection (a)(2)(B)(iii).

(2) **COMMENT.**—Before adopting regulations, the Board shall provide a comment period of at least 30 days after publication of a general notice of proposed rulemaking.

(3) **ADOPTION.**—After considering comments, the Board shall adopt regulations and shall transmit notice of such action together with a copy of such regulations to the Speaker of the House of Representatives and the President pro tempore of the Senate for publication in the Congressional Record on the first day on which both Houses are in session following such transmittal.

(4) **RECOMMENDATION AS TO METHOD OF APPROVAL.**—The Board shall include a recommendation in the general notice of proposed rulemaking and in the regulations as to whether the regulations should be approved by resolution of the Senate, by resolution of the House of Representatives, by concurrent resolution, or by joint resolution.

(c) **APPROVAL OF REGULATIONS.**—

(1) **IN GENERAL.**—Regulations referred to in paragraph (2)(B)(i) of subsection (a) may be approved by the Senate by resolution or by the Congress by concurrent resolution or by joint resolution. Regulations referred to in paragraph (2)(B)(ii) of subsection (a) may be approved by the House of Representatives by resolution or by the Congress by concurrent resolution or by joint resolution. Regulations referred to in paragraph (2)(B)(iii) of subsection (a) may be approved by Congress by concurrent resolution or by joint resolution.

(2) **REFERRAL.**—Upon receipt of a notice of adoption of regulations under subsection (b)(3), the presiding officers of the House of Representatives and the Senate shall refer such notice, together with a copy of such regulations, to the appropriate committee or committees of the House of Representatives and of the Senate. The purpose of the referral shall be to consider whether such regulations should be approved, and, if so, whether such approval should be by resolution of the House of Representatives or of the Senate, by concurrent resolution or by joint resolution.

(3) **JOINT REFERRAL AND DISCHARGE IN THE SENATE.**—The presiding officer of the Senate may refer the notice of issuance of regulations, or any resolution of approval of regulations, to one committee or jointly to more than one committee. If a committee of the Senate acts to report a jointly referred measure, any other committee of the Senate must act within 30 calendar days of continuous session, or be automatically discharged.

(4) **ONE-HOUSE RESOLUTION OR CONCURRENT RESOLUTION.**—In the case of a resolution of the House of Representatives or the Senate or a concurrent resolution referred to in paragraph (1), the matter after the resolving clause shall be the following: "The following regulations issued by the Office of Compliance on ___ are hereby approved." (the blank space being appropriately filled in, and the text of the regulations being set forth).

(5) **JOINT RESOLUTION.**—In the case of a joint resolution referred to in paragraph (1), the matter after the resolving clause shall be the following: "The following regulations issued by the Office of Compliance on ___ are hereby approved and shall have the force and effect of law." (the blank space being appropriately filled in, and the text of the regulations being set forth).

(d) **ISSUANCE AND EFFECTIVE DATE.**—

(1) **PUBLICATION.**—After approval of regulations under subsection (c), the Board shall submit the regulations to the Speaker of the House of Representatives and the President pro tempore of the Senate for publication in the Congressional Record on the first day on which both Houses are in session following such transmittal.

(2) **DATE OF ISSUANCE.**—The date of issuance of regulations shall be the date on which they are published in the Congressional Record under paragraph (1).

(3) **EFFECTIVE DATE.**—Regulations shall become effective not less than 60 days after the regulations are issued, except that the Board may provide for an earlier effective date for good cause found (within the meaning of section 553(d)(3) of title 5, United States Code) and published with the regulation.

(e) **AMENDMENT OF REGULATIONS.**—Regulations may be amended in the same manner as is described in this section for the adoption, approval, and issuance of regulations, except that the Board may, in its discretion, dispense with publication of a general notice of proposed rulemaking of minor, technical, or urgent amendments that satisfy the criteria for dispensing with publication of such notice pursuant to section 553(b)(B) of title 5, United States Code.

(f) **RIGHT TO PETITION FOR RULEMAKING.**—Any interested party may petition to the Board for the issuance, amendment, or repeal of a regulation.

(g) **CONSULTATION.**—The Executive Director, the Deputy Directors, and the Board—

(1) shall consult, with regard to the development of regulations, with—

(A) the Chair of the Administrative Conference of the United States;

(B) the Secretary of Labor;

(C) the Federal Labor Relations Authority; and

(D) the Director of the Office of Personnel Management; and

(2) may consult with any other persons with whom consultation, in the opinion of the Board, the Executive Director, or Deputy Directors, may be helpful.

SEC. 305. EXPENSES.

(a) **AUTHORIZATION OF APPROPRIATIONS.**—Beginning in fiscal year 1995, and for each fiscal year thereafter, there are authorized to be appropriated for the expenses of the Office such sums as may be necessary to carry out the functions of the Office. Until sums are first appropriated pursuant to the preceding sentence, but for a period not exceeding 12 months following the date of the enactment of this Act—

(1) one-half of the expenses of the Office shall be paid from funds appropriated for allowances and expenses of the House of Representatives, and

(2) one-half of the expenses of the Office shall be paid from funds appropriated for allowances and expenses of the Senate,

upon vouchers approved by the Executive Director, except that a voucher shall not be required for the disbursement of salaries of employees who are paid at an annual rate. The Clerk of the House of Representatives and the Secretary of the Senate are authorized to make arrangements for the division of expenses under this subsection, including arrangements for one House of Congress to reimburse the other House of Congress.

(b) **FINANCIAL AND ADMINISTRATIVE SERVICES.**—The Executive Director may place orders and enter into agreements for goods and services with the head of any agency, or major organizational unit within an agency, in the legislative or executive branch of the United States in the same manner and to the same extent as agencies are authorized under sections 1535 and 1536 of title 31, United States Code, to place orders and enter into agreements.

(c) **WITNESS FEES AND ALLOWANCES.**—Except for covered employees, witnesses before a hearing officer or the Board in any proceeding under this Act other than rulemaking shall be paid the same fee and mileage allowances as are paid subpoenaed witnesses in the courts of the United States. Covered employees who are summoned, or are assigned by their employer, to testify in their official capacity or to produce official records in any proceeding under this Act shall be entitled to travel expenses under subchapter I and section 5751 of chapter 57 of title 5, United States Code.

TITLE IV—ADMINISTRATIVE AND JUDICIAL DISPUTE-RESOLUTION PROCEDURES

SEC. 401. PROCEDURE FOR CONSIDERATION OF ALLEGED VIOLATIONS.

Except as otherwise provided, the procedure for consideration of alleged violations of part A of title II consists of—

(1) counseling as provided in section 402;

(2) mediation as provided in section 403; and

(3) election, as provided in section 404, of either—

(A) a formal complaint and hearing as provided in section 405, subject to Board review as provided in section 406, and judicial review in the United States Court of Appeals for the Federal Circuit as provided in section 407; or

(B) a civil action in a district court of the United States as provided in section 408.

In the case of an employee of the Office of the Architect of the Capitol or of the Capitol Police, the Executive Director, after receiving a request for counseling under section 402, may recommend that the employee use the grievance procedures of the Architect of the Capitol or the Capitol Police for resolution of the employee's grievance for a specific period of time, which shall not count against the time available for counseling or mediation.

SEC. 402. COUNSELING.

(a) **IN GENERAL.**—To commence a proceeding, a covered employee alleging a violation of a law made applicable under part A of title II shall request counseling by the Office. The Office shall provide the employee with all relevant information with respect to the rights of the employee. A request for counseling shall be made not later than 180 days after the date of the alleged violation.

(b) **PERIOD OF COUNSELING.**—The period for counseling shall be 30 days unless the employee and the Office agree to reduce the pe-

riod. The period shall begin on the date the request for counseling is received.

(c) **NOTIFICATION OF END OF COUNSELING PERIOD.**—The Office shall notify the employee in writing when the counseling period has ended.

SEC. 403. MEDIATION.

(a) **INITIATION.**—Not later than 15 days after receipt by the employee of notice of the end of the counseling period under section 402, but prior to and as a condition of making an election under section 404, the covered employee who alleged a violation of a law shall file a request for mediation with the Office.

(b) **PROCESS.**—Mediation under this section—

(1) may include the Office, the covered employee, the employing office, and one or more individuals appointed by the Executive Director after considering recommendations by organizations composed primarily of individuals experienced in adjudicating or arbitrating personnel matters, and

(2) shall involve meetings with the parties separately or jointly for the purpose of resolving the dispute between the covered employee and the employing office.

(c) **MEDIATION PERIOD.**—The mediation period shall be 30 days beginning on the date the request for mediation is received. The mediation period may be extended for additional periods at the joint request of the covered employee and the employing office. The Office shall notify in writing the covered employee and the employing office when the mediation period has ended.

(d) **INDEPENDENCE OF MEDIATION PROCESS.**—No individual, who is appointed by the Executive Director to mediate, may conduct or aid in a hearing conducted under section 405 with respect to the same matter or shall be subject to subpoena or any other compulsory process with respect to the same matter.

SEC. 404. ELECTION OF PROCEEDING.

Not later than 90 days after a covered employee receives notice of the end of the period of mediation, but no sooner than 30 days after receipt of such notification, such covered employee may either—

(1) file a complaint with the Office in accordance with section 405, or

(2) file a civil action in accordance with section 408 in the United States district court for the district in which the employee is employed or for the District of Columbia.

SEC. 405. COMPLAINT AND HEARING.

(a) **IN GENERAL.**—A covered employee may, upon the completion of mediation under section 403, file a complaint with the Office. The respondent to the complaint shall be the employing office—

(1) involved in the violation, or

(2) in which the violation is alleged to have occurred,

and about which mediation was conducted.

(b) **DISMISSAL.**—A hearing officer may dismiss any claim that the hearing officer finds to be frivolous or that fails to state a claim upon which relief may be granted.

(c) **HEARING OFFICER.**—

(1) **APPOINTMENT.**—Upon the filing of a complaint, the Executive Director shall appoint an independent hearing officer to consider the complaint and render a decision. No Member of the House of Representatives, Senator, officer of either the House of Representatives or the Senate, head of an employing office, member of the Board, or covered employee may be appointed to be a hearing officer. The Executive Director shall select hearing officers on a rotational or random basis from the lists developed under

paragraph (2). Nothing in this section shall prevent the appointment of hearing officers as full-time employees of the Office or the selection of hearing officers on the basis of specialized expertise needed for particular matters.

(2) **LISTS.**—The Executive Director shall develop master lists, composed of—

(A) members of the bar of a State or the District of Columbia and retired judges of the United States courts who are experienced in adjudicating or arbitrating the kinds of personnel and other matters for which hearings may be held under this Act, and

(B) individuals expert in technical matters relating to accessibility and usability by persons with disabilities or technical matters relating to occupational safety and health.

In developing lists, the Executive Director shall consider candidates recommended by the Federal Mediation and Conciliation Service or the Administrative Conference of the United States.

(d) **HEARING.**—Unless a complaint is dismissed before a hearing, a hearing shall be—

(1) conducted in closed session on the record by the hearing officer;

(2) commenced no later than 60 days after filing of the complaint under subsection (a), except that the Office may, for good cause, extend up to an additional 30 days the time for commencing a hearing; and

(3) conducted, except as specifically provided in this Act and to the greatest extent practicable, in accordance with the principles and procedures set forth in sections 554 through 557 of title 5, United States Code.

(e) **DISCOVERY.**—Reasonable prehearing discovery may be permitted at the discretion of the hearing officer.

(f) **SUBPOENAS.**—

(1) **IN GENERAL.**—At the request of a party, a hearing officer may issue subpoenas for the attendance of witnesses and for the production of correspondence, books, papers, documents, and other records. The attendance of witnesses and the production of records may be required from any place within the United States. Subpoenas shall be served in the manner provided under rule 45(b) of the Federal Rules of Civil Procedure.

(2) **OBJECTIONS.**—If a person refuses, on the basis of relevance, privilege, or other objection, to testify in response to a question or to produce records in connection with a proceeding before a hearing officer, the hearing officer shall rule on the objection. At the request of the witness or any party, the hearing officer shall (or on the hearing officer's own initiative, the hearing officer may) refer the ruling to the Board for review.

(3) **ENFORCEMENT.**—

(A) **IN GENERAL.**—If a person fails to comply with a subpoena, the Board may authorize the General Counsel to apply, in the name of the Office, to an appropriate United States district court for an order requiring that person to appear before the hearing officer to give testimony or produce records. The application may be made within the judicial district where the hearing is conducted or where that person is found, resides, or transacts business. Any failure to obey a lawful order of the district court issued pursuant to this section may be held by such court to be a civil contempt thereof.

(B) **SERVICE OF PROCESS.**—Process in an action or contempt proceeding pursuant to subparagraph (A) may be served in any judicial district in which the person refusing or failing to comply, or threatening to refuse or not to comply, resides, transacts business, or

shall have jurisdiction over any petition of the General Counsel, filed in the name of the Office and at the direction of the Board, to enforce a final decision under section 405(g) or 406(e) with respect to a violation of part A, B, C, or D of title II.

(g) **DECISION.**—The hearing officer shall issue a written decision as expeditiously as possible, but in no case more than 90 days after the conclusion of the hearing. The written decision shall be transmitted by the Office to the parties. The decision shall state the issues raised in the complaint, describe the evidence in the record, contain findings of fact and conclusions of law, contain a determination of whether a violation has occurred, and order such remedies as are appropriate pursuant to title II. The decision shall be entered in the records of the Office. If a decision is not appealed under section 406 to the Board, the decision shall be considered the final decision of the Office.

(h) **PRECEDENTS.**—A hearing officer who conducts a hearing under this section shall be guided by judicial decisions under the laws made applicable by section 102 and by Board decisions under this Act.

SEC. 406. APPEAL TO THE BOARD.

(a) **IN GENERAL.**—Any party aggrieved by the decision of a hearing officer under section 405(g) may file a petition for review by the Board not later than 30 days after entry of the decision in the records of the Office.

(b) **PARTIES' OPPORTUNITY TO SUBMIT ARGUMENT.**—The parties to the hearing upon which the decision of the hearing officer was made shall have a reasonable opportunity to be heard, through written submission and, in the discretion of the Board, through oral argument.

(c) **STANDARD OF REVIEW.**—The Board shall set aside a decision of a hearing officer if the Board determines that the decision was—

(1) arbitrary, capricious, an abuse of discretion, or otherwise not consistent with law;

(2) not made consistent with required procedures; or

(3) unsupported by substantial evidence.

(d) **RECORD.**—In making determinations under subsection (c), the Board shall review the whole record, or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error.

(e) **DECISION.**—The Board shall issue a written decision setting forth the reasons for its decision. The decision may affirm, reverse, or remand to the hearing officer for further proceedings. A decision that does not require further proceedings before a hearing officer shall be entered in the records of the Office as a final decision.

SEC. 407. JUDICIAL REVIEW OF BOARD DECISIONS AND ENFORCEMENT.

(a) **JURISDICTION.**—

(1) **JUDICIAL REVIEW.**—The United States Court of Appeals for the Federal Circuit shall have jurisdiction over any proceeding commenced by a petition of—

(A) a party aggrieved by a final decision of the Board under section 406(e) in cases arising under part A of title II,

(B) a charging individual or a respondent before the Board who files a petition under section 210(d)(4),

(C) the General Counsel or a respondent before the Board who files a petition under section 215(c)(5), or

(D) the General Counsel or a respondent before the Board who files a petition under section 220(c)(3).

The court of appeals shall have exclusive jurisdiction to set aside, suspend (in whole or in part), to determine the validity of, or otherwise review the decision of the Board.

(2) **ENFORCEMENT.**—The United States Court of Appeals for the Federal Circuit

shall have jurisdiction over any petition of the General Counsel, filed in the name of the Office and at the direction of the Board, to enforce a final decision under section 405(g) or 406(e) with respect to a violation of part A, B, C, or D of title II.

(b) **PROCEDURES.**—

(1) **RESPONDENTS.**—(A) In any proceeding commenced by a petition filed under subsection (a)(1) (A) or (B), or filed by a party other than the General Counsel under subsection (a)(1) (C) or (D), the Office shall be named respondent and any party before the Board may be named respondent by filing a notice of election with the court within 30 days after service of the petition.

(B) In any proceeding commenced by a petition filed by the General Counsel under subsection (a)(1) (C) or (D), the prevailing party in the final decision entered under section 406(e) shall be named respondent, and any other party before the Board may be named respondent by filing a notice of election with the court within 30 days after service of the petition.

(C) In any proceeding commenced by a petition filed under subsection (a)(2), the party under section 405 or 406 that the General Counsel determines has failed to comply with a final decision under section 405(g) or 406(e) shall be named respondent.

(2) **INTERVENTION.**—Any party that participated in the proceedings before the Board under section 406 and that was not made respondent under paragraph (1) may intervene as of right.

(c) **LAW APPLICABLE.**—Chapter 158 of title 28, United States Code, shall apply to judicial review under paragraph (1) of subsection (a), except that—

(1) with respect to section 2344 of title 28, United States Code, service of a petition in any proceeding in which the Office is a respondent shall be on the General Counsel rather than on the Attorney General;

(2) the provisions of section 2348 of title 28, United States Code, on the authority of the Attorney General, shall not apply;

(3) the petition for review shall be filed not later than 90 days after the entry in the Office of a final decision under section 406(e); and

(4) the Office shall be an "agency" as that term is used in chapter 158 of title 28, United States Code.

(d) **STANDARD OF REVIEW.**—To the extent necessary for decision in a proceeding commenced under subsection (a)(1) and when presented, the court shall decide all relevant questions of law and interpret constitutional and statutory provisions. The court shall set aside a final decision of the Board if it is determined that the decision was—

(1) arbitrary, capricious, an abuse of discretion, or otherwise not consistent with law;

(2) not made consistent with required procedures; or

(3) unsupported by substantial evidence.

(e) **RECORD.**—In making determinations under subsection (d), the court shall review the whole record, or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error.

SEC. 408. CIVIL ACTION.

(a) **JURISDICTION.**—The district courts of the United States shall have jurisdiction over any civil action commenced under section 404 and this section by a covered employee who has completed counseling under section 402 and mediation under section 403. A civil action may be commenced by a covered employee only to seek redress for a violation for which the employee has completed counseling and mediation.

(b) **PARTIES.**—The defendant shall be the employing office alleged to have committed the violation, or in which the violation is alleged to have occurred.

(c) **JURY TRIAL.**—Any party may demand a jury trial where a jury trial would be available in an action against a private defendant under the relevant law made applicable by this Act. In any case in which a violation of section 201 is alleged, the court shall not inform the jury of the maximum amount of compensatory damages available under section 201(b)(1) or 201(b)(3).

SEC. 409. JUDICIAL REVIEW OF REGULATIONS.

In any proceeding brought under section 407 or 408 in which the application of a regulation issued under this Act is at issue, the court may review the validity of the regulation in accordance with the provisions of subparagraphs (A) through (D) of section 706(2) of title 5, United States Code, except that with respect to regulations approved by a joint resolution under section 304(c), only the provisions of section 706(2)(B) of title 5, United States Code, shall apply. If the court determines that the regulation is invalid, the court shall apply, to the extent necessary and appropriate, the most relevant substantive executive agency regulation promulgated to implement the statutory provisions with respect to which the invalid regulation was issued. Except as provided in this section, the validity of regulations issued under this Act is not subject to judicial review.

SEC. 410. OTHER JUDICIAL REVIEW PROHIBITED.

Except as expressly authorized by sections 407, 408, and 409, the compliance or non-compliance with the provisions of this Act and any action taken pursuant to this Act shall not be subject to judicial review.

SEC. 411. EFFECT OF FAILURE TO ISSUE REGULATIONS.

In any proceeding under section 405, 406, 407, or 408, except a proceeding to enforce section 220 with respect to offices listed under section 220(e)(2), if the Board has not issued a regulation on a matter for which this Act requires a regulation to be issued, the hearing officer, Board, or court, as the case may be, shall apply, to the extent necessary and appropriate, the most relevant substantive executive agency regulation promulgated to implement the statutory provision at issue in the proceeding.

SEC. 412. EXPEDITED REVIEW OF CERTAIN APPEALS.

(a) **IN GENERAL.**—An appeal may be taken directly to the Supreme Court of the United States from any interlocutory or final judgment, decree, or order of a court upon the constitutionality of any provision of this Act.

(b) **JURISDICTION.**—The Supreme Court shall, if it has not previously ruled on the question, accept jurisdiction over the appeal referred to in subsection (a), advance the appeal on the docket, and expedite the appeal to the greatest extent possible.

SEC. 413. PRIVILEGES AND IMMUNITIES.

The authorization to bring judicial proceedings under sections 405(f)(3), 407, and 408 shall not constitute a waiver of sovereign immunity for any other purpose, or of the privileges of any Senator or Member of the House of Representatives under article I, section 6, clause 1, of the Constitution, or a waiver of any power of either the Senate or the House of Representatives under the Constitution, including under article I, section 5, clause 3, or under the rules of either House relating to records and information within its jurisdiction.

SEC. 414. SETTLEMENT OF COMPLAINTS.

Any settlement entered into by the parties to a process described in section 210, 215, 220, or 401 shall be in writing and not become effective unless it is approved by the Executive Director. Nothing in this Act shall affect the power of the Senate and the House of Representatives, respectively, to establish rules governing the process by which a settlement may be entered into by such House or by any employing office of such House.

SEC. 415. PAYMENTS.

(a) **AWARDS AND SETTLEMENTS.**—Except as provided in subsection (c), only funds which are appropriated to an account of the Office in the Treasury of the United States for the payment of awards and settlements may be used for the payment of awards and settlements under this Act. There are authorized to be appropriated for such account such sums as may be necessary to pay such awards and settlements. Funds in the account are not available for awards and settlements involving the General Accounting Office, the Government Printing Office, or the Library of Congress.

(b) **COMPLIANCE.**—Except as provided in subsection (c), there are authorized to be appropriated such sums as may be necessary for administrative, personnel, and similar expenses of employing offices which are needed to comply with this Act.

(c) **OSHA, ACCOMMODATION, AND ACCESS REQUIREMENTS.**—Funds to correct violations of section 201(a)(3), 210, or 215 of this Act may be paid only from funds appropriated to the employing office or entity responsible for correcting such violations. There are authorized to be appropriated such sums as may be necessary for such funds.

SEC. 416. CONFIDENTIALITY.

(a) **COUNSELING.**—All counseling shall be strictly confidential, except that the Office and a covered employee may agree to notify the employing office of the allegations.

(b) **MEDIATION.**—All mediation shall be strictly confidential.

(c) **HEARINGS AND DELIBERATIONS.**—Except as provided in subsections (d), (e), and (f), all proceedings and deliberations of hearing officers and the Board, including any related records, shall be confidential. This subsection shall not apply to proceedings under section 215, but shall apply to the deliberations of hearing officers and the Board under that section.

(d) **RELEASE OF RECORDS FOR JUDICIAL ACTION.**—The records of hearing officers and the Board may be made public if required for the purpose of judicial review under section 407.

(e) **ACCESS BY COMMITTEES OF CONGRESS.**—At the discretion of the Executive Director, the Executive Director may provide to the Committee on Standards of Official Conduct of the House of Representatives and the Select Committee on Ethics of the Senate access to the records of the hearings and decisions of the hearing officers and the Board, including all written and oral testimony in the possession of the Office. The Executive Director shall not provide such access until the Executive Director has consulted with the individual filing the complaint at issue, and until a final decision has been entered under section 405(g) or 406(e).

(f) **FINAL DECISIONS.**—A final decision entered under section 405(g) or 406(e) shall be made public if it is in favor of the complaining covered employee, or in favor of the charging party under section 210, or if the decision reverses a decision of a hearing officer which had been in favor of the covered employee or charging party. The Board may

make public any other decision at its discretion.

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. EXERCISE OF RULEMAKING POWERS.

The provisions of sections 102(b)(3) and 304(c) are enacted—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as part of the rules of such House, respectively, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of each House.

SEC. 502. POLITICAL AFFILIATION AND PLACE OF RESIDENCE.

(a) **IN GENERAL.**—It shall not be a violation of any provision of section 201 to consider the—

(1) party affiliation;

(2) domicile; or

(3) political compatibility with the employing office;

of an employee referred to in subsection (b) with respect to employment decisions.

(b) **DEFINITION.**—For purposes of subsection (a), the term "employee" means—

(1) an employee on the staff of the leadership of the House of Representatives or the leadership of the Senate;

(2) an employee on the staff of a committee or subcommittee of—

(A) the House of Representatives;

(B) the Senate; or

(C) a joint committee of the Congress;

(3) an employee on the staff of a Member of the House of Representatives or on the staff of a Senator;

(4) an officer of the House of Representatives or the Senate or a congressional employee who is elected by the House of Representatives or Senate or is appointed by a Member of the House of Representatives or by a Senator (in addition an employee described in paragraph (1), (2), or (3)); or

(5) an applicant for a position that is to be occupied by an individual described in any of paragraphs (1) through (4).

SEC. 503. NONDISCRIMINATION RULES OF THE HOUSE AND SENATE.

The Select Committee on Ethics of the Senate and the Committee on Standards of Official Conduct of the House of Representatives retain full power, in accordance with the authority provided to them by the Senate and the House, with respect to the discipline of Members, officers, and employees for violating rules of the Senate and the House on nondiscrimination in employment.

SEC. 504. TECHNICAL AND CONFORMING AMENDMENTS.

(a) **CIVIL RIGHTS REMEDIES.**—

(1) Sections 301 and 302 of the Government Employee Rights Act of 1991 (2 U.S.C. 1201 and 1202) are amended to read as follows:

"SEC. 301. GOVERNMENT EMPLOYEE RIGHTS ACT OF 1991.

"(a) **SHORT TITLE.**—This title may be cited as the 'Government Employee Rights Act of 1991'.

"(b) **PURPOSE.**—The purpose of this title is to provide procedures to protect the rights of certain government employees, with respect to their public employment, to be free of discrimination on the basis of race, color, religion, sex, national origin, age, or disability.

"(c) **DEFINITION.**—For purposes of this title, the term 'violation' means a practice that violates section 302(a) of this title.

SEC. 302. DISCRIMINATORY PRACTICES PROHIBITED.

“(a) PRACTICES.—All personnel actions affecting the Presidential appointees described in section 303 or the State employees described in section 304 shall be made free from any discrimination based on—

“(1) race, color, religion, sex, or national origin, within the meaning of section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16);

“(2) age, within the meaning of section 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a); or

“(3) disability, within the meaning of section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791) and sections 102 through 104 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12112-14).

“(b) REMEDIES.—The remedies referred to in sections 303(a)(1) and 304(a)—

“(1) may include, in the case of a determination that a violation of subsection (a)(1) or (a)(3) has occurred, such remedies as would be appropriate if awarded under sections 706(g), 706(k), and 717(d) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(g), 2000e-5(k), 2000e-16(d)), and such compensatory damages as would be appropriate if awarded under section 1977 or sections 1977A(a) and 1977A(b)(2) of the Revised Statutes (42 U.S.C. 1981 and 1981a(a) and (b)(2));

“(2) may include, in the case of a determination that a violation of subsection (a)(2) has occurred, such remedies as would be appropriate if awarded under section 15(c) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a(c)); and

“(3) may not include punitive damages.”

(2) Sections 303 through 319, and sections 322, 324, and 325 of the Government Employee Rights Act of 1991 (2 U.S.C. 1203-1218, 1221, 1223, and 1224) are repealed, except as provided in section 506 of this Act.

(3) Sections 320 and 321 of the Government Employee Rights Act of 1991 (2 U.S.C. 1219 and 1220) are redesignated as sections 303 and 304, respectively.

(4) Sections 303 and 304 of the Government Employee Rights Act of 1991, as so redesignated, are each amended by striking “and 307(h) of this title”.

(5) Section 1205 of the Supplemental Appropriations Act of 1993 (2 U.S.C. 1207a) is repealed, except as provided in section 506 of this Act.

(b) FAMILY AND MEDICAL LEAVE ACT OF 1993.—Title V of the Family and Medical Leave Act of 1993 (2 U.S.C. 60m et seq.) is repealed, except as provided in section 506 of this Act.

(c) ARCHITECT OF THE CAPITOL.—

(1) REPEAL.—Section 312(e) of the Architect of the Capitol Human Resources Act (Public Law 103-283; 108 Stat. 1444) is repealed, except as provided in section 506 of this Act.

(2) APPLICATION OF GENERAL ACCOUNTING OFFICE PERSONNEL ACT OF 1980.—The provisions of sections 751, 753, and 755 of title 31, United States Code, amended by section 312(e) of the Architect of the Capitol Human Resources Act, shall be applied and administered as if such section 312(e) (and the amendments made by such section) had not been enacted.

SEC. 505. JUDICIAL BRANCH COVERAGE STUDY.

The Judicial Conference of the United States shall prepare a report for submission by the Chief Justice of the United States to the Congress on the application to the judicial branch of the Federal Government of—

(1) the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.);

(2) title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.);

(3) the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

(4) the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.);

(5) the Family and Medical Leave Act of 1993 (29 U.S.C. 2611 et seq.);

(6) the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.);

(7) chapter 71 (relating to Federal service labor-management relations) of title 5, United States Code;

(8) the Employee Polygraph Protection Act of 1988 (29 U.S.C. 2001 et seq.);

(9) the Worker Adjustment and Retraining Notification Act (29 U.S.C. 2101 et seq.);

(10) the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.); and

(11) chapter 43 (relating to veterans' employment and reemployment) of title 38, United States Code.

The report shall be submitted to Congress not later than December 31, 1996, and shall include any recommendations the Judicial Conference may have for legislation to provide to employees of the judicial branch the rights, protections, and procedures under the listed laws, including administrative and judicial relief, that are comparable to those available to employees of the legislative branch under titles I through IV of this Act.

SEC. 506. SAVINGS PROVISIONS.

(a) TRANSITION PROVISIONS FOR EMPLOYEES OF THE HOUSE OF REPRESENTATIVES AND OF THE SENATE.—

(1) CLAIMS ARISING BEFORE EFFECTIVE DATE.—If, as of the date on which section 201 takes effect, an employee of the Senate or the House of Representatives has or could have requested counseling under section 305 of the Government Employees Rights Act of 1991 (2 U.S.C. 1205) or Rule LI of the House of Representatives, including counseling for alleged violations of family and medical leave rights under title V of the Family and Medical Leave Act of 1993, the employee may complete, or initiate and complete, all procedures under the Government Employees Rights Act of 1991 and Rule LI, and the provisions of that Act and Rule shall remain in effect with respect to, and provide the exclusive procedures for, those claims until the completion of all such procedures.

(2) CLAIMS ARISING BETWEEN EFFECTIVE DATE AND OPENING OF OFFICE.—If a claim by an employee of the Senate or House of Representatives arises under section 201 or 202 after the effective date of such sections, but before the opening of the Office for receipt of requests for counseling or mediation under sections 402 and 403, the provisions of the Government Employees Rights Act of 1991 (2 U.S.C. 1201 et seq.) and Rule LI of the House of Representatives relating to counseling and mediation shall remain in effect, and the employee may complete under that Act or Rule the requirements for counseling and mediation under sections 402 and 403. If, after counseling and mediation is completed, the Office has not yet opened for the filing of a timely complaint under section 405, the employee may elect—

(A) to file a complaint under section 307 of the Government Employees Rights Act of 1991 (2 U.S.C. 1207) or Rule LI of the House of Representatives, and thereafter proceed exclusively under that Act or Rule, the provisions of which shall remain in effect until the completion of all proceedings in relation to the complaint, or

(B) to commence a civil action under section 408.

(3) SECTION 1205 OF THE SUPPLEMENTAL APPROPRIATIONS ACT OF 1993.—With respect to payments of awards and settlements relating

to Senate employees under paragraph (1) of this subsection, section 1205 of the Supplemental Appropriations Act of 1993 (2 U.S.C. 1207a) remains in effect.

(b) TRANSITION PROVISIONS FOR EMPLOYEES OF THE ARCHITECT OF THE CAPITOL.—

(1) CLAIMS ARISING BEFORE EFFECTIVE DATE.—If, as of the date on which section 201 takes effect, an employee of the Architect of the Capitol has or could have filed a charge or complaint regarding an alleged violation of section 312(e)(2) of the Architect of the Capitol Human Resources Act (Public Law 103-283), the employee may complete, or initiate and complete, all procedures under section 312(e) of that Act, the provisions of which shall remain in effect with respect to, and provide the exclusive procedures for, that claim until the completion of all such procedures.

(2) CLAIMS ARISING BETWEEN EFFECTIVE DATE AND OPENING OF OFFICE.—If a claim by an employee of the Architect of the Capitol arises under section 201 or 202 after the effective date of those provisions, but before the opening of the Office for receipt of requests for counseling or mediation under sections 402 and 403, the employee may satisfy the requirements for counseling and mediation by exhausting the requirements prescribed by the Architect of the Capitol in accordance with section 312(e)(3) of the Architect of the Capitol Human Resources Act (Public Law 103-283). If, after exhaustion of those requirements the Office has not yet opened for the filing of a timely complaint under section 405, the employee may elect—

(A) to file a charge with the General Accounting Office Personnel Appeals Board pursuant to section 312(e)(3) of the Architect of the Capitol Human Resources Act (Public Law 103-283), and thereafter proceed exclusively under section 312(e) of that Act, the provisions of which shall remain in effect until the completion of all proceedings in relation to the charge, or

(B) to commence a civil action under section 408.

(c) TRANSITION PROVISION RELATING TO MATTERS OTHER THAN EMPLOYMENT UNDER SECTION 509 OF THE AMERICANS WITH DISABILITIES ACT OF 1990.—With respect to matters other than employment under section 509 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12209), the rights, protections, remedies, and procedures of section 509 of such Act shall remain in effect until section 210 of this Act takes effect with respect to each of the entities covered by section 509 of such Act.

SEC. 507. USE OF FREQUENT FLYER MILES.

(a) LIMITATION ON THE USE OF TRAVEL AWARDS.—Notwithstanding any other provision of law, or any rule, regulation, or other authority, any travel award that accrues by reason of official travel of a Member, officer, or employee of the Senate shall be considered the property of the office for which the travel was performed and may not be converted to personal use.

(b) REGULATIONS.—The Committee on Rules and Administration of the Senate shall have authority to prescribe regulations to carry out this section.

(c) DEFINITIONS.—As used in this section—

(1) the term “travel award” means any frequent flyer, free, or discounted travel, or other travel benefit, whether awarded by coupon, membership, or otherwise; and

(2) the term “official travel” means travel engaged in the course of official business of the Senate.

SEC. 508. SENSE OF SENATE REGARDING ADOPTION OF SIMPLIFIED AND STREAMLINED ACQUISITION PROCEDURES FOR SENATE ACQUISITIONS.

It is the sense of the Senate that the Committee on Rules and Administration of the Senate should review the rules applicable to purchases by Senate offices to determine whether they are consistent with the acquisition simplification and streamlining laws enacted in the Federal Acquisition Streamlining Act of 1994 (Public Law 103-355).

SEC. 509. SEVERABILITY.

If any provision of this Act or the application of such provision to any person or circumstance is held to be invalid, the remainder of this Act and the application of the provisions of the remainder to any person or circumstance shall not be affected thereby.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. THOMAS] will be recognized for 20 minutes and the gentleman from Maryland [Mr. HOYER] will be recognized for 20 minutes.

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

Mr. THOMAS. Mr. Speaker, I ask unanimous consent that the gentleman from Pennsylvania [Mr. GOODLING], chairman of the Committee on Economic and Educational Opportunities, be permitted to control 10 minutes of the 20 minutes which are controlled on this side and to yield that time in such blocks as he may determine.

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

There was no objection.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Pennsylvania [Mr. GOODLING].

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

Mr. Speaker, I am proud to rise in support of the bill before us because it is truly one of the most important initiatives this Congress will pass this year. Before I go any further, I want to thank the gentleman from Illinois [Mr. FAWELL] for the many hours over the many years, going back to 1990, that he has also spent in trying to help bring this day about, as well as our staff members, Randy Johnson and Gary Vischer. Its enactment, like the unfunded mandate legislation we will be considering later, will create a long-needed institutional brake, a yellow flag, on the passage of requirements this institution has too easily in the past imposed on employers. As importantly, the bill will finally extend the same workplace protections enjoyed by others to our own employees. Indeed, now that we are forced to comply with these laws, we might even learn from experience and better identify with the problems of compliance endured by our constituents. In fact, I can guarantee it. Proposals for future workplace requirements and reform of existing laws will gather a lot closer attention by every Member of this body after enactment of this legislation. And it's about time. This bill, a product of com-

promise in negotiations between the House and Senate, is not absolutely perfect, but it is a major step forward.

Indeed, the only shadow cast over today is that it took so long in coming. As I have noted in the past, the hypocrisy of Congress in exempting itself from the laws it imposes on others is so obvious that one wonders how it so long escaped criticism, but I am gratified that those of us who have long fought—particularly in my committee—for strong congressional coverage with enforcement in the courts now have ample company.

But others will also comment on the virtues of this legislation, so let me set out, in the short time I have, a few general principles which I hope will provide guidance for the new Office of Compliance and the courts, to amplify the legislative history developed in the Senate.

First, as questions concerning the constitutionality of the bill have been, and will be, raised, I am submitting for the RECORD an April 10, 1991, analysis prepared by CRS at my request which concluded that legislation allowing congressional employees to bring lawsuits in court would likely be upheld and does not pose a serious constitutional question. Second, where there is any doubt on the matter, the office and the courts should apply the law in question as it is applied to private sector employers. Third, where the case law is divided in interpreting the relevant law, the Board and the courts should apply to the Congress the most rigorous interpretations, not the least rigorous. For example, where ambiguities in existing law have led some courts to interpret a particular damage provision expansively, while others have read that ambiguity in a more restrictive manner, the Board and the courts should apply the former interpretation under this act. The Congress should not be allowed to escape the problems created by its own failure to draft laws properly and, perhaps, through this approach we will be forced to revisit and clarify existing laws which, because of a lack of clarity, are creating confusion and litigation.

Let me make a few, more specific points. Although the bill is not entirely clear on this issue, the Board should be considered empowered to issue regulations under section 201 relating to protections against discrimination, subject, of course, to the general limitations on the Board's regulatory authority. The power of hearing officers to dismiss frivolous cases should be exercised only in the clearest situation where there is absolutely no merit to the claim being brought and assuming all relevant facts in favor of the employee. The counseling required under title IV should be truly employee friendly, informative but not coercive. Last, I expect that the protections for confidentiality will apply only where

expressly stated; thus, for example, the report required under section 215 concerning the General Counsel's inspection of congressional facilities for OSHA violations would be made available to the public. We must not wrap proceedings under this law in a veil of secrecy, for to do so would be to lose the trust of the public.

Mr. Speaker, I would have included punitive damages and personal liability to the list of available remedies but will not here press the issue, for the legislation overall marks a giant step forward in disciplining this institution—in forcing us to slow down and more thoroughly consider the effect of the laws we impose on others, for now we will have to live by those same laws. I believe that after all of us are long gone, the positive impact of this initiative will remain.

LIBRARY OF CONGRESS,
CONGRESSIONAL RESEARCH SERVICE,

Washington, DC, April 10, 1991.

To: Honorable William F. Goodling, attention: Randy Johnson.

From: American Law Division.

Subject: Constitutionality of authorizing private causes of actions by employees of Members of Congress against their employers.

This memorandum is in response to your inquiry with regard to whether the speech or debate clause of the Constitution, or, perhaps, some other constitutional provision, would be violated should Congress, in providing protections to employees, either those working for individual Members and for congressional committees or those working for the institution, by forbidding discrimination of the basis of race, color, sex, religion, or other prescribed grounds, authorize the employees to sue in federal court for alleged discrimination.

Implicated directly by any such proposal would indeed be the speech or debate clause assurance that Members of Congress "shall not be questioned in any other Place" for things said or done in the legislative process. Article I, §6, cl. 1. Additionally, a general separation of powers issue might be raised. As we understand the likely proposal, it would not include any authority for the Equal Employment Opportunity Commission, an executive branch agency, to police the employment relations of the legislative branch, which would in itself raise speech or debate and separation of powers questions.

This issue has occasioned much debate in Congress and out in recent years. It is not possible to make a definitive determination on the basis of the constitutional text and its history, structure, and purposes, and the judicial precedents are not dispositive. However, the text as informed by the interpretive judicial decisions does rather strongly suggest that the courts would sustain the validity of the enactment should Congress choose to take the step.

Although the following discussion is anchored in the judicial precedents, one must begin by acknowledging that it is the responsibility of each branch to make an independent interpretation of the meaning of the Constitution and that, while the decision in any particular instance may be reviewable by the courts, ultimately the Supreme Court, each branch owes to the others a respect for the reading of the Constitution developed in the court of governing. *United States v. Nixon*, 418 U.S. 683, 703 (1974). Even,

therefore, if the Supreme Court's decisions were more directly declaratory of the law than they in fact are, Congress in acting on any measure may proceed on a different understanding of the metes and bounds of the Constitution.

SPEECH OR DEBATE CLAUSE

The speech or debate clause has a long lineage from the struggles of Parliament with the Crown in England, *United States v. Johnson*, 383 U.S. 169, 178 (1966), and in our scheme of things is designed to protect the independence and integrity of the legislature and to reinforce the principle of separation of powers. *Ibid.*; *United States v. Brewster*, 408 U.S. 501, 507 (1972). The protection of the clause is not limited to words spoken in debate. "Committee reports, resolutions, and the act of voting are equally covered, as are things generally done in a session of the House by one of its members in relation to the business before it." *Powell v. McCormack*, 395 U.S. 486, 502 (1969) (quoting *Kilbourn v. Thompson*, 103 U.S. 168, 204 (1881)). Thus, so long as legislators are "acting in the sphere of legitimate legislative activity," they are "protected not only from the consequence of litigation's results but also from the burden of defending themselves." *Tenney v. Brandhove*, 341 U.S. 367, 376-377 (1972).

Not only is the Member protected when the clause applies, but his aides receive equal coverage. In *Gravel v. United States*, 408 U.S. 606, 616-617 (1972), the Court accepted the contentions urged on it by the Senate: "that it is literally impossible, in view of the complexities of the modern legislative process, with Congress almost constantly in session and matters of legislative concern constantly proliferating, for Members of Congress to perform their legislative tasks without the help of aides and assistants; that the day-to-day work of such aides is so critical to the Members' performance that they must be treated as the latter's alter ego; and that if they are not so recognized, the central role of the Speech or Debate Clause * * * will inevitably be diminished and frustrated." Therefore, the Court held "that the Speech or Debate Clause applies not only to a Member but also to his aides insofar as the conduct of the latter would be a protected legislative act if performed by the Member himself." *Id.*, 618. See also *Doe v. McMillan*, 412 U.S. 306 (1973).

But the scope of the meaning of "legislative activity" has its limits. "The heart of the clause is speech or debate in either House, and insofar as the clause is construed to reach other matters, they must be an integral part of the deliberative and communicative processes by which Members participate in committee and House proceedings with respect to the consideration and passage or rejection of proposed legislation or with respect to other matters which the Constitution places within the jurisdiction of either House." *Gravel*, supra, 408 U.S., 625. Immunity from civil suit, both in law and equity, and from criminal action based on the performance of legislative duties flows from a determination that a challenged act is within the definition of legislative activity. *Gravel*, for example, held that a grand jury could validly inquire into the processes by which a Member obtained classified information and into the arrangements for subsequent private republication of these documents, since neither action involved protected conduct, *id.*, 626, and republication by a Member of allegedly defamatory remarks outside the legislative body, here through newsletters and press releases, was held unprotected, because it was not essential to the

legislative process. *Hutchinson v. Proxmire*, 441 U.S. 111 (1979). In *Doe v. McMillan*, supra, the Court held that Members and their aides were absolutely immune from liability for conducting an investigation and preparing a report, allegedly libelous, but that the Public Printer and the Superintendent of Documents could be held liable for distributing the report to the public beyond the channels of communication within Congress. *Id.*, 412 U.S., 320-324.

Thus, a Member is immune when he is "acting in the sphere of legitimate legislative activity." *Tenney v. Brandhove*, supra, 341 U.S., 376-377. His aides and presumably others acting at his direction are immune when he is. But when he acts outside the legislative sphere, he is not immune and neither are his aides or others directed by him. *Doe v. McMillan*, supra, 315-316.

Are Employment Decisions Immunized by the Speech or Debate Clause?

It has been strongly contended that the employment decisions of Members with respect to their aides, at least with respect to those aides who are essential to the performance of those legislative activities that are protected by the clause, fall fully within the protection of the speech or debate clause and "shall not be questioned in any other Place." As we will see, that position has support in the case law, but a recent decision by the Supreme Court suggests the conclusion that a Member's hiring and firing practices are not legislative within the meaning of the clause.

In *Davis v. Passman*, 442 U.S. 228 (1979), a divided Court held that a female aide of a Member, discharged because the Member preferred a male for the job, had a cause of action under the due process clause of the Fifth Amendment to sue the Member for monetary damages.¹ Because the lower court had not passed on the contention that the speech or debate clause precluded the suit, the Supreme Court declined to do so at that stage. *Id.*, 235-236 n. 11. The Court did hold that, inasmuch as the clause embodied for Members of Congress the concerns of the separation of powers doctrine for purposes of immunity from suit, it was the only source of immunity, not other principles of separation as well. *Ibid.* Chief Justice Burger, dissenting along with Justices Powell and Rehnquist, argued that separation of powers in combination with the speech or debate clause, both sharing common roots, did not permit the suit to go forward, *id.*, 249, and Justice Stewart, dissenting, thought the speech or debate clause issued was "far from frivolous" and would have remanded so the court of appeals could decide it. *Id.*, 251.²

In two decisions, the United States Court of Appeals for the District of Columbia Circuit attempted to formulate a standard to permit determination of applicability or nonapplicability of the clause to congressional employment decisions. The discharge of the manager of the House of Representa-

tives' restaurants was the issue of *Walker v. Jones*, 733 F.2d 923 (D.C. Cir.), cert. den., 469 U.S. 1036 (1984). Essentially, the court thought inquiry should focus on whether an employee's duties could be viewed "as work that significantly informs or influences the shaping of our nation's laws" or whether an employee's duties were "peculiar to a Congress member's work qua legislator." "Intimately cognate . . . to the legislative process." *Id.*, 931. Under that standard, the clause did not apply to the employee. In *Browning v. Clerk, U.S. House of Representatives*, 789 F.2d 923 (D.C. Cir.), cert. den., 479 U.S. 996 (1986), the discharge of an Official Reporter for the House of Representatives was challenged. The court held the congressional defendants to be immune under the speech or debate clause. The standard was "whether the employee's duties were directly related to the due functioning of the legislative process." *Id.*, 929 (emphasis in original). If the employee's duties are "such that they are directly assisting members of Congress in the discharge of their functions," personnel decisions affecting them are correspondingly legislative and shielded from judicial scrutiny." *Ibid.*

Requiring reconsideration of this developing case law, however, is *Forrester v. White*, 484 U.S. 219 (1988). The case unanimously held that a state court judge did not have judicial immunity in a suit for damages brought by a probation officer whom he had fired. The Court explained that in determining whether immunity attaches to a particular official action it applies a "functional" approach. "Under that approach, we examine the nature of the functions with which a particular official or class of officials has been lawfully entrusted, and we seek to evaluate the effect that exposure to particular forms of liability would likely have on the appropriate exercise of those functions. Officials who seek exemption from personal liability have the burden of showing that such an exemption is justified by overriding considerations of public policy . . ." *Id.*, 224. Thus, it is "the nature of the function performed, not the identity of the actor who performed it, that inform[s] our immunity analysis." *Id.*, 229.

Judges have absolute immunity from liability for the performance of judicial functions. *Bradley v. Fisher*, 13 Wall. (80 U.S.) 335 (1872); *Pierson v. Ray*, 386 U.S. 547 (1967); *Stump v. Sparkman*, 435 U.S. 349 (1978). But when a judge acts in an administrative or a legislative capacity, he enjoys no judicial immunity. In the Court's view, "Judge White was acting in an administrative capacity when he demoted and discharged Forrester. Those acts . . . may have been quite important in providing the necessary conditions of a sound adjudicative system. The decisions at issue, however, were not themselves judicial or adjudicative." *Supra*, 484 U.S., 229. Employment decisions, like many others, the Court continued, "are often crucial to the efficient operation of public institutions," *ibid.*, yet they are not entitled to absolute immunity, "even though they may be essential to the very functioning of the courts * * *." *Id.*, 228.

Forrester v. White was, of course, not a case governed by the speech or debate clause; it was brought under 42 U.S.C. §1983, which affords persons who have been denied their constitutional rights under color of state law a cause of action against state and local defendants. And, yet, the Court has, when passing on questions of legislative immunity in §1983 actions, looked to speech and debate principles, emphasizing that the clause itself

¹ In *Bivens v. Six Unknown Named Agents of the Bureau of Narcotics*, 403 U.S. 388 (1971), the Court held that a person, alleging violation of his Fourth Amendment search and seizure protection, in the absence of a statutory remedial cause of action, could sue the individual officers for damages under an implied cause of action premised directly upon the constitutional provision in question. *Davis v. Passman* extended this ruling, by basing the implication of a cause of action upon the Fifth Amendment's due process clause, which contains an equal protection component, when the Federal Government or someone acting under its authority performs an allegedly discriminatory act.

² The case was settled after the Supreme Court remanded it for further proceedings, and no speech or debate clause resolution was reached.

is but a part of the much larger common-law principle of legislative freedom of speech. *Tenney v. Brandhove*, supra, 341 U.S., 372-379; *Supreme Court of Virginia v. Consumers Union*, 446 U.S. 719, 732 (1980). Indeed, the Court has said that "we generally have equated the legislative immunity to which state legislators are entitled under §1983 to that accorded Congressmen under the Constitution." Id., 733. See also *Eastland v. United States Servicemen's Fund*, 421 U.S. 491, 502-503, 505, 506 (1975); *Dombrowski v. Eastland*, 387 U.S. 82, 84-85; *United States v. Johnson*, supra, 383 U.S., 180. If, therefore, *Forrester v. White* bears on the question of congressional immunity for employment decisions, it strongly suggests that for such decisions Members of Congress do not have immunity.

The D.C. Circuit in *Gross v. Winter*, 876 F.2d 165 (D.C.Cir. 1989), has read *Forrester* to apply to legislative immunity and has held that a legislator's employment decisions are not entitled to legislative immunity. *Gross*, too, is a §1983 case brought against a member of the City Council of the District of Columbia, but the court took the two previous decisions in the Circuit, *Walker* and *Browning*, to have stated the doctrinal standards, which must be modified in the light of *Forrester*. See also *Ratere v. Rockett*, 852 F.2d 946, 950 (7th Cir. 1988)(dictum). The *Gross* court, however, reserved the question "whether special considerations applicable to members of Congress, such as separation-of-powers concerns, continue to justify the absolute immunity standard for congressional personnel decisions adopted in *Browning*." Supra, 876 F.2d, 172.

Ambiguity on this point clouds any analysis of *Forrester*. The Court observes at one point that it follows its "functional" approach in all cases, save for those that are governed "by express constitutional or statutory enactment." *Forrester v. White*, supra, 484 U.S., 224. Paramount of the express constitutional provisions, it then notes, is the legislative immunity created by the speech or debate clause. "Even here, however, the Court has been careful not to extend the scope of the protection further than its purposes require." *Ibid.* The Court then refers to *Davis v. Passman*, supra, for its holding that except for speech or debate clause immunity, a Member of Congress may be liable for his employment decisions. *Ibid.*, But when, later in the opinion, the Court observed that, no less than a judge's ability to hire and fire employees as bearing on his ability to carry out his judicial functions is the similar ability of executive branch officials to hire and fire, and executive officials have no such immunity as the judge was claiming, the Court made no reference at all to employment decisions by legislators. Id., 229.

Some conflicting lines of precedent thus exist. Staffs of Members are so essential to the functioning of the legislative process that under *Gravel* they are entitled to the same speech or debate immunity that the Members have. This suggests that the clause could very well protect the Members' discretion in choosing to hire or to keep or not keep any person they want on their staffs. At the same time, the *Forrester* decision forecloses this mode of analysis for judges (as well as those executive officers with some measure of immunity). It is simply not relevant that the employee or aide is essential to the execution of the official's function or crucial to the efficient operation of his office. What is relevant is whether the function for which the judge is being questioned is judicial or adjudicative; if it is administrative, or legislative, judicial immunity does not attach.

Legislative immunity could be similarly analyzed. When the Member is engaged in legislative activity, he and his assisting aides are entitled to speech or debate immunity; when the Member, or an aide deputized by him, is engaged in an administrative function, such as hiring or firing staff, neither has speech or debate immunity. The conceptual difficulty is that in being "careful not to extend the scope of the protection [of the speech or debate clause] further than its purposes require," *Forrester*, 484 U.S., 224 the Court has construed the application of the clause to depend upon the connection of the acts challenged to the legislative process. In the context of *Gravel*, the "purposes" served by the clause required coverage of aides. But hiring and firing an aide is not legislating, anymore than discharging the probation officer was a judicial act of Judge White. A tension exists here, but on the strength of *Forrester*, a persuasive argument can be made that the speech or debate clause does not encompass employment decisions.

In any event, certain employees of the institution, such as the manager of the House of Representatives restaurant involved in *Walker v. Jones*, supra, have only a tenuous relationship to the legislative function. Under the precedents preceding *Forrester*, it appears that Congress could have provided a judicial remedy for them. Similarly, not all personal aides of Members assist in the legislative function as explicated by the Court. Some deal with constituent relations; some do casework and other activities with the executive branch and the like. Even if, therefore, employment decisions concerning aides assisting the Member exclusively in the legislative function were immune, the same decisions with respect to other employees would not be. Difficulties of application, it is safe to say, would be great.

Certainly, an express decision made legislatively by Congress that employment decisions of Members can be placed outside coverage of the speech or debate clause would be a determination by the body most familiar with the issue that should be entitled to special deference by the courts when they are called upon to pass on the question of the validity of congressional coverage under an appropriate statute.

May Congress Waive Speech or Debate Immunity From Suit?

Even if it is eventually determined, either by Congress or by the courts, that employment decisions are encompassed by the clause, the validity of judicial cognizance of questions arising from the relationship could still be defended on the basis that Congress may waive the protection of the clause by an express provision of law and give jurisdiction of an issue to the courts. Absent clearly applicable case law, we can, at this point, but speculate about how the Supreme Court might eventually resolve the question.

Twice now, the Court has reserved the issue, in the context of criminal prosecutions of Members. "[W]ithout intimating any view thereon, we expressly leave open for consideration when the case arises a prosecution which * * * is founded upon a narrowly drawn statute passed by Congress in the exercise of its legislative power to regulate the conduct of its members." *Johnson*, supra, 383 U.S., 185. See also *Brewster*, supra, 408 U.S., 529 n. 18. But in the latter case, three dissenters reached the issue and would have ruled that Congress may not authorize the courts to try Members for conduct protected by the speech or debate clause. Id., 529, 540-549 (Justices Brennan and Douglas), 551, 562-563 (Justices White, Brennan, and Douglas).

Both *Johnson* and *Brewster* were criminal cases, the paradigmatic kind of executive invasion of legislative privilege with which the parliamentary proponents of legislative integrity and the Framers were concerned. It may be that with respect to civil cases, especially civil cases in which the plaintiff is a private citizen, the concern is of a lesser nature, see *Gross v. Winter*, supra, 876 F.2d, 172-173 n. 11, but the clause clearly applies to both criminal and civil suits, and the Court, with one exception not relevant in this context, has indicated no difference of treatment based on the nature of the cause of action. See *Supreme Court of Virginia*, supra, 446 U.S., 733 (noting *United States v. Gillock*, 445 U.S. 360 (1980)).

Facially, the clause seems to make jurisdiction over Members for conduct covered by the clause exclusive with the respective House of each Member. That is, "for any Speech or Debate in either House, they shall not be questioned in any other Place." That exclusivity is the necessary conclusion from the plain language of the clause is hardly compelling. It merits mention that Congress is given by the Constitution, Article I, §5, cl 2, the power to punish its Members for disorderly behavior and even to expel a Member by a two-thirds vote of the respective House. This power to punish is a complementary authority to speech or debate immunity, inasmuch as the drive of the English Parliament for legislative freedom included the successful assertion of the power to punish members for offenses for which they were immune to executive prosecution. Colonial and state legislatures in this country and the Federal Congress all claimed the same power as part of the same consideration. See *Anderson v. Dunn*, 6 Wheat. (19 U.S.) 204 (1821); *Watkins v. United States*, 354 U.S. 178, 188-199 (1957); *United States v. Brown*, 381 U.S. 437, 441-446 (1965); *Powell v. McCormack*, supra, 395 U.S., 522-548. As the Court has observed, Congress' power to punish Members, even to expulsion, is quite broad, extending "to all cases where the offense is such as in the judgment of the Senate [and, no doubt, the House of Representatives] is inconsistent with the trust and duty of a member." *In re Chapman*, 166 U.S. 661, 669-670 (1897). In exercising its powers under this grant of authority, the Senate or the House of Representatives "acts as a judicial tribunal" and its powers to adjudicate "is in no wise inferior under like circumstances to that exercised by a court of justice." *Barry v. United States ex rel. Cunningham*, 279 U.S. 597, 616 (1929).

In *Burton v. United States*, 202 U.S. 344 (1906), a Senator convicted for accepting money to influence an executive department, conduct not protected by the speech or debate clause, argued that the statute under which he was charged conflicted with the provision of Article I, §5, cls. 1 & 2, making each House the sole judge of the qualifications of its Members and giving each House the authority to punish its Members for disorderly behavior. Cf. *Kilbourn v. Thompson*, supra, 103 U.S., 183 (The Constitution "is not wholly silent as to the authority of the separate branches of Congress to inflict punishment. It authorizes each House to punish its own members.") (emphasis added). Rejecting the contention, the Court observed: "While the framers of the Constitution intended that each Department should keep within its appointed sphere of public action, it was never contemplated that the authority of the Senate to admit to a seat in its body one who had been duly elected as a Senator, or its power to expel him after being admitted, should, in any degree, limit or restrict the

authority of Congress to enact such statutes, not forbidden by the Constitution, as the public interests required for carrying into effect the powers granted to it. In order to promote the efficiency of the public service and enforce integrity in the conduct of such public affairs as are committed to the several Departments, Congress, having a choice of means, may prescribe such regulations to those ends as its wisdom may suggest, if they be not forbidden by the fundamental law." *Id.*, 202 U.S., 367. That is, Congress, though the Senate had the power to punish the Member itself, could enact legislation providing for his trial in the courts of the United States.

Similarly, though each House has the power, pursuant to the legislative power of inquiry, to punish contempts by witnesses before it or one of its committees, *Anderson v. Dunn*, supra; *Marshall v. Gordon*, 243 U.S. 521 (1917); *McGrain v. Daugherty*, 273 U.S. 135 (1927); *Jurney v. MacCracken*, 294 U.S. 125 (1935), it may also provide for trial and punishment before the federal courts. In 1857, because imprisonment could extend no further than the adjournment of the House which ordered it and because contempt trials before the bar of the charging House were time consuming, Congress enacted a statute providing for criminal process in the federal courts with prescribed penalties for contempt of Congress. Act of January 24, 1857, 11 Stat. 155. With only minor modifications, this statute is now 2 U.S.C. §192.

Holding that the purpose of this statute is merely supplementary of the power retained by Congress, the Supreme Court has rejected all constitutional challenges to it. "We grant that Congress could not divest itself, or either of its Houses, of the essential and inherent power to punish for contempt, in cases to which the power of either House properly extended; but because Congress, by the Act of 1857, sought to aid each of the Houses in the discharge of its constitutional functions, it does not follow that any delegation of the power in each to punish for contempt was involved." *In re Chapman*, supra, 166 U.S., 671-672.

The lesson of these cases is that Congress' power under Article I, §8, cl. 18, to enact all laws which are "necessary and proper" to execute its powers, includes the power to enact laws which implement and execute the powers of each House to govern itself. Congress regularly, pursuant to its authority to "determine the Rules of its Proceedings," enacts legislation binding both Houses to observance of procedural and substantive matters. The Legislative Reorganization Acts of 1946 and 1970, 60 Stat. 834, 84 Stat. 1175, contained extensive provisions affecting one House or the other as well as both bodies, and the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, 99 Stat. 1037, made similar extensive provisions. Of course, each House retained the power to make unilateral changes, pursuant to the authorization to determine the rules of proceedings, but as to the power to enact legislation for both Houses there was no doubt.

Establishing that there is no necessary exclusivity simply because the Constitution imposes a power or duty on Congress, or on one House thereof, merely addresses one half of the equation, however. The provisions discussed above involved delegations or authorizations to each House, whereas the speech or debate clause appears on its face to be directed to the protection of the individual Senator or Representative. It has been observed by the Court that "[t]he immunities of the Speech or Debate Clause were not

written into the Constitution simply for the personal or private benefit of Members of Congress, but to protect the integrity of the legislative process by insuring the independence of individual legislators." *United States v. Brewster*, supra, 408 U.S., 507. See also *Kilbourn v. Thompson*, supra, 103 U.S., 203.

Practice by the House of Representatives considers the response of a Member to a subpoena or other legal process to raise a question related to the dignity of the House and the integrity of its proceedings. "The rules and precedents of the House require that no Member, official, staff member, or employee of the House may, either voluntarily or in obedience to a subpoena, testify regarding official functions, documents, or activities of the House without the consent of the House being first obtained." 3 DESCHLER'S PRECEDENTS OF THE UNITED STATES HOUSE OF REPRESENTATIVES, H. Doc. 94-661 (1979), ch. 11, §14. See *In re Grand Jury Investigation (Eilberg)*, 587 F.2d 589, 592-593 (3d Cir. 1978) (House acquiescence to grand jury subpoena). This practice reflects the institutional interest of the House in the protection of the clause and might, without more, support enactment of legislation based on Congress' necessary and proper power.

Personal interest, a purely individual interest divorced from the institutional interest, in the protection of the clause has also been recognized, though. In *Coffin v. Coffin*, 4 Mass. 1, 27 (1808), speaking of the Massachusetts equivalent of the federal clause, Chief Justice Parsons said: "In considering this article, it appears to me that the privilege secured by it is not so much the privilege of the house as an organized body, as of each individual member composing it, who is entitled to this privilege, even against the declared will of the house. For he does not hold this privilege at the pleasure of the house; but derives it from the will of the people, expressed in the constitution, which is paramount to the will of either or both branches of the legislature. In this respect the privilege here secured resembles other privileges attached to each member by another part of the constitution, by which he is exempted from arrests on *mesne* (or original) process, during his going to, returning from, or attending the general court. Of these privileges, thus secured to each member, he cannot be deprived, by a resolve of the house, or by an act of the legislature." The significance of this particular case is that the Supreme Court has pronounced it to be perhaps "the most authoritative case in this country on the construction of the provision in regard to freedom of debate in legislative bodies * * *." *Kilbourn v. Thompson*, supra, 103 U.S., 204. See also *Tenney v. Brandhove*, supra, 341 U.S., 373-374; *United States v. Brewster*, supra, 408 U.S., 513-517. While the Court has quoted these lines in a case only tangentially, if that, relevant to the question, *Spallone v. United States*, 110 S.Ct. 625, 634 (1990), its explanation of the reasons underlining the clause gives weight to the personal protection accorded individual Members as well as to the institutional interest. *Brewster*, supra, 408 U.S. 501; *Tenney v. Brandhove*, supra, 341 U.S., 372-373.

To be sure, there were instances in English history in which Parliament contrived to deny the protection of the privilege to Members. For example, John Wilkes was denied his parliamentary privilege and thereafter convicted in court for seditious libel, *Powell v. McCormack*, supra, 395 U.S., 527-531, but this case was such a *cause celebre*, here as well in England, that adoption of its particular approach silently into the speech or debate clause is unlikely, to say the least.

It thus must be concluded that the power of Congress to waive the clause by expressly making Members subject to judicial process for covered conduct is unsettled. It is not, however, foreclosed as a possibility, inasmuch as the exclusivity argument has not been accepted in other contexts involving Article I, §§5 and 6. But the function of the clause as a protection of institutional interests through a protection of the individual legislators personal rights does weigh considerably against the possibility of institutional waiver. If Congress should enact a statute, making the determination that it can waive, again the fact that the body for whom the protections of the clause were intended has reasoned that its institutional interests would not be adversely affected by judicial exercise of the power would doubtlessly be given substantial deference by the courts. That the clause protects the individual interests of each Member, even though in the long run the protection is to further the institutional interest of the legislative body, would perhaps require some balancing by the courts. Acceptance of such a statute would appear, however, at this stage, to be problematic.

One should note, however, that when the employment decision is that of either the House of Representatives or the Senate, as an institution, as in the employment of restaurant workers elevator operators, and the like, or even of employees more closely associated with the legislative process, such as the Official Reporter before the court in *Browning*, the ability to waive immunity against the institution might be more easily answered.

SEPARATION OF POWERS

Additionally, a general separation of powers issue may be independently raised. It is true that in *Davis v. Passman*, supra, 442 U.S., 228-229 n. 11, the Court stated that unless the speech or debate clause protected Members, they were not protected generally by the separation of powers doctrine. The *Gross v. Winter* court did, however, pause to consider whether an absolute immunity for Members making employment decisions might be justified under the doctrine of separation of powers, regardless of the inapplicability of the speech or debate clause. Supra, 876 F.2d, 172.

Briefly, the Court has adopted in its separation of powers decision-making a standard that evaluates whether there is encroachment and aggrandizement. That is, does the action of one branch toward another threaten to "impermissibly undermine" the powers of the other or threaten to "disrupt the proper balance between the coordinate branches [by] prevent[ing] the [branch acted upon] from accomplishing its constitutionally assigned functions." *Morrison v. Olson*, 487 U.S. 654, 693-696 (1988); *Mistretta v. United States*, 488 U.S. 361, 380-384 (1989). See also *United States v. Nixon*, 418 U.S. 683, 713 (1974); *Nixon v. Administrator of General Services*, 433 U.S. 425, 422-443 (1977). Without intending to treat the issue superficially, we must observe that Congress has given the federal courts cognizance of employment discrimination in the executive branch of the Federal Government, and much litigation has ensued without suggestions that this extension of employment discrimination law has upset the balance of the separation of powers. Therefore, by parity of concern, it would seem evident that if the speech or debate clause is no impediment to judicial causes of action for the employees of congressional Members, the doctrine of separation of powers will present no barrier.

CONGRESSIONAL INSTRUMENTALITIES

Whether a constitutional problem would arise from application of employment discrimination laws, with judicial remedies, to the instrumentalities of Congress³ is a question that may be quickly disposed of. In the course of its legislative provision of remedies against employment discrimination, beginning in 1972, Congress has extended to the Library of Congress and to those units in the legislative branch which have positions in the competitive service the guarantees and judicial remedies of title VII of the Civil Rights Act of 1964 (as amended in 1972), 42 U.S.C. § 2000e-16(b), and the Age Discrimination in Employment Act of 1967 (as amended in 1978), 29 U.S.C. § 633a(a). The General Accounting Office, which is a legislative branch agency for some purposes and an executive branch agency for others,⁴ is covered by these two Acts and by the Rehabilitation Act of 1973.⁵ However, the Americans With Disabilities Act of July 26, 1990, P.L. 101-336, § 509(c), 104 Stat. 375, in applying the Act to these instrumentalities, provided for administrative enforcement by the agencies only.⁶

To be sure, some employees of some of these agencies in working with Members and the staffs of Members certainly participate in the legislative process in the sense of the term that the Supreme Court has used in interpreting the speech or debate clause. Employees of the Congressional Research Service of the Library of Congress and of the Congressional Budget Office do so participate, and there is authority that for actions CRS employees, for instance, take in the performance of the legislative function they are immune under the speech or debate clause. See *Webster v. Sun Co., Inc.*, 561 F.Supp. 1184 (D.D.C. 1983), *vacated and remanded*, 731 F.2d 1 (D.C.Cir. 1984), *on further appeal*, 790 F.2d 157 (D.C.Cir. 1986). Other members of the Library of Congress staff perform other functions not related to the legislative process. See, e.g., *Eltra Corp. v. Ringer*, 579 F.2d 294, 298-301 (4th Cir. 1978) (position of Register of Copyrights). Similarly, it is questionable that, for instance, employees of the United States Botanic Garden participate in the legislative function as defined by the Supreme Court.

If Congress should adopt the reasoning of an earlier portion of the memorandum to the effect that employment decisions are administrative functions not so inextricably tied to the legislative function as to implicate the speech or debate clause, the issue is easily settled. But even if the personal staffs of Members, or at least the legislative affairs employees of the Members' personal staffs, are determined to be covered by the speech or debate clause that they may not be authorized to seek judicial relief for proscribed practices, it does not follow that the employees of congressional instrumentalities are likewise covered. Those who do not assist

Members in the carrying out of their legislative responsibilities would seem clearly to be outside the scope of the clause. Those who do assist Members in the carrying out of their legislative responsibilities may well be immune for their actions while so assisting, but what is the legislative function of the employment decisions of the agencies who hire, fire, and oversee their employment that gives those decisions legislative immunity?

A more compelling reason exists for doubting that the clause would require that employees of these agencies be remitted to purely administrative remedies. The speech or debate clause provides that for their performance of their legislative functions the Members of Congress are not to be questioned in any other place. A challenge to an agency decision respecting the employment rights of an employee would be a suit against the agency. The Library of Congress or the Government Printing Office would be sued, not a Member or Members, not the House of Representatives or the Senate. There is no facile attempt at word play in this distinction.

Thus, in *Kilbourn v. Thompson*, *supra*, although Congress could not be sued for ordering the arrest of Kilbourn, nor could any Member be sued for voting for the resolution, the Sergeant at Arms who carried out the legislative directive to take Kilbourn into custody was suable and liable. In *Doe v. McMillan*, *supra*, neither the Members nor the committee staff who carried out the investigation and the subsequent preparation and publication of the report on the investigation could be sued, but the two officers, the Public Printer and the Superintendent of Documents, who carried out the congressional directive to distribute the report outside Congress were suable. In *Powell v. McCormack*, *supra*, 395 U.S., 503-506, the Court held that it was proper to name several officers and employees of the House of Representatives as defendants in order that the act of the House in excluding the Member-elect could be challenged.

That Members of Congress are immune for the act of voting for a measure that may be unconstitutional does not mean that the enacted measure may not be challenged in court, such as by suing one charged with its enforcement for a declaration of invalidity. Congressional actions may be challenged, even if the congressional actors may not be. See e.g., *Powell v. McCormack*, *supra*. Thus, it would seem to follow that the actions of a legislative agency proceeding under general congressional direction could be challenged without implicating the strictures of the speech or debate clause. At the least, with the existence of an enacted policy against employment discrimination, the employing agency would, at the least, be acting *ultra vires* were it to make decisions on the prohibited grounds.

CONCLUSION

First, application to Congress of the employment protection provisions of federal civil rights laws, at least in the context of authorizing judicial remedies, could raise problems under the speech or debate clause. Under one possible analysis, some employees would be sufficiently removed from the legislative process so that decisions about them may well not implicate the clause at all, whereas other employees are so integral to the legislative process that their employment would be covered. But if the Supreme Court's *Forrester* decision provides the appropriate mode of analysis, an employment decision of a Member with respect to all staff would be an administrative decision not en-

titled to speech or debate clause protection. Especially if Congress should conclude that *Forrester* is the correct analysis, in the course of extending the laws, it seems likely that the courts may well defer to that determination.

Second, if it is concluded that the speech or debate clause applies to the employment decisions of Members, an argument exists that Congress may expressly waive the protection and subject Members to suit. Little actual authority exists for the proposition, but there is little on the other side either. The matter is largely one of deductions from basic principles and analogies. But the argument from general principles in favor of waiver is significantly weaker than the argument that the clause does not apply in the first place.

Third, it would appear that regardless of the conclusion with respect to the personal staffs of Members, the employees of a number of agencies associated with Congress would be sufficiently removed from the legislative process that the clause would not apply. With respect to other such employees, who are more involved in the legislative process, the fact that the employment decisions are made by the agencies themselves and not by Congress or an individual Member could bring the decisions outside the scope of the clause.

JOHNNY H. KILLIAN,
Senior Specialist,
American Constitutional Law.

□ 1140

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

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

Mr. Speaker, I rise today with mixed feelings. On the one hand, I want to tell the House I am pleased that the House is moving forward on legislation we have been working on for many years only to see it thwarted, frankly, in the Senate by Republican politics. Yet today in a bipartisan fashion we are on the floor in what will hopefully be the final stages in this legislative drama.

However, the legislation before us today is new to the House. Although this bill has been the subject of extensive debate in the Senate, it has not had one hearing in the U.S. House of Representatives. The American public, I am told today in a 1-minute, voted for reform, voted to open up this institution, and voted for democratization in debate and extensive analysis of programs. There was not one hearing in the House of Representatives during the 104th Congress on this bill.

It was first brought up on this floor just 13 days ago in a different form under a completely closed rule. Today a new version is before us, with little if any opportunity for review and no chance for amendment. If this is the new wind blowing through the House of Representatives, then it is a wind that blows little good.

H.R. 1 was the first piece of legislation to move through the new House of Representatives. It did so under a process in which no Member could suggest changes. Today it is back, as I have

³For purposes of this memorandum, the instrumentalities of Congress include the Architect of the Capitol, the Congressional Budget Office, the General Accounting Office, the Government Printing Office, the Library of Congress, the Office of Technology Assessment, and the United States Botanic Garden. Americans With Disabilities Act of July 26, 1990, P.L. 101-336, § 509(c)(4), 104 Stat. 375.

⁴See *Bousher v. Synar*, 478 U.S. 714 (1986).

⁵These Acts apply to "executive agencies" as defined in 5 U.S.C. § 105, which specifies that, for purposes of title 5, "executive agency" includes an "independent establishment," which in turn is defined by 5 U.S.C. § 104(2) to include GAO.

⁶The proposed Civil Rights Act of 1990, S. 2104, § 16(c), 101st Congress, would have limited enforcement of the Act and of Title VII to administrative enforcement within each agency.

said, in a new version. It is again brought to the floor of this House under a completely closed process.

This should be, in my opinion, Mr. Speaker, a day of pride for this House. It should be a day of joy, but instead it is a day of sadness for a Congress that started out with such anticipation of a new day. Instead, on day 6 of the 104th Congress we can clearly declare power and muscle are the rule of order of this House, not the rule of democracy.

Having said that, having expressed the concern of this side of the aisle about the process, let me talk about the substance. S. 2, as I said, will finally bring into place a process which many of us fought for for a long time. It will provide protection and anti-discrimination laws to congressional employees and employees of other legislative-branch agencies. My good friend, the gentleman from Connecticut [Mr. SHAYS], a Republican, has been a leader in this effort with Mr. SWETT, a Democrat from New Hampshire. Mr. SHAYS is to be commended for his tenacity, for his courage in the light of stiff opposition from time to time, and for his tireless efforts in bringing this bill before us today. He has performed a service for this House and for this country.

I believe that S. 2 is an improvement, very frankly, over the House bill. S. 2 spells out the rights, protections, remedies, and procedures provided to congressional employees. The bill establishes an independent nonpartisan Office of Compliance to develop the regulations applying the laws to Congress and to resolve complaints. It will be composed of a five-member board of directors whose board is selected on a bipartisan, bicameral basis similar to the old rules for the House administrative officer. Former Members of Congress and current staff are prohibited from serving on the board. No Member of the House or Senate nor any House or Senate employee can serve as hearing officer on a complaint.

Most importantly, any party aggrieved by a board decision can seek judicial review by the U.S. Court of Appeals for the Federal Circuit, and employees can bring suit directly in Federal district court after mediation and counseling if that is allowed under the applicable statute. This is an important new right for congressional employees, and I am pleased that we are finally moving forward on this effort.

□ 1150

This is an important new right for congressional employees. I am pleased that we are finally moving forward on this effort.

As I have said on the floor, Mr. Speaker, many times, of all the talk of reform, of all the speechifying, the one reform that my constituents, and I gainsay every representative's constituents, have always asked for, and

the one reform that I have always thought was justified and real, this is it, covering Congress by the same laws we ask others to live under.

Congress should live under the laws it passes, and, my colleagues, in most cases, civil rights, the ADA, fair labor standards, family and medical leave, to name a few, it has, let me repeat that, this House has lived under those statutes. S. 2, however, improves congressional coverage and provides an outside remedy for employees, a critical addition to present protections.

This is a change whose time has not only come but is overdue. I am proud to be on the floor today with the gentleman from Connecticut [Mr. SHAYS] and the gentleman from California [Mr. THOMAS] and others, and the gentleman from Pennsylvania [Mr. GOODLING], Members on our side. I regret that Mr. Sweet is not here because he fought very hard. And through his leadership and that of the gentleman from Connecticut [Mr. SHAYS], this similar legislation passed the House, as I said earlier, and was killed in the Senate.

I would urge today my colleagues to support this legislation in spite of the heavy-handed procedural railroad on which this bill comes to the floor today.

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

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

The gentleman from Maryland indicates that the bill that we have before us has not had a single hearing on the House side. Yet he commends its content to be superior than the bill that we examined on the House side.

The chairman of the Committee on Economic and Educational Opportunities lamented the fact that it has taken us so long to get here. I think it might be useful for a minute or two to visit the chronology of how we got here today.

Way back on July 28, 1994, the Committee on House Administration voted 19 to 0 to pass essentially what we have in front of us onto the House, with the hope that in July, having moved out of committee, by the end of the second session of the 103d Congress, this would have passed the House and the Senate and moved to the President for his signature.

As Members will recall, very little went through the entire legislative process in the 103d Congress, and this is one of them.

It is true that on August 10, the House voted 427 to 4 to adopt what is essentially in the measure that we have today. There were four Members of the minority, then the majority, who voted against it. Having sent that position over to the Senate and the Senate's failure to consider the position, on October 7, the House decided to take it upon itself to impose the structure of what would have been leg-

islation on the House through the rules process.

At that time the vote was 348 to 3. The three votes in opposition to the measure were clearly not substantive opposition. The Members on our side of the aisle were in fact protesting the failure of the then majority to move any significant reforms in the 103d Congress. Notwithstanding that, we imposed this on ourselves through the House rules.

The only substantive difference in S. 2 from H.R. 1, I believe, is the addition of the Veterans Reemployment Act to the list of bills under which Congress will now operate. In addition to that, we were able to work out the very real concerns of the Senate over a single shared structure so that the Office of Compliance would fit the needs of the House and the Senate with our different size and procedures, history and tradition. That has been resolved in this bill.

So we stand on the brink of living up to what this majority said we were going to do in the contract and on January 4.

I think it is interesting to note that this House voted out of committee, on July 28, 1994, in essence this measure. On August 10, 1994, it was voted out of the House and nothing happened. In this Congress, in the 104th Congress, Republicans and Democrats joining together on the opening day of the session, 429 to 0, passed this measure. And then here today, despite the rhetoric, I think Members will find the votes will once again be overwhelmingly in favor of Congress placing itself under the laws that the rest of the Nation has to live with.

We will do it in a timeframe that is certainly appropriate. The timeframe should have been honored in the 103d. The then majority could not deliver. The timeframe is being honored in the 104th, and the current majority will deliver.

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

Mr. HOYER. Mr. Speaker, just to review history for 1 second, this legislation passed the House in August 1993. It was because of Republican opposition to procedure in the Senate that it failed to go forward.

Mr. Speaker, I yield 3 minutes and 30 seconds to my good friend, the gentleman from Wisconsin [Mr. BARRETT].

Mr. BARRETT of Wisconsin. Mr. Speaker, this is an important bill, and I am proud to be a cosponsor of this bill as it passes the House of Representatives today. Although I am happy that the bill is passing, because I think it sets an important precedent, at the same time it sets a very embarrassing and disappointing precedent. Let me explain.

When this bill was considered by the Congress in the 103d Congress, it included not only the language that we

have in the bill today, but it also prohibited Members of the House of Representatives from using frequent-flier miles that they have accrued for official use, prohibited them from being used for personal use. This is the type of reform that Americans think is common sense. Of course, no Member of Congress should be able to use the miles that he or she has accrued with taxpayer dollars, be allowed to accrue those miles and use them for personal use.

When it passed the 103d Congress, no one batted an eyelash. No calls of germaneness were made. It was included in the provisions of the bill. But when we got to the floor in the 104th Congress, there was a gag rule in effect. This provision, which was included in the bill last year, was not included this year. It was gagged, and we were not permitted to bring it as an amendment.

The Senate looked at it a little differently. And the Senate decided that it made sense. It made sense for the Senate to prohibit its Members from using frequent-flier miles for personal use. But out of respect for this Chamber, it decided that it would not impose the same law on the House of Representatives.

So the irony we are faced with today is that we have a law based on the premise, a good premise, which I support, which says that any law that applies to members of the general population should also apply to Members of Congress.

That is a step forward. But at the same time, for the first time that I can discover in the history of this country, we are going to pass a law that says that a law that applies to the Members of the U.S. Senate does not apply to the Members of the House of Representatives.

Why are we doing that? Why do we have a higher standard for the Members of the U.S. Senate than we do for the Members of the U.S. House of Representatives?

I would argue that the reason we do is because the new leadership does not want to have a higher standard for the Members of the House of Representatives. In fact, the new Speaker has labeled this reform a Mickey Mouse reform, a Mickey Mouse reform to save taxpayers hundreds of thousands of dollars. Well, I think the Speaker is correct in drawing on Walt Disney for his analogy, but I think a more apt character to draw on would be Goofy, because it is simply goofy to argue that Members of the House of Representatives can use taxpayer-funded travel to accrue frequent-flier miles and use them for personal vacations to Florida, Hawaii, France, anywhere in the world.

□ 1200

The very first piece of legislation that will become law after the Repub-

licans have gained control of the House in 40 years is going to set a lower standard of conduct for the Members of the House of Representatives than the U.S. Senate. I will vote for this bill because I agree with the underlying premise of the main portion of the bill, but it is embarrassing and disappointing with the precedent we are setting today.

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

Mr. Speaker, I would tell the gentleman from Wisconsin [Mr. BARRETT] that we are in the process of reviewing all of the rules and regulations in the House of Representatives, and at the end of the last Congress we committed to review all of them, including these.

Perhaps from a historical point of view the gentleman from Wisconsin also needs to know that rather than this being the first time in the history that the laws applied differently to the House and Senate, he needs to know that there was a period of time in which the actual compensation to Members of the Senate and the House was different under the law.

Mr. Speaker, I yield such time as he may consume to the gentleman from Connecticut [Mr. SHAYS], one Member who was more responsible than anyone in the House today for this being in front of us.

Mr. SHAYS. Mr. Speaker, I want to just say very clearly that this is no one person's bill. I mean that very sincerely, because in fact there are more fingerprints on this bill from Members of both sides of the aisle.

I would like to take this time first to thank the gentleman from Maryland STENY HOYER, for stepping in and taking the place of Dick Swett, who was not returned to office, who has worked on the Democratic side with me working on the Republican side, on this issue, and to thank him and his staff for doing such an excellent job in helping to draft this legislation and the legislation that passed the House earlier in this session.

Also I would thank both the chairman of the Committee on Government Reform and Oversight and to the new empowerment committee, both the gentleman from California [Mr. THOMAS] and the gentleman from Pennsylvania [Mr. GOODLING], because they have been working on this issue for years and years and years.

Without their work, and particularly, with no disrespect to the Members, but their extraordinary staff, who have weighed in tremendously on this issue, have had an amazing contribution.

I see the gentleman from Massachusetts [Mr. FRANK], as well, who over a year ago said to me that he had a conversation with the former Speaker encouraging him to move forward with congressional accountability, and that, frankly, was the major movement that brought this bill forward. Without the

effort of the gentleman from Massachusetts [Mr. FRANK], done behind the scenes, without a lot of credit, this bill also would not move forward, so I think I need to thank the prior Speaker, and thank the present Speaker for working on this issue.

In a summary form, and I would like to then just briefly touch on the concern of the gentleman from Wisconsin [Mr. BARRETT], because it is valid, I would like to just make the point that when we passed our House congressional accountability last year, the strength of the legislation was that we applied all of the laws we imposed on the private sector onto Congress, and that we applied all the instrumentalities that are part of what makes up Congress: the Library of Congress, the GAO, the Architect's Office, and so on. Additionally, very importantly, we gave people full access to the court, with all the rights of going to civil action, de novo review, as well as being able to have judicial review.

That was the strength of what we did. We also set up this Office of Compliance so that we dealt with the separation of powers, but gave this Office of Compliance independence.

The weakness in our bill, if there was a weakness, was that we did it by regulation, in that we asked the Office of Compliance to then get us under all the laws by regulation, rather than by law, even though in the end we saw we are under the law, but the actual process was going to be determined by the Office of Compliance through regulation. So the strength was all the laws, all the instrumentalities, full access to the court, but we did it by regulation.

The Senate last year passed legislation on congressional accountability, admittedly very late, and ultimately it never even had a debate on the floor of the Senate; but what they did was, they did not include all the laws, all the instrumentalities, or give full access to court in their legislation. That was the weakness of their legislation. The strength was they went directly to law.

So after this, the defeat, or actually the failure of the Senate to deal with this issue, Republicans and Democrats in both Chambers got together to say what could we do to get the strength of the Senate bill and the strength of the House bill, and we actually did what I think you have a sense of, what I have spoken to already.

We took all the laws, all the instrumentalities, full access to the court, the House version, took the language of the Senate going fully to law, rather than regulation, and put them together. That is the bill we have before us.

Mr. Speaker, this is a bill that clearly has the support of most Members of Congress. It is one of those odd occasions when the House and Senate get together, and instead of taking the

weaknesses of their two bills, took the strengths of their two bills.

But addressing the point made by the gentleman from Wisconsin [Mr. BARRETT] about frequent flyer mileage, I am partly, if not totally, responsible for the fact that it is not part of this legislation, and it is not part of this legislation because frequent flyer is not connected to the issues that were central to the whole concept.

What applies to the private sector should apply to us, and frequent flyer did not match that test. It is an important issue. It is an issue that I think will be dealt with either by the House Oversight Committee, or actually by a law of Congress, and I believe the gentleman will be dealt with because of his tenacity and his conviction that it is important.

This day and age, in this Congress, as we go through this process, the gentleman will find, notwithstanding the opening day, there will be open rule. He will be able to offer this amendment countless times on germaneness, and I believe that it will be passed by this Chamber, if it is not dealt with sooner by one of the committees of Congress.

Frequent flyer should not be used to go on vacations. I totally agree with the gentleman. I have signed onto the gentleman's resolution and told him I agree with him. I understand his point on this legislation, because there appears to be certainly a contrast. The Senate has it in theirs and we do not have it in ours.

Mr. HOYER. Mr. Speaker, I yield 2½ minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I want to talk about some headlines we have not read dealing with security of Members of Congress and the Senate and the White House, able services provided by our Capitol Police.

Mr. Speaker, I want to stand in support of this bill, because for the first time we have an opportunity to treat our Capitol Police like every other Federal law enforcement agency, giving them the right to have a collective bargaining opportunity.

The morale in the department is a joke. There has been age discrimination, race discrimination, sex discrimination, and quite frankly, I brought it to the attention, time after time, of the former Democrat leadership, and they did nothing with it.

However, let me say this about this bill, it allows for a 2-year period before the Capitol Police is allowed to in fact bargain in good faith like this under the collective bargaining agreement. I plan to write to the Speaker, and I ask Members to join with me, that that be waived and the Capitol Police be treated like every other Federal law enforcement agency in our country.

This is an indictment on the Congress of the United States of America. I want to say again, think of the head-

lines we could have read that we have not read. Good men and women, not patronage positions anymore, but well-trained, who put their lives on the line every day and deal with some real security problems, have been treated as second-class citizens.

I am going to support this bill. I am going to write to the Speaker. I am going to ask Members to join forces with me and sign on to that letter, that that 2-year period holding back that opportunity that is granted in this bill be waived, and there be an immediate implementation of that opportunity for the Capitol Police when this is enacted.

All this talk about the Senate, quite frankly, in the first Constitution the Senate was appointed by State legislators, and actually I thought it was better for the country. We would have had somebody looking out for the States' rights, and we would not have had a 50-percent fast track vote on GATT and NAFTA.

For all those concerned about the Senate, I agree with the gentleman from Connecticut [Mr. SHAYS], that I think we can take care of those inequities. I am sure that is not the intention of the gentleman from Connecticut and others.

I ask that Members support me in helping the Capitol Police. They have earned it. They have deserved it. I ask the gentleman from California [Mr. THOMAS] to give me a hand with that.

Mr. HOYER. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I am pleased that we are moving forward with this bill, and I appreciate the generosity of the gentleman from Connecticut [Mr. SHAYS], who has been the major force behind it. I was glad to be able to work with him.

I was pleased that he also graciously mentioned, as I have said before, the former Speaker of this body, who did move it after he was persuaded that it was the right thing to do.

However, I am troubled by some aspects of it. This bill that we passed last year was totally bipartisan. The gentleman from Ohio [Mr. TRAFICANT] who preceded me talked about a problem in the bill.

I do not see any reason why the law enforcement people ought to have to wait 2 years. The problem is that we were not able to address it, because at no point has this bill been subject to amendment on the floor of the House. There is no reason for that.

□ 1210

We are told that we should compare the way the House is going to be run now with the way it was run.

This bill came to the floor in August of last year. As the gentleman from California pointed out, the bill passed the committee in July, it very soon thereafter came to the floor, and 14

amendments were made in order. Indeed, I know of no one who had an amendment who was turned away. Eight of those amendments allowed either exclusively or jointly Republican authors.

We had a bill that allowed 14 amendments and I know of no one who was turned down. This year it has twice come to the floor in a nonamendable fashion and it has flaws. One of those flaws is the frequent-flyer mileage.

The gentleman from Connecticut says that it does not fit because this only applies to the private sector. But the private sector is not covered by the Freedom of Information Act. There is language in here that studies how to apply the Freedom of Information Act to Congress. I think we are going to find that it does not work. I am told by the gentleman from Maryland that was dropped. But it was in the bill when it came out of the House.

The fact is that the longer we delay on frequent-flyer miles, the more Members of Congress will use frequent-flyer miles in a way they should not do them and the taxpayer will be cheated of those frequent-flyer miles.

The House voted on this last year. Because we did bring it forward in an open amendatory process, the gentleman's offering amendment was adopted.

There is no reason to allow this to continue, the frequent-flyer abuse, other than an apparent quirk on the part of the Speaker.

Mr. HOYER. Mr. Speaker, I yield 1½ minutes to the gentleman from West Virginia [Mr. WISE].

Mr. WISE. I thank the gentleman for yielding me the time.

Mr. Speaker, I rise in strong support of this legislation. I introduced a bill a number of years ago called "what's good for the goose is good for the gander" which had exactly this same attitude toward it.

Let us talk, though, about the principle by which it comes which is of some concern. We are all delighted it is here, we are all going to vote for it.

There has been talk about muscle. I just wish there had been a little less muscle applied to this bill and a little more deliberation—it would have gotten to the same point probably almost as quickly—and a little more muscle last year when this bill passed the House, at least once, I believe twice, went over to the Senate where it died on Republican filibusters. So we could have, I think accommodated those needs.

I also regret, though, that when this bill came up on the House floor just a week ago, it was not made in order to allow an amendment to it or add the accompanying bill which has passed this House at least once, and I believe twice, which is lobby reform, to apply to Members of Congress the lobbying reform that is so important, as applying the rules concerning the private sector with employees.

Why could we have not also passed since it had already passed using the same principle that has been enunciated that if you took it up last year, you ought to be able to take it up without a hearing, ram it through this year, why could we have not taken up the lobbying reform bill in the same capacity? All those questions hang out there.

At any rate, I rise in strong support for this legislation.

Mr. GOODLING. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland [Mr. BARTLETT].

Mr. BARTLETT of Maryland. Mr. Speaker, when the average American learns that Congress does not have to live under all of the laws and regulations that all of our citizens live under, they are appalled. They understand how difficult it is for a Congress to effectively legislate when they live isolated from the effects of the laws and the regulations that those laws produce.

At the first day of the last Congress, I submitted legislation that would apply to Congress all the laws and the regulations that they have applied to all of the rest of us and exempted themselves from. Several others submitted similar legislation. They were all combined in the Shays-Swett bill which passed the last Congress. Unfortunately, that died because of lack of action by the Senate.

So I was very pleased when at about 2 in the morning on the first long legislative day of this Congress that we passed that bill. We are now met today to discuss a bill from the Senate that embodies all of the essential features of the bill that we passed in the last Congress and again on that first long day of this Congress.

I am very pleased to rise in strong support of this bill. This is a great victory for the American people, because what it means is that from henceforth they are going to have a Congress that lives under the laws and the regulations that they passed, that all of the rest of the country has to live under, and the Congress is going to be much more effective in passing laws and in producing regulations through those laws when they have to live under all of the laws and regulations that they produce.

This bill does not do all that we need to do in reforming the Congress and producing congressional reliability but it certainly takes the first long, long step in the right direction.

I am very pleased today to rise in strong support of this legislation.

Mr. HOYER. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE. Mr. Speaker, one thing that a new Member is clear to do and that is to do her homework. I guess in doing my homework, even though just starting in the 104th Congress, I

realize it was the Democratic Congress that raised this issue of congressional accountability for a number of terms, particularly in the last Congress, and I think it is very important to indicate how important this measure is but to indicate as well that the Democrats led out on this issue.

It is important to realize that we too must follow the laws of the land of the United States of America.

Calling the roll, the Fair Labor Standards Act, Title VII, the Americans With Disabilities Act, Age Discrimination, Family and Medical Leave, Occupational Safety and Health Act, Federal Labor Management Relations Act, Employee Polygraph Protection Act, Worker Adjustment and Retraining Notification.

As a local elected official there was no doubt that we had to comply with all those laws. Then why not the U.S. Congress? I am certainly rising in support of this, but I ask clearly as we move toward making a determination by way of a vote that we too should be able to comply with the laws on frequent-flier miles.

I ask that we really raise that issue, that we realize that we must be truthful in what we do here in the U.S. Congress, and that we go all the way when we talk about congressional accountability.

Mr. HOYER. Mr. Speaker, I yield 1 minute to the gentleman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Speaker, I have a special interest in this bill as a former member of the Joint Committee on the Organization of Congress. I want to commend the gentleman from Connecticut [Mr. SHAYS] for his tenacity on this bipartisan matter and to give the House credit for what it did last term in passing this bill and the Senate, finally, credit for catching up with the House.

Mr. Speaker, this bill, to be sure, affects Members. When I chaired the Equal Employment Opportunity Commission, what really bothered me was that thousands of employees here were also exempted, and that is really what the gravemente of this bill is. It should affect Members, but where the complaints are going to be filed most often are against staff who supervise others.

There is an important difference in this bill from legislation affecting the private sector. The Senate has removed the demographic section. I want Members to know that every private and public employer has to submit demographics on its employees. The House should remove this notion that it is exempt from our knowing whether or not we are in fact hiring fairly in committees.

Mr. HOYER. Mr. Speaker, I yield 1 minute to the distinguished gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. Mr. Speaker, I intend to vote for this bill,

but the American people should note that there is nobody who has gotten on the floor today who has not expressed some reservation about the content of this bill. The reason for that is the process by which this bill is here. In that sense, it is business as usual and the American people ought to know that it is business as usual.

We come here without the ability to amend this bill even though as soon as this bill is debated, we will be off for the rest of the day. Last week we were in committee debating a balanced budget amendment and marking it up. At the end of the day, at 6, despite the fact that it was Wednesday afternoon and we were going home, we adjourned for the day. Still we cannot take the time to debate these issues that are important to the American people.

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Mr. HOYER. Mr. Speaker, I yield myself my remaining 30 seconds.

Mr. Speaker, clearly we have a concern about the procedure, but more importantly than the procedure is the substance. The gentleman from the District of Columbia mentioned we are now extending to all our employees protections that we believe are appropriate for the employees of the American employers.

We believe this legislation is important. That is why under Democratic leadership we passed it last year, with the Shays-Swett bill, and that is why on this bill the overwhelming majority, if not unanimously, we will support this bill this year.

Mr. GOODLING. Mr. Speaker, I yield my remaining time to the gentleman from California [Mr. THOMAS].

The SPEAKER pro tempore (Mr. DREIER). The gentleman from California [Mr. THOMAS] is recognized for 2 minutes.

Mr. THOMAS. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, we began this process on January 4 and we moved the legislation to the Senate. We are considering today, on January 17, Senate bill 2, the Senate version of this legislation.

There will be no conference committee. This legislation will move directly to the President. The President has said that he will sign it into law. This process has taken 2 weeks.

For people to fully understand the impact or maybe I should say the weight of today's decision, this is simply the text of the laws, without any annotation or explanation, that are now going to be applied to the Congress that are already applied to the private sector.

I would tell my colleagues that S. 2 passed in the Senate 89 to 1. I believe the House should do the Senate one better. I would ask that the House pass S. 2.

Mr. GOSS. Mr. Speaker, it has long been known that Congress has a bad

habit of passing laws without understanding the full impact they have on the American public—then it exempts itself from those same laws. In the 102d and 103d Congresses, I introduced a resolution to eliminate the special treatment that this institution has granted itself. Last Congress, I voted in favor of the Congressional Accountability Act which the House passed—but the Senate failed to approve.

During the final hours before adjournment of the 103d Congress, the House passed a watered-down version of the compliance bill as an amendment to the rules of the House. Although I am a strong advocate of congressional compliance, I felt compelled to vote against that weak-kneed resolution—which, to me, was nothing more than status quo dressed up to look like reform. Today we have an opportunity to move forward with real reform. I support S. 2, the Congressional Accountability Act, and I intend to vote for it. Congress is not, and should not be, above the law. It is time to move this institution into the real world of the laws that we expect the private sector to abide by.

Mr. FAZIO. Mr. Speaker, I am a strong supporter of S. 2, the Congressional Accountability Act. Unfortunately, I will not be present today to vote for this important measure—I am attending to the urgent needs of communities in my district that have been devastated by the recent flooding in northern California. If I were here, I would be proud to vote for the Congressional Accountability Act for the third time. In my absence, I submit this statement of support for the bill for the RECORD.

S. 2 fulfills our responsibility to grant the same protections and workplace standards that all other working Americans enjoy to our own employees in Congress. The Congressional Accountability Act continues the recent trend of Congress living by the rules we ask the rest of America to live by.

In recent years, we have enacted several major employee protection laws—the Americans With Disabilities Act, the Civil Rights Act of 1991, and the Family and Medical Leave Act. In each case, we applied the requirements of these laws to Congress just like they applied to the private sector. In addition, House rules provide House employees with protections afforded under the Fair Labor Standards Act and specify that House personnel actions shall be made "free from discrimination based on race, color, national origin, religion, sex (including marital or parental status), disability, or age."

S. 2 continues our efforts to bring Congress into compliance with other significant employee protection statutes. The Congressional Accountability Act will also require Congress to comply with the Civil Rights Act of 1964, the Age Discrimination in Employment Act, the Occupational Safety and Health Act, the Federal Labor Management Relations Act, the Employee Polygraph Protection Act, the Worker Adjustment and Retraining Act, and the Rehabilitation Act of 1973.

This legislation establishes an independent, nonpartisan Office of Compliance within the

legislative branch to develop the regulations applying laws to Congress, and to resolve complaints. The Office, which would replace the existing House and Senate Offices of Fair Employment Practices, would be composed of a five-member Board of Directors, an Executive Director, a General Counsel, two Deputy Directors, and additional staff as may be required.

This act represents a positive change in how Congress treats its own employees. I strongly support this legislation and urge my colleagues to vote for this landmark congressional reform bill.

Mr. STUMP. Mr. Speaker, I rise in support of S. 2, the Congressional Accountability Act. It is high time that laws applied to the private sector workplace are made applicable to Congress as well. As chairman of the House Veterans' Affairs Committee, I am particularly pleased that S. 2 would provide for the enforcement of recently enacted veterans' employment and reemployment rights under Public Law 103-353 (October 13, 1994).

The Uniformed Services Employment and Reemployment Rights Act [USERRA] only allows aggrieved legislative branch employees the remedy of applying to the Office of Personnel Management [OPM] for a position in the executive branch, with an ensured offer of employment. Executive branch employees under USERRA have extensive enforcement rights including legal representation, Merit Systems Protection Board [MSPB] adjudication, and judicial review.

Now, under title II, section 206 of S. 2, eligible congressional employees could avail themselves of the extensive enforcement and dispute resolution procedures established in the new Office of Compliance, as well as judicial review.

Mr. Speaker, I am also pleased to see that the bill would require a study and recommendations by the Administrative Conference of the application of the workplace laws included in S. 2 to the General Accounting Office [GAO], Government Printing Office [GPO], and the Library of Congress. The study and recommendations would be due to the Speaker of the House no later than December 31, 1996.

I commend Speaker GINGRICH and Majority Leader ARMEY for keeping their commitment to the American people in making the Accountability Act the first order of business of the House with H.R. 1. The Senate has added provisions in its version, S. 2. I especially wish to state my appreciation to Mr. SHAYS, who has led the House's effort on accountability, as well as to his staff for their openness and accessibility in crafting this legislation. Mr. Speaker, I urge my colleagues to favorably consider S. 2.

Mr. FAWELL. Mr. Speaker, I rise to commend the majority leadership for bringing this bill, S. 2, the Senate version of the Congressional Accountability Act, which the House passed on January 4, to the floor today. Consideration of this legislation can be directly traced to you and the new leadership in Congress who were committed to place this long overdue type of legislation on the front burner.

This bill, however, is far from perfect. And the full specifics as to the exact manner in which the eleven "place of employment" labor

laws shall be applied to congressional employers do not, in many cases, correspond to the manner in which these laws apply to the private sector. In certain instances this is understandable, as in cases where the constitutional requirement of separation of powers proscribes executive agency enforcement of rules against the legislative branch. But, all in all, the fox—Congress—is still very much in charge of the chicken coop—employer and employee place of employment laws—and clearly Members of Congress are being treated in many instances with kid gloves when one looks at the matter from the perspective of the private sector.

For example, our private sector constituents would jump at the opportunity to live under the requirements contained in the section of the bill applying OSHA to Congress. There are no fines which are levied with a citation, as is the case in the private sector. The general counsel issues a citation and if the counsel determines that a violation has not been corrected, he may file a complaint with the Office of Compliance against the employing office. This, again, is a far cry from the realities with which our businessmen and women must contend. No civil penalties. No criminal penalties. If only Congress could be so understanding of private employers.

With regard to the OSHA section of S. 2, specifically section 215, it is my understanding from the House authors of the legislation, Mr. SHAYS and Mr. GOODLING, that the report required under this section concerning the general counsel's inspection of facilities for OSHA violations will be made available to the public. I strongly agree with this perspective, especially in light of the fact that there is no requirement in the bill that the general counsel file a complaint with the Office of Compliance against an employing office.

Mr. Speaker, there are positive aspects to the legislation. It does move clearly toward the concept that congressional employees should have the right, in instances of violations of place of employment labor laws by Members of Congress, to the same basic employee protections as possessed by employees in the private sector. And, significantly, this includes the right of congressional employees to seek a full de novo jury trial in Federal court, complete with general damages, court costs, and recovery of attorneys fees. It should be noted, however, that apparently no Member of Congress may be personally sued, that is, such a suit would be against an employee's employing office, a term of new art which avoids naming any Member of Congress as the specific responding party to such a law suit.

The bill does not allow, however, for such employees to obtain punitive damages against their congressional employers. In addition, there apparently is no personal liability of Members of Congress as to any damages, legal fees, or court costs awarded to any employee filing a claim against an employing office. This is not too analogous to what is facing the private sector employers who can generally be held personally liable for those types of damages under civil rights law, the Age Discrimination in Employment Act and the Americans With Disabilities Act.

Mr. Speaker, I do recognize, however, that this bill is the result of a compromise with the

other body. In the final analysis, although the version of the bill before us today is geared to treat Congress more favorably than the private sector, it is still much better than what we have now, where Congress almost totally escapes the effects of place of employment labor laws which have been nonuniformly and haphazardly applied by Congress upon the private place of employment and quite often with provisions for disproportionate damages. So, it is indeed a step in the right direction, a first step, but a very meaningful step nonetheless.

I will support the legislation today, but more must be done to either: First, have these laws really apply to Congress in the same fashion in which they now apply to the private sector, or second, alleviate the often harsh, haphazard, rigid, and unreasonable fashion in which place of employment laws apply to the private sector. In fact, we might not be dealing with this issue today, if we had, in the first place, simply written our place of employment labor laws for the private sector with as much compassion as we have with this legislation. I stand ready to work with the leadership on both sides of the aisle to achieve either result, which should bring about a more uniform, flexible, understandable, and more understanding employment policy for America in the 21st century.

There is no doubt that as we have to do unto ourselves we learn better how to do unto others.

Ms. DUNN of Washington. Mr. Speaker, for too long, Congress has lived by a double-standard, passing dozens of laws, imposing hundreds of regulations on the private sector while at the same time exempting itself from those same laws and regulations.

How long has Congress enjoyed the double standard? Fifty-seven years later, Congress will finally be held accountable to the Fair Labor Standards Act of 1938, requiring a minimum wage and overtime pay for congressional staff; 31 years later, Congress will at last adhere to title 7 of the 1964 Civil Rights Act, prohibiting employment discrimination based on race, color, religion, sex, or national origin; and 25 years later, Congress will comply with the Occupational Health and Safety Act of 1970, making our U.S. Capitol and the House and Senate Office Buildings safer places to work and visit.

There is a whole host of other laws with which Congress must now comply: the Americans With Disabilities Act, the Age Discrimination in Employment Act, and the Family and Medical Leave Act to name a few more.

Mr. Speaker, this is a sensible bill that accomplishes more than just apply all laws to Congress. While Congress still has a long, challenging journey ahead if we are to restore the public's confidence and faith in this institution, passing this congressional compliance legislation is a major step in that direction. Today, as we send this bill to be signed into law by President Clinton, we legislators will prove to the citizens of this Nation that we are committed to turning this place upside down, shaking it by its ankles, and accomplishing this long overdue reform.

Mrs. LINCOLN. Mr. Speaker, today I rise in strong support for S. 2, the Congressional Accountability Act. This piece of legislation will fi-

nally submit to Congress to the same laws it imposes on others. How can we expect to understand the implications of legislation we write if we aren't required to follow its rules? That, Mr. Speaker, is a glaring example of Congress being out of touch with middle America.

This initiative represents years of hard work in a bipartisan manner. Not only do I fully endorse this bill this Congress, I was also a co-sponsor of similar legislation, H.R. 349, last year and fully supported H.R. 4822 when it passed the House overwhelmingly in August 1994. Unfortunately, efforts to pass legislation in the Senate died at the end of the 103d Congress.

For far too long, Congress has been writing and passing legislation that affects everyone but itself. It is evident that Congress must set the example and live under the rules it imposes on others. No longer will congressional employees be subject to discrimination, bad working environments, or other working related ills that other employees are protected from under our national laws. Our employees will have the avenues to address grievances in the workplace like any other American employee. They will have employee rights that have been denied to them for far too long.

I believe that this is a responsible, bipartisan bill and urge its immediate adoption.

Mr. RADANOVICH. Mr. Speaker, the lesson that what is sauce for the goose also should be for the gander is learned from early childhood. Yet, it seems to have been no more than a fantasy for Congress.

Today, I hope this House by its vote will make a simple declaration, saying that if we think it worthy that American business is required to operate under these several sets of workplace rules, then we on Capitol Hill are willing to be regulated by them as well.

There are two benefits to be derived from securing final passage of S. 2, the Congressional Accountability Act that embodies the spirit and most of the substance of H.R. 1, which we passed on the day we began this 104th Congress.

The first value of this reform in the way we do business is that those men and women we employ here and in our district offices should not be prejudiced with respect to redress of employment wrongs simply because they are on our payrolls.

The second significance of the Shays Act was well related by the Wall Street Journal editorial of January 4 that called H.R. 1 a "very potent reform" and went on to observe that "forcing Members to live under the laws they pass may also have a useful, modifying effect on what Congress decides to pass."

Mr. Speaker, all of us, I'm sure, have received—and welcome—thousands of constituent communications imploring us to keep faith with provisions of the Contract With America. Even before this Congress began, one of my constituents, Mel Cellini of Madera, CA, shared with me a copy of his letter to Speaker GINGRICH. Noting Mr. Cellini's statement that there must be a change in the fact that "Congress has exempted itself from mandates imposed on the rest of society." I take pleasure in making the text of his letter a part of my statement of support for our passage of the Congressional Accountability Act.

The letter follows:

DECEMBER 4, 1994.

Hon. NEWT GINGRICH,
Speaker of the House of Representatives,
Washington, DC.

DEAR SIR: My wife and I are approaching 50 years of age. We have been increasingly disillusioned with the operation of the federal government. The future our two children face is of great concern to the two of us. As long as I can remember the federal government has continued to intrude into our lives via control and taxation. The programs have not only been intrusive, but also quite expensive.

Now one child is in college and the other will soon be going to college. Our dismay with the evaporation of the American dream has been discussed in our family. It is hard to relate to the dream since all we hear from the media are the issues of why we need to contribute and do more for those that refuse to help themselves.

Congress has exempted itself from mandates imposed on the rest of society. This must change.

I backed our local Republican candidate with the fervor that this was our last chance. Yes, George Radanovich won. I truly believe this is a new dawn. The opportunity for a re-focused government is here. Just Make Sure the Government Is Out of Our Lives and Our Pocketbook.

Please, do not back down on the ten point contract that the Republicans agreed to fulfill in the First 100 days.

Finally, ignore the personal attacks the media is doing to you. We are behind you 'all the way.' I can hardly wait for the 1995 congress to begin.

Again, Congratulations, and thank you.

Sincerely,

MEL CELLINI.

Ms. ESHOO. Mr. Speaker, I was proud to vote for S. 2, the Congressional Accountability Act.

Although I wholeheartedly support this long overdue legislation, I am disappointed that it did not include language that would prohibit Members of the House from using frequent flier miles accrued on official business for their personal use.

When I first came to the House, I initiated a policy in my office on February 23, 1993, which said that all frequent flier miles accrued on official business must be used in connection with official travel and not for personal use.

Mr. Speaker, my office, and therefore the taxpayers, have realized significant savings from my travel on accrued frequent flier miles. We should pass legislation in the future that extends this reform to the House of Representatives. Until then, my office will keep this practice in effect.

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. 2.

The question was taken.

Mr. THOMAS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement,

further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. THOMAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to extend their remarks in the RECORD on the subject of the Senate bill, S. 2.

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

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). Under the Speaker's announced policy of January 4, 1995, and under a previous order of the House, the following Members are recognized for 5 minutes each.

MONETARY CRISIS IN MEXICO

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Michigan [Mr. BONIOR] is recognized for 30 minutes as the minority whip.

Mr. BONIOR. Mr. Speaker, the crisis in Mexico today is very serious and has a direct effect on the United States. But if the American people are going to be asked to guarantee billions, up to \$40 billion in loans in Mexico, we have a right to demand that Mexico meet certain conditions in return.

The primary question we have got to answer is simply this: How can we address the problem in Mexico in such a way that ensures that working families on both sides of the border are helped and not hurt by this deal? The Mexican system is riddled with deep structural, political, and economic problems. If allowed to continue to go unchecked, these problems will not only continue to hurt Mexican workers, they will also continue to have a direct impact on the jobs and the wages and the living standards of American workers.

The last time Mexico experienced a similar crisis in the early 1980's, they responded by cutting wages in half for Mexican workers. That was their response, even though Mexican manufacturing profits went through the roof.

In effect it created a situation where Mexico had a boom in billionaires. Members heard me right, billionaires, not millionaires. Yet American workers were forced to compete with Mexican workers who were earning 58 cents an hour. We lost over a half million jobs as a result of that policy. 500,000 American jobs. And all indications today are that Mexico is reading from that exact same playbook, even though Mexican wages are already too low. The devaluation of the peso has driven down their purchasing power by another 40 percent. Yet rather than

pledging to raise the standard of living, President Zedillo's economic plan calls for a freeze on wages.

At this rate Mexico is never going to be able to afford to buy the products that we make, and of course that has been the great success of America, that we built a middle class with the purchasing power to purchase.

We have got to find a way to export products to Mexico, not just our jobs and our capital. We had a chance to address this problem when we negotiated the NAFTA agreement. We had a chance to tie wages to productivity and give the Mexican workers more power to bargain for better wages, but NAFTA was a missed opportunity to make real reform. I do not think we can afford to miss that opportunity again.

I would suggest that before we ask American taxpayers to send a dime to Mexico, we should insist that Mexico meet five specific conditions. Let me enumerate them for my colleagues this afternoon.

First, we should insist that Mexico agree to tie wages to productivity. Now what do I mean by that?

□ 1230

In the past decade, Mexican workers have not, and I repeat they have not, reaped the rewards of their hard work, and they do work hard. They are very productive workers. Their productivity increased by 64 percent since 1980.

What happened to their wages? Their wages actually dropped by 31 percent. Prior to the devaluation of the peso over the last several weeks, the wage of a Mexican worker was 69 percent—69 percent—of what it was back in 1980. It was not even worth the value of what it was in 1980.

Former President Salinas recognized this problem when he pledged to tie wages to productivity 2 years ago during the negotiations within his own country, and the debate over NAFTA. But that link has not materialized, and we, I think, should insist that it does.

Now, second, we should insist that the Mexican Government extend fundamental rights to the workers that they do not have now: the right to organize independently—and I emphasize the word "independently"—the right to bargain collectively, and the right to strike. These basic worker rights help propel a middle class in this country and elsewhere in the western world, and again, the reason we negotiated a labor side agreement on NAFTA was that there was a recognition that structural problems existed, but the side agreement left out the most fundamental reforms, so nothing will go further toward developing a Mexican middle class that can afford to buy our products that we will make, and we should insist on these reforms.

Now, third, we should insist that Mexico make more of an effort to buy

American. Since NAFTA went into effect, Mexico has increasingly looked to Japan and Europe first. While Mexican exports to the United States have gone up, their imports from Europe and Japan have exploded. At the same time our trade surplus with Mexico has decreased by 60 percent in the past 2 years, 60 percent reduction in the surplus that we had with Mexico.

If American taxpayers are going to be asked to guarantee billions in a bailout of Mexico, I think we need to demand that Mexico make more of an effort to buy American products.

Now, fourth, we should insist that Mexico not only continue democratic reform but that it renew its pledge to resolve the uprising in Chiapas in a just and in a peaceful way. The situation in Chiapas today is a proving ground for the Government of Mexico and how they go about resolving the crisis in Chiapas will go a long way toward determining the depth of their commitment to democratic reforms in human rights.

Recently there have been reports that President Zedillo was under immense pressure to take decisive military actions in Chiapas. I would suggest that cracking heads and sending in tanks is no way to demonstrate a commitment to human rights. The American people do not want their tax dollars backing up a military operation against Mexico's own people. The only way to resolve the situation in Chiapas is to address the underlying structural and economic problems which caused the crisis in the first place, and that is why we must insist upon economic reforms, not military ones.

Fifth, before we pass an aid package to Mexico, we should pass an American workers' aid package to help American families who lose their jobs as the result of the crisis in Mexico. Now, with the devaluation of the peso, the price of American products in Mexico has soared up to 40 percent. In the weeks to come, as exports increase, many Americans will lose their jobs.

We cannot afford to turn our backs on our own working families who are affected by the problems in Mexico. I would suggest there are two things we can do immediately to help.

First, we can pass the lifetime job training program that was proposed by the President in his middle-class bill of rights. This bill will make available up to \$3,000 for each person who loses their job and can be used to help them get training, the training that they need to find a new job, so they will have an account, their own account with their own name on it, that they can draw from to pay for training to upgrade their skills so that they can reenter the labor market.

Second, we should immediately pass the \$10,000 tax deduction for tuition and other educational expenses. Many of the people who lose their jobs have

kids trying to further their education, and there is no reason why children should be denied that chance because of the crisis in Mexico today.

Now, again, if the American people are going to be asked to send billions to Mexico or potentially underwrite billions to Mexico, we have a right to ask certain conditions be met in return. Before we send a dime, we should insist that these five conditions be met.

We missed a very historic, real opportunity last year to address the serious underlying economic and political problems in Mexico today, and we cannot afford to miss that opportunity again. We are not merely sending money to Mexico to prop up a nation with the fastest growing number of billionaires in the world, we are sending money with the hopes that by helping the working people of Mexico we will help build a Mexican middle class that can afford to buy the products that our workers make and that can stop competing against each other.

In the end, I think that is going to help both of us, and after all, I think that is what free trade is supposed to be all about anyway.

I yield to my friend who was here first, the gentleman from West Virginia [Mr. WISE], and then the gentleman from California [Mr. MILLER], and then my friend, the gentleman from Ohio [Mr. BROWN].

Mr. WISE. Mr. Speaker, I will be brief.

Thank you for taking this special order.

It is my understanding that very shortly, perhaps by the end of this week, there will be a package on the floor authorizing and approving perhaps as much as a \$40 billion loan guarantee program, yes, I stress the word "guarantee," but it means the taxpayers can be on the hook potentially for that amount.

To my recollection that may be the largest amount taxpayers have been asked to be even potentially liable for since the S&L situation in setting up the Resolution Trust Corporation.

There are several questions that need to be answered on this that I have not been able to get answers to that I have been asking.

How much are we talking about? We started at \$9 billion, then we went to 18, the Treasury a couple days ago was saying 25, and today it is \$40 to \$45 billion.

Second, it is my understanding there is already an existing line of credit. Has any of this been drawn down yet? It is my understanding probably some has already.

Mr. BONIOR. It is my understanding there was \$9 billion that has been drawn.

Mr. WISE. There is a guarantee of that. In sum, they have already gone out, because of meeting the default

provisions or whatever. These are questions that need to be answered.

We have been expressing concerns over bills that basically we all agree with on the floor, not coming to the floor with a hearing, for instance, unfunded mandates will be on the floor, the Congressional Accountability Act just passed. This is something extremely serious. All taxpayers are going to be living with it for a long time.

Third, I have got trouble, I say to the whip, explaining at home why it is that in a couple of weeks on the floor of the House there will probably be a rescission package. The appropriation bills will try, for instance, to take out the Economic Development Administration which basically does nothing but help create jobs. There will be language to take out highway projects, road projects, bridges, airports, water, and sewer.

I was in a town just Saturday, where they are \$300,000 short on a \$1.4 million project to build a sewer which is mandated in which they can actually create jobs if that sewer line is built. Nobody will give them a loan guarantee.

I wonder if we are going to have to put this legislation out, whether or not it would be possible to join with the loan guarantee program for perhaps American citizens, American workers, as the gentleman suggests, with a lifetime job training act, something that says to the American taxpayer, "We understand, and we hear you as well."

I think that there needs to be great questions raised about this before this House willy-nilly embarks on such a large package. Otherwise, I think this is something that is going to be coming home to roost for many, many years.

Mr. BONIOR. I thank my colleague for his comments.

While I recognize his concern with regard to time, I am perplexed by the speed at which we hear that the Republicans want to move on this package. They are talking about bringing this to the floor on Friday, if you can imagine that, without any hearings, without any discussion.

We understand the tenderness and the sensitivity this issue will have with respect to markets and other Latin and so-called second tier nations as well as some developed nations, but it seems to me that if we are going to be asked in a responsible way to come cast our votes on this issue that we really need to know what is in it, the effects it will have, the probability of success or the possibility of failure, and what is in it for the American worker. I mean, is the American worker going to be affected by all of this if the peso has fallen 40 percent and Mexican imports of American products drop off in large numbers, which I expect will happen? I mean we have already lost 60 percent of our trade surplus with Mexico just over the last 2 years. We can expect more of

a drop, it seems to me, as a result of this.

What is going to happen to those workers who are producing those products for Mexico? Why are we not addressing that piece of it as well?

I yield to my friend, the gentleman from California.

□ 1240

I yield to my friend from California. Mr. MILLER of California. I thank my friend for yielding and taking this time to discuss this issue.

On the point that the gentleman raised on what is going to happen to United States workers with the Mexican economic crisis is a very important question. Just a few short months ago, the administration and others came to the well of the House and to the Senate and told us that the NAFTA Agreement was a win-win situation for American workers and that not only would the jobs that are lost to Mexico be recreated in new industries in this country, but the broad power to open up the country of Mexico to United States exports would create additional jobs in this country so that we would be a net winner. And when those of us raised concerns about the disparity between the wages in Mexico and the United States, we were told that was not a factor, that in fact the peso was strong, that things were going well, and they presented Mexico as a First World country in terms of economics. That has turned out not to be true. Not only has it turned out not to be true now, but it turned out to not true quite a while ago. But between the Governments of the United States and Mexico, they kept up the facade that Mexico was strong, Mexico was ready to participate in First World economics, and that was done to get past the Mexican presidential elections and also to get past the vote on NAFTA on the floor of the House of Representatives and in the Senate.

What was then presented as a win-win situation, we are now confronting our constituents, the American workers, with a lose-lose situation. Not only will their wages be now less competitive with manufacturing and other occupations in Mexico, but we see the fact that those wages are going to be discounted by perhaps 30 percent. At the same time, the same Federal Reserve Board that is coming in here and asking us to support the economy of Mexico, to make these concessions and to put taxpayer dollars at risk, is talking about jacking up interest rates for the seventh time, interest rates that have the potential of closing off the economic recovery, of taking the newly hired people and putting them on layoffs, of dampening the appetite of American manufacturing to engage in expansion of new plants and facilities and job creations.

So the American worker is put at a disadvantage because of the Mexican

economic crisis and then he is put at a second disadvantage because his or her job is threatened or the potential for a job is threatened because the same Federal Reserve Board is going to hike interest rates in the American economy.

We have already seen the National Association of Manufacturers and others state, "Don't do this, because it precludes the kind of growth that is necessary in durable goods, in automobiles, home construction," those things that drive the fundamental job makeup in this country.

So we have Mexican goods coming in cheaper than ever before, Mexican labor being cheaper than ever before, and the comparative advantage of Mexican workers at a much greater level than ever before.

Then you put on top of that the willingness of the Mexican Government to thwart any attempts by Mexican workers to organize so they can better their standard of living, so that they can participate in a decent standard of living, and a decent workplace so that all of a sudden we do start to get some comparables. Then we have the use of troops to keep unionization from happening, keep workers from organizing, and what you really have now is the same old group of people in Mexico, the very wealthy families, the new billionaires sitting on top of the shoulders of the Mexican workers and telling them if they want a job they are going to have to be unorganized and they are going to have to work at historically low wages so that they can send their cheap goods into the United States and displace American workers.

The gentleman from Michigan [Mr. BONIOR] is asking exactly the right question, and that is what the Republican leadership and others have got to respond to: What does this do for American workers?

You promised us one thing a few months ago and did not deliver on that promise, and the situation is far worse than you ever represented to the American workers it would be, and now you are telling us to trust you again, trust you and the Federal Reserve. They seem to have a real problem with Americans going to work. Every time we get unemployment down to 6 percent, they want to close off the recovery and say, "That is all the jobs, folks. Everybody will have to wait until the next time around, everybody else will not be able to provide for their family." I think this bailout of the Mexican economy to put money into this system—you know, if you were in Las Vegas, they would tell you not to do this because this is called putting good money after bad. As was pointed out already, we already have billions and billions of dollars' worth of pesos sitting in Fort Knox. We have no more gold in Fort Knox, there is only the Mexican peso. We have to think of

what the ramifications of that are for the American workers.

I thank the gentleman for raising this issue.

Mr. BONIOR. I thank my friend for his comments on this issue as well and for recapping for us some of the history of this.

You know, we have been told time and time again how this was going to work for the American workers, how it was going to work for this country, how it was going to work for certain industries in this country. I am speaking about the NAFTA deal today. Also, how this was going to be a win-win for both countries.

Well, the fact of the matter is that it is a win-win for nobody. What we have got, if you look at what happened in the tomato industry in Florida, those people are just about busted and out of work while the American automobile industry is doing very well today because of the pent-up demand and the real effort on their part to get their act together, which they have done very, very well.

The fact of the matter is that while we have shipped close to 25,000 cars to Mexico during the first year of NAFTA, they have shipped to the United States over a quarter of a million cars, about 260,000 cars.

So I mean we have got some real problems ahead of us in the future, and we have to be cognizant of the fact that American workers in the future have a real stake at what we do with respect to this loan guarantee.

I yield to my friend from Ohio, who has been such a champion on the issue of worker rights.

Mr. BROWN of Ohio. I thank the gentleman from yielding.

The Republican leadership says this is not a bailout, this \$40 billion; they say it is a line of credit. But if history is any indication, that line of credit will fairly quickly turn into a loan and that loan will fairly quickly evolve into a forgiven loan, and that forgiven loan will evolve very quickly, if history is any indication, into a \$40 billion aid package.

I have sent a letter to Speaker GINGRICH this morning calling for hearings, that we need to slow down, that if we are going to consider this \$40 billion aid package, that we as a Congress need the input of the American people, that we as a Congress need to understand better some of the issues involved in this \$40 billion foreign aid package.

I have outlined to Speaker GINGRICH about a dozen questions that I would like to briefly mention, information that I think the American people need and this Congress needs before we can make a decision on this \$40 billion foreign aid bailout for Mexico and Mexican wealthy investors.

First, what is the precise amount of the loan guarantee? I do not think we

know that yet. What is the precise amount of the loan guarantee?

What is the risk that Mexico will actually default on the loans? What is the historical record of repayment, as the gentleman from Michigan alluded to earlier, to United States taxpayers on other loan agreements, whether it was Mexico a dozen years ago or other loan agreements over the years that this country has generously offered to other nations that are facing fiscal and economic problems?

What is the collateral for the loans? For instance, will Mexico pledge oil receipts, proceeds from the auction of container terminals or other assets? This is clearly a sensitive issue in Mexico, with Mexican public opinion not so wild about turning over some of their Mexican oil company receipts—a government oil company—to the Americans as collateral.

Next, what conditions should we attach to the loan guarantees? Should one of those conditions, as the gentleman implied or suggested earlier, involve immigration control, immigration controls, rights of Mexican workers, or other social issues?

Sixth or seventh, given the many commentators, including Federal Reserve officials and even members of the Zedillo administration in Mexico, have raised question concerning the handling of the currency crisis, should we demand as a condition of the loans an investigation into the performances, as the gentleman from California mentioned, the performance of the Mexican Government, including the role of the Salinas government, in order to prevent a repeat of the situation?

Also, why are other nations, particularly those in our hemisphere, not contributing, not rushing to come forward in this bailout in the same manner and magnitude as is the United States?

Also, is the Mexican economic crisis relevant to a discussion of the balanced budget amendment in the United States which proposes to cut drastically appropriations for the International Monetary Fund? That begs the question of where are the deficit hawks on this \$40 billion, from both sides of the aisle? Those are the people who talked about the balanced budget amendment—I support the balanced budget amendment—how are we going to do that if we are going to provide a \$40 billion aid bailout package to the Mexicans?

Also, what provisions are there to insure that the large numbers of billionaires in Mexico do not unduly profit from the bailout? Mexico is fourth in the number of billionaires; the United States first; Japan second; Saudi Arabia third; Mexico fourth. And they are there at the expense of the middle class in Mexico, some very, very wealthy families as talked about a couple of summers ago discussing NAFTA, and lots and lots of very, very poor Mexicans, and a small middle class.

Mr. BONIOR. As the gentleman will recall, what happened in the early 1980's when they hit the same type of situation, the wealthy went in and gobbled everything up and they became extremely wealthy. And, of course, they had the Government help them divvy up the spoils at a further point in the process.

The question is where are they now? What sacrifices are they making? There are rumors to the effect that they have all liquidated their national currency and got their assets in dollars now and really have not had to face this crisis.

That ought to be looked at to see if in fact that is a factor or if it is not.

Mr. BROWN of Ohio. And coupled with that, what about American corporations that have benefited from NAFTA, have built plants in Mexico, have seen economic problems as a result of the peso devaluation? Are we rushing forward, in part, to bail out those investors? Are they going to be part of a plan in this economic liberalization, will they participate financially in the bailout in the same sense that Congressman GEPHARDT suggested they help finance NAFTA, with across-the-border transaction fees? That is something that we need to address.

Last, thinking the unthinkable, what happens, what steps should we be prepared to take in the event the bailout package fails to stop the hemorrhaging of confidence in the Mexican Government and in the Mexican economy?

The issues here, Mr. Speaker, is to slow down, to have extensive hearings, not to delay for 3 to 4 months. We do not need to do that, but there is no reason to rush into this. Investors around the world, the international finance community do not expect the U.S. Congress to address this this week. We need to slow down, we need to have extensive hearings, we need to discuss these questions, explore these answers, and find out what in fact is the situation all around this \$40 billion bailout.

I again say I hope, Mr. Speaker, that Speaker GINGRICH makes the decision to slow down, particularly for all the new Members of the new Congress, some 85 new Members that are not really familiar with this issue. We cannot be spending American taxpayer dollars the way we have so profligately in the past, we have to slow down and look at this so that all of us can understand it better.

□ 1250

Mr. BONIOR. Mr. Speaker, I was a new Member of this institution, and I was being asked in the first 30 days of my service to the country as a Member of Congress. I, sure as heck, would want to know the ins and outs of this, especially given the disastrous effect of this country with respect to the savings and loan situation. I would want to know just exactly what we were

buying with regards to this package, and second, I would demand to know what effect it will have on the fellow who is working at the car company in my town, or the fellow or woman who might be working in a facility in my district whose job is tied to products that are sent down to Mexico for export purposes. You know, what is going to happen to those folks? I have got people working the automobile industry that will be affected by this, and no doubt in my mind; I mean the automobile industry likes to say that, you know, we are proud that we are shipping more cars down to Mexico now. What they do not say is that we may have shipped 30,000 automobiles to Mexico in the first year of NAFTA. The Mexicans, as I said just a second ago, ship back here about 260,000 cars. So, there is a big difference, but nonetheless they are proud of the increase that they have had in the number of cars that they have shipped to Mexico. That undoubtedly is going to be affected drastically by the peso devaluation.

I say, if you're a middle-income family or working family in Mexico, you can just picture yourself, the value of your dollar being 30 percent less that what it was about a month ago, and that's what they are facing down there. So, everything is 30 percent more to them.

Mr. BROWN of Ohio. I drive a Thunderbird, a car that is made in my district.

Mr. BONIOR. Congratulations. Glad to hear it.

Mr. BROWN of Ohio. Good car, and, if they talk about selling Thunderbirds in Mexico, if it cost \$14,000 today in Mexico, 3 weeks ago in Mexico, today it will cost about \$4,000 more than that, and people—think about it yourself. I say to my colleague, you are not going to buy a car where the price has gone up \$4,000, and the relatively few cars we are selling in Mexico that are made in America, that number is going to shrink. Going the other way it is going to increase with the way prices have shifted because of peso devaluation, and I think, as the gentleman from California says, it's a lose, lose, lose situation where not only are we losing American jobs, not only are we losing jobs before the peso devaluation, it is getting worse with devaluation, and they are asking for taxpayers dollars to bail them out.

We have got to examine this question much more carefully.

Mr. BONIOR. Mr. Speaker, I thank the gentleman from Ohio [Mr. BROWN] for joining me this afternoon.

LINE-ITEM-VETO AUTHORITY

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). Under a previous order of the House, the gentleman from Pennsylvania [Mr. WELDON] is recognized for 5 minutes.

Mr. WELDON of Pennsylvania. Mr. Speaker, I took out this special order today after sitting in my office and listening to one of the speakers on the House floor during 1-minute speeches, my good friend and colleague, the gentleman from Maryland [Mr. HOYER], discuss with you and our colleagues in this body today the reasons why he felt that spending increased so dramatically during the Reagan and Bush years, and he emphasized the point that Ronald Reagan and George Bush could have used their veto pen to stop the excessive spending during that time period.

Mr. Speaker, we have to look at the facts, and the facts are quite different than the way my friend and colleague presented them to the American people.

First of all, as all of us in this body—my good friend and colleague is here. Thank goodness. We can have a little dialog here. As my good friend and colleague knows and as all of us in this body know, the President does not spend one dime of money unless it has been first of all appropriated by the Congress, and the House and the Senate meet in their 13 various appropriation bill processes to decide how much money we are going to spend in each of 13 different categories of the Federal budget, and our good friend is a member of that Committee on Appropriations. The process is set up in such a way that the President is given 13 opportunities to veto the amount of spending set by the Congress.

But guess what happened, Mr. Speaker, during the 12 years of Mr. Bush and Mr. Reagan? This body did not pass the 13 appropriation bills, except in one instance, and that happened to be in 1988. In fact, the other side of the aisle, which controlled the Congress, perfected the art of the continuing resolution; in other words, backing the President into a situation where not giving him the chance to veto the spending bills, allowing all spending authority to expire in the fall, and then having us pass a continuing resolution.

My first year in this body, Mr. Speaker, it was 2:30 in the morning, 2 days before Christmas, that we were given a massive document that none of us had seen, and we were told this was going to be the spending blueprint for the country the following year. The document was brought to the House floor. We were given one chance to pass it, which we did, and then the President was given 1 chance, not 13 chances, 1 chance, to veto the spending levels set by this Congress. So, he was backed into a corner, and what did he do?

Like the previous 7 years, or 6 years, Mr. Speaker, he signed that continuing resolution setting the spending authorities and appropriation levels that this body in fact agreed to.

More important than that, not only was the President not given the ability

to veto individual spending bills, but the President was not given the line-item-veto authority.

Now, Mr. Speaker, the current President of the United States, Bill Clinton, campaigned on the need to have a legislative line-item veto. In fact, he said during the campaign that, like the other 43 Governors in America who have line-item-veto authority, he wanted to have that as the President. But guess what, Mr. Speaker? The leadership of his party in the Congress would not give him line-item-veto authority legislatively so he could go through the individual spending bills and redline the pork and the garbage.

We are going to give Bill Clinton legislative line-item-veto authority to do what we would like to have had Ronald Reagan and George Bush do during the 12 years that they were in office.

Mr. Speaker, it is unfair to say that the President of the United States controlled how much money we spend. In fact, we say, well, that is a budget, and the budget is what we agree to. During my first 6 years in office almost every spending bill that we passed, the first provision waived the Budget Act, so it did not matter how much was in the budget. We waived the Budget Act and passed whatever amount of spending that we in this body decided was important for that particular issue.

So, the tools are here, and to say that this was all the fault of the President, be it Ronald Reagan or George Bush when we handicapped him with a continuing resolution, when we handicapped him with no line-item veto, when we handicapped them by backing them into a corner at the 11th hour, I think is wrong, and I am glad my good friend and colleague has shown up, and I would yield to him, the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I thank the gentleman for yielding.

I was in the Cloakroom when I heard him reference my previous 1 minute, which, of course, was in response to a line of new Members on the gentleman's side of the aisle getting up and pounding their chest about the balanced-budget amendment and how irresponsible the previous 40 years of Democratic leadership in the Congress had been. I think it is appropriate, as the gentleman says, that the American people have the facts and have the truth.

First, let me say to my friend—and I mean that sincerely; Mr. WELDON and I are close friends; we work closely together on a number of issues—that I think my portrayal was accurate.

First, I would ask my friend if he knows that the President—forget about continuing resolutions, forget about the actions of the House, forget about the actions of the Senate—if my friend is aware of the fact that in the budgets that Presidents Reagan and Bush transmitted to Congress their adminis-

trations wrote, untouched by Democrats, and asked for more spending than the Congress appropriated. Is my friend aware of that?

Mr. WELDON of Pennsylvania. Mr. Speaker, taking back my time—and I will be happy to yield further to my friend—I am well aware of that, and I am also well aware of the fact, as is my friend, that in this body budgets submitted in the past by this body have been ignored year after year after year. So I am aware of that fact.

Will my friend admit on the record that this body has passed numerous spending bills during the Reagan and Bush years that waived the Budget Act that this body passed, largely on the Democrat side? Is my friend aware of that?

Mr. HOYER. Mr. Speaker, I am aware of it. It is a totally esoteric question that I think has no relevance to our colloquy.

Mr. Speaker, may I ask, did my friend ask for 5 minutes?

Mr. WELDON of Pennsylvania. Yes.

Mr. HOYER. That is lamentable.

Mr. WELDON of Pennsylvania. We will continue this at a future date.

Mr. HOYER. Mr. Speaker, I would love to do that.

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). The time of the gentleman from Pennsylvania [Mr. WELDON] has expired.

THE FEDERAL MANDATE

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the Chair recognizes the gentleman from California [Mr. MILLER] for 60 minutes.

Mr. MILLER of California. Mr. Speaker, I would say to the Members of the House that at the end of this week and the beginning of next week the House will consider a proposal dealing with the issue of unfunded mandates. More importantly, what we will be dealing with is a most serious attack led by the Republicans in the Congress on the basic laws in this country that hold this Nation together as a society and deal with our common interests and our common concerns for the purposes of achieving social progress in this country.

This is the body of laws that has moved us from a dangerous and polluted workplace and from a dangerous and polluted society to one where we now take into account those measures to protect our environment and to protect our workplace. These are the laws that protect our workplace. These are the laws that protect the waters of our lakes and our rivers and make those waters safe to drink, along with the ground waters and the basins that run from State to State. These are the laws that protect the air that we breathe, the laws that guarantee that a handicapped child can go to school, and that

mandate background checks for child-care workers so that we know that when parents drop their children off in the morning, they will not be victimized by child molesters or others who would seek to take advantage of them.

It is these laws that require those background checks and the fingerprinting that are now in place. It is these laws that protect our children against the exploitation of child labor and at the same time make sure that when their mothers and fathers go off to work in the morning, they will work in a safe workplace and they will be paid at least a minimum wage. These are the laws that form the basis of a partnership between the basic levels of government, Federal, State, and local, that have provided unparalleled social progress for this country for the experience that we have all had over the last 50 years.

It has not always been a willing partnership because very often local governments are not interested in cleaning up the sewage that they freely pump into the rivers of this Nation. The State governments that surround and have an impact on the Chesapeake Bay or San Francisco Bay or Houston Bay or Santa Monica or the Florida Bay are not always interested in cleaning up their water-treatment facilities or stopping the runoff from their farmlands and the pesticides that flow into those bays that now threaten the very environment and the existence of the Florida Keys, or the Florida Bay, that generate millions and millions of dollars in the tourist economy as Americans and visitors from around the world come to experience the beauty, the assets, and the recreation of the Florida Keys and Florida Bay. And yet if the State of Alabama under this law chose not to meet the clean-water mandates, it would make no difference what the cities and the counties and the State of Florida do in terms of cleaning up Florida Bay.

If the States along the Ohio and the Mississippi Rivers and the municipalities decide that they are not going to clean up their sewage, that they simply are going to do as they have done in the past because it has always been cheaper in the short term to pump the sewage, to let it flow into those rivers, it will make no difference what the States of Louisiana and Mississippi do to protect their fisheries, to protect the economy that relies on the river and on that great delta, because the pollution knows no State boundaries, no municipal boundaries. It does not know a conservative mayor from a liberal mayor. It makes no difference whether a city council votes for the money or does not, the pollution moves out throughout our society.

That is why we have national laws—the Clean Air Act, the Clean Water Act, and the Safe Drinking Water Act—in this country, because we know

we must have a unified effort, we know we must overcome the local politics where people decide in cahoots with industry or with a certain group in their neighborhoods that they do not want to spend the money to clean that up.

It also happens in the education field, where before the Education to the Handicapped Children Act, children with cerebral palsy, children with Down's syndrome, children with retardation, and children in wheelchairs or on crutches or with the aid of walkers or breathing machines were told that they could not come to school, that they could not participate in our classrooms, but because we have a Federal law that says, "If you want education money, you're going to have to educate these handicapped children," millions of children that were not given an opportunity now not only have gotten an education but they have had an opportunity to get a job and to live independently and to provide for themselves and in many instances for their families. And I have to tell the Members that there is not a Member of Congress that has not had a parent of a handicapped child come to us and say, "But for that Federal law, my child would have never gotten an education," because the school board thought it was too expensive, the school board wanted them to go to a special school, or the school board thought it would be better if they stayed home.

That is not the hallmark of this Nation. The hallmark of this Nation is bringing us together for common purposes and to protect the rights of those who are disadvantaged, whether it is economically, whether it is socially, or whether it is because of handicaps or where they happen to live.

□ 1310

You should know that when you go to any city in America, that you can get safe drinking water. But that is not necessarily true and certainly would not be true if the Federal mandates are removed.

Now, we have a lot of governors beating their breasts and talking about how we tell them to do things that they can't afford to do or they don't want to do and they ought to make the decisions. That is how we got into the situation with the rivers of Ohio that actually caught on fire in the early 1970's. Because they decided they didn't want to do it, they couldn't buck the political pressure of the steel mills and chemical companies and eventually the Cuyahoga River caught on fire. And I think you have to ask yourself if that is what we want to go back to.

Certainly it is expensive to clean up our waters and clean up the air. I can remember as a young man when I could smell San Francisco Bay before we could ever see it as we drove down the road, because the pollution of the cities

was being dumped into that bay and the fisheries disappeared. But now because we have the Clean Water Act, the fisheries are back. As I went to the airport yesterday, you could see the trawlers in the south end of the bay, fishing for a commercial crop, employing people, lending to the tourism, lending to the economy of the bay area.

You know what? A lot of cities in San Francisco Bay cleaned up their sewage. But the city of San Francisco didn't want to. The city of San Francisco said we can't afford to. We are not going to do it. We had to go to court to make them do it. Because all of the other cities on the bay that wanted to enjoy the bay and the citizens that want to enjoy it, said no matter what we do, it will make no difference if the largest single polluter doesn't clean up their sewage, their storm water, their pollutants.

Yet those are the laws that this Congress this Friday will be asked to basically overturn by allowing this assault by the governors who simply don't want to comply, by governors who will not take the political heat at the local level or mayors that won't take the heat. They somehow think this is going to make their job easier. Private industry thinks this is going to make their job easier. But when the mayor of Philadelphia finds out that it will make no difference about the air quality in Philadelphia if the other mayors in the States and the region don't cooperate, he will find that his task is far more expensive.

In the early seventies, we had smog warnings more days than not in the Los Angeles Air Basin. Today we don't have that. It was true in Denver, CO. But what did we do? We passed a Clean Air Act and forced industries, we forced automobile manufacturers to manufacture automobiles with less pollutants. We now have reformulated gasoline on the market to try and help with the air pollution problem. Automobile engines are getting more sophisticated because of the Clean Air Act, because the States now have the ability to enforce the Clean Air Act.

Somehow, somehow in a rush to judgment, with no hearings this year, the Republicans in Congress want to tell us that this should all be overturned.

We should understand that these are the laws that brought America into the forefront of social progress. These are the laws that after too many American families experienced the loss of their spouse, or their father, or their uncle, or their brother, in the steel mills, in the coal mines, in the automobile plants, in the chemical plants of this Nation, these are the laws that said workers have a right to a safe workplace.

But under the unfunded mandates legislation being brought to this floor, that is all called into question with the

reauthorization of OSHA. That is all called into question if somehow the Federal Government does not pay 100 percent of the bill.

I want to know why the Federal Government should have to pay 100 percent of the bill of cleaning up San Francisco Bay. The benefit doesn't run to the taxpayer in Indiana or in New Jersey or in Alabama. Clearly there is a national benefit because as the economy of the San Francisco region does better and we attract foreign tourists and business people and conventions, we all share that as part of our national economic product. But doesn't San Francisco, don't the cities on that bay, don't the cities in Florida benefit by putting up their money? That is the partnership that was created. In some cases the Federal Government has put up 75 percent of the money, in some cases we have put up 50 percent of the money, in some cases we have put up 25 percent of the money. But that was all negotiated at the passage of the legislation. But now we are down to the hard part, the implementation. And what we see is this kind of comprehensive assault led upon this body of laws to wipe out environmental laws, workplace safety laws, toxic laws.

Imagine the audacity of the Federal Government saying to local employers and to the private sector that a worker, a worker has a right to know whether he or she is working around toxic substances that can end their life or disable them, and we all know that has happened, whether it was asbestos, whether it was benzene, whether it was all of the chemicals that are in the workplace. That is what the attack is about, is about taking away that right to know.

What about the right of communities? What about communities that say we want to know what you are releasing into the air in our neighborhoods? We want to know what you are putting into the groundwater, to protect our drinking water.

We have whole communities in the United States where water now has to be brought in overland because the groundwaters are contaminated, they are no longer secure, they are no longer there for the benefit of those communities, because somebody thought that was their garbage dump. Somebody thought that is where they could dump their sewage, put their toxics. And it just isn't about the old industries. It is not just about the steel mills in the forties, fifties, and sixties. In silicone valley, entire aquifers are now off limits to the cities and taxpayers and to the property owners in the south of San Francisco because the newest industries in this country polluted the groundwater in violation of law or because the local economy was so hungry for the jobs they didn't want to tell them that they couldn't spoil the environment.

A lot of people criticize the environmental movement. But as we do an audit now on those countries where there wasn't an environmental movement, we are talking about hundreds of thousands of square miles of the Soviet Union where nobody can live, where life has ceased to exist, because of pollution. We all witnessed the horror of Chernobyl, where thousands of people have died, where you can no longer grow agriculture, and people have been moved to entirely new regions of the country; where milk has to be checked all of the time because the pollution spreads across the French countryside, across the German countryside.

We chose a different route in this country. We decided that in fact we would invest in a clean environment, that it would be good economics, it would be good public health, it would be good for our citizens, it would maintain property values in our communities.

But now, with the new Republican majority in this Congress, they have decided one of the first items on their Contract on America is to take away the protections of these laws. That somehow if the Federal Government does not fund 100 percent, then the people in one State or another should be free to choose their own way. It doesn't matter if when they choose their way in Nebraska, they pollute the aquifer that goes all the way to Texas. It doesn't matter if they choose their way in New Jersey, the people in New York have to breathe the air. It doesn't matter if they don't clean up the steel mills or power plants in the Ohio Valley, it kills the trees in Maine.

That is what this clean air law is about. That is what the clean water law is about. That is what OSHA is about. That is what community right to know is about.

Somehow these Republicans have such a terrible trouble. They are all for democracy and openness, but they don't want to tell people in the community what is going on in their communities. They don't want to tell workers the substances they are working around. People should have to experience birth defects, miscarriages, before we get to them? I don't think so. Why should we visit that on a family because they are forced to take a job out of economic necessity, and then we put them in a dangerous situation and they suffer that kind of tragedy in their family. That is the price of a job? It is when you vote for the unfunded mandates bill, because we no longer get to have the common concern and the common interest of this country, about improving the social progress of our children, of our families, of our workers, because that is what this body of law is about.

These are the successes. These are the successes that set America apart from other countries. These are the

successes in terms of our economic growth, in terms of our economic activity, and an environment that is unparalleled elsewhere in the world. And if we don't lead the way, let us not believe that China will follow suit. That they will think if we decide that clean air is not important here, how do we tell China that clean air is important there? And yet they have the potential, if they stay on track with their economic growth and the building of their coal-fired power plants, to erase everything we have done in clean air in this country.

□ 1320

That is the volume of pollutions that they will put into the air. But we are now going to take away our ability to have tough laws in this country and yet we are going to lean on China or India or Indonesia to come into the first world in terms of environmental protection, not a chance, not a chance. Where we have not done this, we have lost whole industries. Where we did not do this in the Northwest, we lost a good portion of the logging industry, and we have lost a good portion of the commercial fishing industry and the sports fishing industry.

The coasts of our States now, great areas, great fishing banks off of New England, you cannot make a living because the local people did not have the courage to impose the moratoriums or the limits so we simply strip mined the oceans. We are about to set in motion strip mining of the bays and seas off of Alaska. That is why you have a Federal Government. Because a lot of these Governors and a lot of these mayors cannot take the heat. They do not want to buck the industries. They do not want to tell them the truth. They do not want to tell them "no". Well, when it got to such a point that we could not breathe our air, our rivers were catching on fire, you could not swim in the bays and the fisheries were disappearing, we changed the law. We changed it for the good of the Nation.

I would hope that some of these people would stop whining about the kind of social progress that we have made. I would hope that these same Governors who do not like us saying that if you take the public's money, you have to do the public good, what they are really saying is all they want is the public's money. You cannot have it both ways. If you are going to spend the public's money, you have to spend it in the public interest. That is an important component of this.

Surely, there was debate. It took us, I think it took us almost 6 years to reauthorize the Clean Air Act, because we had this debated, because we made the compromises, because we apportioned out, we apportioned out the participation. But if anybody thinks that the question of whether or not Santa Monica Bay is going to get cleaned up

depends upon 100 percent Federal funding, then I guess Santa Monica Bay is not going to get cleaned up, if they do not have the local willpower or the local finances to do that. That is true all up and down our region.

This is a union of States, but those States are not entirely contained within their boundaries. Their activities spill over onto others. This is about being a good neighbor.

Mr. Speaker, I yield to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. I thank the gentleman for taking this special order. It is timely because this week Congress will be voting on this unfunded mandate legislation.

If you read the description of this legislation on its face it seems so simple, so clear, so easy. It is legislation to discourage lawmakers from telling State and local governments what to do without providing them the money to do it. That is so basic who could argue with it? But life is a little more complicated.

As the gentleman from California has just told us, when you start applying it in specific instances, it raises a lot of questions. Some of the more conservative Members of the House and Senate that I have spoken to over the last several days, in posing questions to them, how would it affect environmental laws and the like, they said, well, I never thought of that; there must be an exception in the bill for that.

The fact is there is not. It is a good concept, but the Republicans in the House have taken the concept of unfunded mandates, they have gone too far, they have gone too fast, and they have gone to extremes.

Just consider when the committee sat and met on this bill, just last week, a few days ago, the chairman, the Republican chairman of the committee decided after they, the panel had defeated three Democratic proposals for committee rules changes on party line votes, they ended up saying that they would not have a hearing on this bill. They were just going to mark up the bill. No witnesses came in from the outside to testify. This bill was pushed through as part of the "100 day break-neck speed, let us get it all done and get out of here" approach. It is headed to the floor this week.

In their haste to pass unfunded mandates, the Republicans have ignored very real health and safety problems. They would create with this legislation concerns that every American family has to sit up and take notice of. Let me give you an example.

In many ways unfunded mandates legislation proposed by the Republicans puts the health and safety of our families at risk. The gentleman from California has talked about the clean air provisions, the clean water provisions. My district is on the Illinois

River and the Mississippi River. And frankly, what is dumped in that river upstream is what we have to live with downstream. This is not a State-by-State concern. This is a national concern. It is one where we want to have consistent standards. If the Republican unfunded mandate approach prevails, future regulations of municipal discharges into that river will frankly be unenforceable. So they can set their own standards. And if some town upstream decides it, just by their own hook or crook, they are going to put in that river what they want to, we live with it downstream. That becomes our water supply. That becomes our channel for commerce in the Middle West. We have to live with what they dump because we are not going to go so far as to say, it is a Federal mandate.

The same thing is true when it comes to radioactive waste disposal. There are States which own nuclear powerplants. We have provisions in Federal law which apply to the privately owned plants as well as the government-owned plants in terms of their operation, safety and disposal of nuclear waste. If the Republican approach passes, future reauthorization of those bills establishing those standards will exempt, exempt the government-owned nuclear powerplants. Does that make any sense at all? Should we not have one consistent standard in America when it comes to safety?

Let me tell you another one. Where I live in central Illinois, because we have a lot of land out there, we have become dumping grounds for landfills taking the waste from all over the eastern seaboard. I have a lot of affection for my colleagues from New York City and particularly Brooklyn, NY, but I go to Taylorville, IL, and look at the landfill and see these boxcars coming in full of waste from Brooklyn, NY, being dumped in my backyard in Taylorville, IL, bad enough. But consider the fact that across the United States, there are 7,000 landfills owned by State and local governments which will now be exempt from future standards and changes in regulations by this Republican unfunded mandate bill. It means that Waste Management and other giants in the industry will be governed by Federal standards; those owned by State and local governments, those landfills will not. Do the families living in those communities around there think that is a better deal? I doubt it.

When they are concerned about the quality of water, the aquifer, the runoff, when they are concerned about the health of their children, serious concerns about cancer and disease, they want a consistent national standard. Who can blame them. That is what I want for my family.

Workplace safety, the gentleman from California spoke to. Let me mention one other: disaster standards. Think of the money this Federal Gov-

ernment spends every year on disasters. And we come in and say, we are going to establish standards so that in Illinois and California, Florida and wherever, if you want to qualify for Federal disaster relief, then for goodness sakes, help us out. Do not let people build on the flood plain. Do things to lessen damage, do not come to us and ignore these standards and hand us the bill.

But guess what? Republican unfunded mandate legislation, when it is all said and done, will say to your Governor, Pete Wilson, Mr. ROHRABACHER, do what you want. Set your own standards. But then come rattling the cup afterward, when you have a mud slide or earthquake. That is not fair. That is not fair to the Federal taxpayers. But because the Republicans put this bill together so quickly and in such haste to put it on the floor, they never stopped to consider the impact this is going to have.

This bill, the Republican unfunded mandate bill, unless it is changed on this floor, is a deadbeat's dream. Deadbeat fathers who do not pay child support, deadbeat companies that are polluting, deadbeat government units that will not accept their responsibilities, they are going to be doing what they want and we are going to end up holding the bag at the Federal level.

Let me say, I think the concept behind unfunded mandates is correct. I think the review of Government decisions that have an economic impact on local units of government is the right thing to do. But because we tried to do this overnight, in a hurry, slap it together, put it on the books and get moving, we are not stopping to think of the consequences.

I tell you this, we will be living with them. We will be living with the consequences. Because down the line, when it does not work, when things have fallen apart, guess whose door is going to get knocked on? The same door that your Governor, Pete Wilson, knocks on every time he is in trouble, Uncle Sam's door. Please bail us out.

I do not think that is fair.

□ 1330

That may be your view of new federalism. It is not mine.

Mr. ROHRABACHER. Mr. Speaker, will the gentleman yield for a question?

Mr. MILLER of California. I yield to the gentleman from California.

Mr. ROHRABACHER. Mr. Speaker, If the Federal Government is mandating the actions and priorities of the States, no wonder the people of California and the State government of California are unable to put themselves into a position of preparing for a crisis and have to come to the Federal Government, when their own moneys are being mandated and how they will spend their own moneys is being mandated by the

Federal Government. Shouldn't we leave that decisionmaking, shouldn't we let people in the States be able to make decisions that are most applicable to the States, so if there is an emergency they can then afford to take care of those problems?

Mr. MILLER of California. Reclaiming my time, that is exactly the point. If you leave it in that fashion, and if you take the Mississippi River as the example, if all of the States and all of the cities do not contribute to cleaning up the river, then it makes no sense for anybody to contribute to cleaning up the river. If we look at the Great Lakes, if the cities on the Great Lakes don't clean up their discharge, then it makes no sense for any of them to do it.

Who goes first? When do you do it? That is why you have the unifying effect of Federal laws, because our actions in California—we think most of the pollution in the Grand Canyon is coming out of southern California, so here we have taken one of the great assets of this Nation, and we have destroyed it in terms of its beauty and the ability to enjoy it for visitors all over the world and our own citizens.

However, it is not about what happened in Arizona or New Mexico, it is about what happened in southern California. That is why you cannot let this simply be a local determination. We had that before and we lived among the worst pollution in the history of this country.

I yield to the gentleman from California.

Mr. ROHRABACHER. Your argument is that what the Republicans are suggesting is a far swing of the pendulum in the wrong direction, but I would hope that you would admit that this is in reaction—I would not admit it is going too far, however, but I hope that you would admit that it is in reaction to a pendulum that has swung so far in the other direction that today, local governments find themselves mandating, whether it is for environmental reasons, which you have gone through earlier on in your talk, or for any number of other areas, they find their budgets are being totally mandated or to a great degree mandated by the Federal Government. Thus, local government and the prerogatives of the local voters are being taken away and coopted by the Federal Government.

Mr. MILLER of California. Reclaiming my time, that is not necessarily so. Very often local governments don't do things, not because the local voters don't want them to do things, but because the local power structure doesn't want them to do something, whether it is the local industry or the largest taxpayer in that city which decides "If you do that, I'm going to have to spend x millions of dollars."

But they also, those same people, the power structure, the local industry,

others may very well have a social obligation to clean up the river and to clean up the air. It is not that that can always be overcome. Let's not pretend that every time the local voters get their way with the local city council or the local mayor or the governor or the county board of supervisors. That simply is not so. That simply is not so.

To suggest that somehow all righteous answers are at the local level is simply not the case. That is why very often we come to the Federal Government to try to pass a law that will unify us in terms of progress in this country, and in terms of the concerns of the people of this country.

The benefits, however, are not 100 percent on behalf of Washington, DC. If Santa Monica Bay is cleaned up, the benefit is also local, so we say we will share that. There are none of these mandates where the Federal Government has not put up hundreds of billions of dollars to help these local communities meet these mandates.

The other issue, have some mandates gone too far, clearly they have. Has the imposition, the regulation, the enforcement of some of these laws gone too far? Clearly it has.

However, this is not about the pendulum swinging, this is about cutting the cord on the pendulum and letting it fly out of control at one of its apexes, and that should not be allowed. Should we review these? Should we have cost assessments? Should we go into it opening our eyes? Yes, we should, and yes, we did.

Let us not pretend, like we debated the clean air law or the clean water law without people—with every economic study on the impacts, the automobile industry, the chemical industry, the refining industry, local governments, transit districts, toll bridges, the whole gamut, that was debated for months, for years on this floor, and we arrived at a series of laws that we think will continue to clean up the air of this Nation. That is what is put at jeopardy here.

Mr. DURBIN. Will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Illinois.

Mr. DURBIN. Mr. Speaker, I would like to say that this debate is a much bigger debate, obviously. When you are talking about government mandates, they don't stop at Federal Government and State and local government, they go on to the local units.

I remember as a youngster growing up, one of the most notable tragedies in our area in my lifetime was a fire in Chicago at Our Lady of Angels School which unfortunately claimed the lives of scores of children. As a result of that fire, our State of Illinois established a health safety code and said that every school building in our State has to meet certain basic requirements in terms of fire exits and the like, and

every school district or unit that is running a school has to comply with that health safety code.

We didn't pay for all of it by a long shot, but we basically said to the families living in my State, as I'm sure in your State, "If you should move from one school district to the next, you have got to ask a lot of obvious questions about teachers and courses and all the rest, but you can be certain that every school is going to pass the basic test that your child is physically safe from fire in that building."

That is a mandate, a government mandate from a higher government to a lower government, but for the peace of mind of the families and kids involved in it, we said, "That is the appropriate thing to do for the common good."

Mr. ROHRBACHER. Would you do that at the Federal level, as well?

Mr. DURBIN. No. I think in some areas you have to draw lines where you can go too far. I don't argue that you can.

Let me say to the gentleman, I think many times what the Republican Party misses is that aspect of our Federal Government which talks about the common good. The common good in many instances requires us all to basically give up some of our power and authority so as a nation we are doing the right thing.

I am sure the gentleman would agree that that is something that is very important to our country, and yet it seems the Republicans are so troubled by that that they would push through this unfunded mandate bill so quickly and so extreme that when you sit down and apply it to specific instances, it just doesn't make sense.

Mr. MILLER of California. If the gentleman will yield, I think the gentleman makes an important point. Many of these Governors who are sort of leading the band on this one are engaged in exactly the same process.

Pete Wilson handed the local counties of California a whole series of mandates last year on mental health, on medical care for people in the counties, a whole range of issues. They weren't funded. They weren't funded.

Somehow they want to pretend like they come here with clean hands, that they are opposed to this. We have laws in California called S.P. 90, no unfunded mandates. What the legislature does is every year it says "In accordance with S.P. 90, this is not an unfunded mandate." Tell that to the counties who are having to live with that.

That doesn't make that process right, but let us not pretend that these are somehow unfunded mandate virgins who are coming to the Congress, that they have never done this. It is like Pete Wilson saying "You balance your budget. I have had to balance mine." He didn't balance his budget last year,

he went to the banks and borrowed money to make ends meet.

Somehow they think they speak with greater moral authority: "Do as I say, not as I do." that is sort of the lesson of these Governors.

The fact is, they know that for the good of their States, every now and then, whether it is a fire code, whether it is flood protection, or workers' compensation, they must mandate that certain laws be abided by, and they don't say "Every city make up your mind, every county make up your mind, and get back to me with what you did." That is not the nature of our system of government in this country.

Mr. ROHRBACHER. If the gentleman will yield, the gentleman noted or gave as an example the cleanup of the Santa Monica Bay, which is something I know about, coming from Southern California.

Mr. MILLER of California. I assume you spent a lot of time in the Bay.

Mr. ROHRBACHER. As a young man I body-surfed there and spent a lot of time in that water. That is probably the best example of why the decisions, environmental decisions like the cleanup of Santa Monica Bay, should be left to local people.

The question is, at the local level, how pure should we make the Santa Monica Bay, because the people of the local area know that you can have it 90-percent pure and not lose any jobs, but if you push to an environmental extremist position of trying to make it 99-percent pure, hundreds of thousands of people will be thrown out of work.

One of the complaints that we have had about Federal Government regulations is just that.

Mr. MILLER of California. Let me reclaim my time, because that is like orphanages. The laws now require that people that endanger their children should have their children taken away, and provides a mechanism for doing that, so we don't have to talk about orphanages.

We don't have to talk about whether or not we go too far. That is not what this legislation is about. This legislation is about gutting the basic laws. You won't even be able to engage in that debate in Santa Monica over fecal matter in the bay and whether or not the beaches will be closed or not.

Mr. ROHRBACHER. The local people will be doing that.

Mr. MILLER of California. It is also Federal money that is enabling that bay to be cleaned up, in part. That is true of the whole California coast. So that is the partnership that has been arranged.

Mr. ROHRBACHER. To the degree that Federal money is involved, the Republicans have no problem with us setting regulations for the use of that Federal money. It is just that in this whole mandate debate, it is about when we mandate things and do not provide the money.

□ 1340

Mr. MILLER of California. That is not what the legislation says.

Mr. TAYLOR of Mississippi. Mr. Speaker, will the gentleman yield so I can ask the other gentleman from California a question?

Mr. MILLER of California. I yield to the gentleman from Mississippi.

Mr. TAYLOR of Mississippi. I ask the gentleman from California [Mr. ROHRABACHER], of the estuaries that feed Santa Monica Bay, how many other States are involved in that?

Mr. ROHRABACHER. That is a very good example, because unlike the Mississippi where many States are involved, the Santa Monica Bay is totally within the State of California and thus having the Federal Government mandate the solution would be questionable.

Mr. MILLER of California. Unless you live up or down the coastline from the bay.

Mr. TAYLOR of Mississippi. If the gentleman will continue to yield, I wanted to contrast that with my home State.

Over one-third of the Continental United States drains past my home State. The actions of 80 million Americans, whether clean actions or actions that are not so clean, affect my home State: The tourism in Natchez and Vicksburg, recreational opportunities along the Mississippi River. The most productive fishing grounds in the whole country are at the mouth of the Mississippi River, for shrimping, for oystering, and that directly affects my district during the springtime when the river floods.

Do you think it is fair for the people of Chicago to deprive the oystermen of Pass Christian, MS, the opportunity to make a living? Do you think it is fair, because they want to cut back a little bit on their sewage treatment. For Vicksburg and Natchez to lose their tourism industry because the river is so filthy no one wants to go down to the gaming boats?

I am in total agreement. I was a city councilman and a State senator. We have to get a handle on mandates. But to throw them out the window makes no sense at all. It is just not fair for the people upstream from the Mississippi to ruin our State so they can save a couple of bucks. Because just as it is unfair for the Federal Government to push its problems off on the locals, it is equally unfair for local communities to push their problems off on the Federal Government.

That is precisely what happens in the nature of wastewater. It is just not fair for New York to poison the beaches of New Jersey. It is just not fair for this city, Washington, DC, to poison the water that the people of Alexandria, VA, are going to drink tomorrow, because the water for Alexandria, VA, is within one tidal cycle of what they call

the Blue Plains sewage treatment plant here in Washington, DC. So if Mayor Marion Barry decides he is going to save a few bucks, or spend it on things other than wastewater, is it really fair to him to poison the people of Alexandria?

Mr. ROHRABACHER. If I could be given the opportunity to answer.

Mr. TAYLOR of Mississippi. Sure. I am asking the question.

Mr. MILLER of California. I yield to the gentleman from California.

Mr. ROHRABACHER. I think what the gentleman is showing are the complexities, but that does not negate the solution. That is, just as in the Santa Monica Bay, it might be better for the people of California and people of southern California in particular to determine what type of regulation they want for the cleanup of the Santa Monica Bay. In the same way with the Mississippi River, it would not be a good thing to tax everyone in the country in order to basically implement a policy along the Mississippi River when a solution might be made among the States that are on the Mississippi River to facilitate that solution.

Mr. TAYLOR of Mississippi. But, I say to the gentleman from California [Mr. ROHRABACHER], I was a city councilman when they cut back on Federal revenue sharing. I was a city councilman when the biggest issue we had was to upgrade the sewage treatment plant. Had it not been for the Federal mandate, the wastewater from my hometown would still be flowing into St. Louis Bay, still be poisoning the oyster reefs off Pass Christian and Long Beach and Biloxi. That is not right. That is why we are lawmakers. We came here to be lawmakers for the Nation.

The folks on your side of the aisle have made an excellent point. We need to be extremely judicious in the laws we make. We need to be extremely fair in the laws that we make. But we should also remember that we came here to be lawmakers and that we should have some laws that are common throughout the country, and some of those laws have to be that each community does not become a burden on the community downstream from them as far as wastewater, as far as toxic metals, as far as clean air. You will agree with that.

I think what many of us are asking for on this particular bill, since there was not a hearing on the unfunded mandate bill, that there be clear and concise language in that bill that says we are not undoing anything from the past. We are just going to start talking more about what it is going to cost for locals when we pass something. We are going to give it greater thought than we did before, but there has to be, and there is not in the bill as yet, clear and concise language that says we are not undoing present laws. Some of the

present laws make a heck of a lot of sense.

Mr. MILLER of California. I yield to the gentleman from Illinois.

Mr. DURBIN. At the outset, I want to thank the gentleman from California [Mr. ROHRABACHER] for joining us. I hope we can encourage more of this type of dialog during the special orders instead of the monologs to an empty Chamber which has characterized them in the past. I thank you for joining us and hope we can do this in the future.

But let me add this, if I might. There has been a larger hearing on unfunded mandates in Capitol Hill in the last 45 minutes than at any time when this legislation has been making its way to the floor. We have heard testimony from the gentleman from Santa Monica, testimony from the gentleman from Mississippi, and testimony from the gentleman from Illinois about the impact of the Republican bill. We have heard more testimony right here in the last 45 minutes than we heard in the committee that reported this bill to the floor of the House of Representatives for a vote this week.

The bottom line is, unless and until we consider the complexity of this bill, the ramifications it has on the States of Mississippi and Illinois and California and Florida and others, we are doing a great disservice to the voters of this country.

The Republican leadership wants to slam-dunk every provision of this contract without a hearing, without deliberation, and frankly without the kind of concern which I think they should have for the impact and ramifications.

We cannot hope that the Senate will save us on this bill. I hope they will. Maybe the President will have to. But somewhere along the line, someone has to step back and say the responsible thing to do is to sort out these mandates where the Federal Government has overstepped and where, in fact, the Federal mandate makes sense for a Federal policy that affects the whole country.

One last point I will make. One of the provisions in the Republican Contract With America goes after lawyers. Too much litigation. You want to see a lot of litigation? Pass this unfunded mandate bill and watch what happens. You will have every locality, every township, every community, every city, every village, every county, every State with lawyers backed up to the courthouse door saying, "We are challenging this Federal law because it violates your Federal mandate provision. It imposes a duty and does not pay for it, and we dispute the Federal conclusion that you did pay for it," and on and on and on. This is a lawyer's dream. I think frankly the Republican Party which is trying to spare us too much litigation is really stepping in it when they pass this kind of legislation.

Mr. MILLER of California. I thank the gentleman.

Let me just conclude that the notion that somehow the Governors of the cities along the Mississippi River will all arrive at a common decision to keep the Mississippi clean so that the people in the Gulf States are not punished economically or in their quality of life simply defies political logic in the history of this country.

But for these unfunded mandates, I said that many parents have come to me and other Members of Congress and said, "But for that law of education to handicapped children, my child would have never gotten an education." But let me also say, but for these laws, the plan to rescue the Everglades in Florida would have never come about, because the political structure in Florida was unable to deal with the growers, to deal with the landowners, to deal with the water districts and all that that meant in that political equation, try as they might, and this Governor and Lieutenant Governor have pushed the envelope on reaching consensus, but for the Clean Water Act and the Endangered Species Act, the agreement that is now in place to provide to start on the restoration of the Everglades, one of the wonders of the world, one of the major generators of economic activity in Florida, would never have happened.

In my own State of California, we just reached an agreement between local government, the environmental community, the agricultural community and the State for the protection of the Sacramento-San Joaquin Delta for the commercial fisheries, for the landowners, for the industries, for the cities, for the sports fishing, for recreation. That agreement would have never come about but for Clean Water and Endangered Species, because Governor Wilson, like every other Governor in the State of California, because of where they take their political contributions, could have never stepped up to the table, because the growers would never let them. Not Democratic Governors, not Republican Governors.

But all of a sudden they had to step up to the table because the Federal Government made them do it, because we took the political heat in Washington.

This administration took the political heat and turned back the 11th-hour pleas not to do it. What is the result? That the Delta will now have a recovery plan so we can sustain the recreation and the quality of life and the environment. The cities in southern California will get more water. The growers will have to start paying for their water and conserving it and using it in a modern age as opposed to how they used it with high Federal subsidies in the 1950's.

□ 1350

This is the 1990's. But no Governor would have made that deal without the

threat of Federal action and going to court.

In the Northwest, no Governor, nobody had the guts to tell those loggers to stop decimating those forests, to stop cutting them faster than they could be regrown, so that they could be sustainable. And for years it happened, and whole mountainsides now are denuded of vegetation. Forget getting trees to grow again.

What brought it about? The Endangered Species Act and the Federal Government saying we had to reach agreement between the environmental community and industry and the local communities and the salmon fishing industry, the commercial industries and recreation, and the people of Oregon and Washington about their quality of life, why people invested in homes.

The local power structure did not want to tell Weyerhaeuser that, they did not want to tell the mill down the street that, they did not want to tell these people with all of their lawyers and all their lobbyists that they had to quit destroying America's forests, that they had to stay out of the ancient forests, that they could not decimate the salmon fisheries. They did not have it. They did not have it.

But it happened because of these laws that those same Governors, those same mayors now seek to decimate, acting like they would all of a sudden have the courage to bring into concert those very parties that they rely on for campaign contributions, that they kowtow to all of the time and that they cannot look in the eye and tell them to start doing the people's business in the public interest. That is why these Federal laws are here.

These Federal laws are not here because of some overwhelming desire of Washington to regulate the world. They came here because people were dying on the job, and they would not clean up the workplaces. People were getting killed in coal mine explosions, in grain elevators that were blowing up around the Midwest and the Mississippi River and killing people. They were working around benzene and finding out they had cancer. They were working around other toxic substances and they found out they had a child with birth defects, because that is what they were told to do that is why these laws are here.

The automobile makers did not want to put air bags in automobiles. They resisted us for 15 years. Now most families would not buy an automobile without an air bag. They did not want seat belts. Now we would not think of an automobile without seat belts. They did not want to put child restraints in. When I was young and had my children, we held them on our lap and we drove around. And we were killing the children in wrecks. Now they are in a seat restraint system and the children are living.

I appreciate that people do not want to do business other than the way they want to do business. But that is what brought about, that is what brought about these Federal laws. It was the irresponsibility of many, many individuals and entities in this country that thought that they could use your rivers as their sewage plant and thought they could put their dirty air high enough into the sky that it would blow into some other State and somebody else would have to breathe it.

That is what is at risk here with this Republican legislation. That is what is at risk here in terms of the unity of this Nation, the social progress of this Nation, and that cannot be given away in short debate without a hearing and in a rush to somehow get it done in 100 days.

We have spent 30 years cleaning up the environment of this Nation, making it a model for the rest of the world to provide a standard of living and security in our food supply, security in our air travel, security in our highway travel, security in our job place, security in our own homes, because other people just chose to make a buck. But the Federal Government thought we ought to make laws in the public interest.

Now what we see is in one piece of legislation with no hearings, where you cut off debate in the committee last week, we now see an effort to overturn those 30 years of social progress, turning back the forces who seek to exploit the environment, to exploit the worker, to exploit the family, to make a fast buck, to make a big profit and let the chips fall where they may. That is Bhopal, India, that is Chernobyl, that is the Ukraine, that is the Soviet Union where the lands have been destroyed and families broken and people are living in toxic waste. That is not the United States of America, that is not this country, and it is not this country because of these laws.

To simply allow this assault to go on unfettered, to do it all in one piece of legislation, to not pull it apart and say what is the impact on nuclear safety, what is the impact on low-level waste being put in your communities, what happens to radioactive wastes from hospitals that is being stored around our cities, being stored in our own communities, how do we provide for the safe disposal, what happens to the reactor rods we take out of nuclear reactors, are they going to be in your community or my community, what are the conditions under which they will be disposed of when they are stored, what are the protections to the citizens in those areas; that is the kind of debate we should have, and that is the discussion they should have had in the committee. The Republicans were just not up to it.

On the first day they said their contract required open meetings and the

Speaker stood before this House and said let the great debate begin. Apparently it was not as great as we thought. They decided to close the meetings, they decided to rule amendments out of order because they simply did not want any more time, not that the amendments were not germane or did not have an impact or were not worthy of consideration. They decided it was 6 o'clock, time had come to leave.

These were people who said they were going to work every day around the clock, Monday to Friday, 100 days. They could not find time to have hearings on a bill that decimates the laws of this country. I hope we will have better debate on the floor and the Republicans will reconsider their assault, and I hope the American people will turn them back from this assault.

I will urge the President to veto this bill, because in one swoop of his pen he undoes 30 years of social progress in the environment and in the workplace and in the security of American families.

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

THE CONGRESSIONAL ACCOUNTABILITY ACT

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). Under a previous order of the House, the gentleman from Connecticut [Ms. DELAURO] is recognized for 5 minutes.

Ms. DELAURO. Mr. Speaker, I wanted to talk a little bit today about my own support, which is strong support, of the Congressional Accountability Act. It was introduced by my colleague and my good friend, the gentleman from Connecticut, CHRIS SHAYS, and I congratulate him for his tenacity and for his determination to see this piece of legislation through.

The Congressional Accountability Act is a commonsense piece of legislation. It simply requires Congress to abide by all of the laws that it passes, so that Congress and Members of Congress are accountable for the laws that they pass, and they apply to Members. It makes perfect sense.

By bringing Congress under labor and workplace laws that have long regulated private industry, we then begin to move government closer to people.

The reforms of this Congressional Accountability Act are long overdue, and once again I reiterate my strong support for it and in fact worked very, very hard for it in the last session of this Congress.

However, in the midst of this wave of reform, in this package one perk was left untouched, and that is the ability of Members of this House to convert frequent-flier miles accrued from taxpayer-funded travel to their own personal use. Ending the frequent-flier perk is essential. It is essential to our

ability to restore that bond of trust with the American people which we so need to remake with the American public. Members of this body should not be taking golf junkets or tropical vacations at the taxpayers' expense.

Last August under Democratic leadership, the House overwhelmingly approved the Congressional Accountability Act, and when we did that last August it included a ban on personal use of frequent-flier miles by Members of the House of Representatives. In October, the gentleman from Georgia [Mr. GINGRICH] objected to inclusion of the frequent-flier ban, so it was removed. We cannot reform this institution while the Republican leadership works behind closed doors to protect perks. It is wrong. It is not open government and it is not reform in the way that the American public demanded reform on November 8.

□ 1400

A ban on conversion of frequent-flier miles for personal use should, indeed, have been included in the Congressional Accountability Act today as it was last year.

Quite honestly, what makes the omission more disgraceful is that our colleagues in the Senate have included a frequent-flier ban in this version of the bill, and that means that we will pass a Congressional Accountability Act that will hold the United States Senate to a higher standard than the House of Representatives. That is wrong, and it is shameful.

By requiring that Members of Congress use these tickets only for official use we save the taxpayers money. That is what the debate is about.

Speaker GINGRICH says that hardly any money would be saved by ending this perk and, therefore, this is a Mickey Mouse reform. And while it is true that most Members of Congress only qualify for a few frequent-flier tickets per year, the dollars in fact do add up. Ask working Americans if they would not like a pair of free airline tickets dropped in their laps every few months to use at their own discretion to take a trip and get some rest and relaxation.

It may not be a lot of money to the Speaker, but it is to most Americans. But by simply attaching a dollar figure to figure the value of reform we miss the point. It is the message, the message that protection of this perk sends to the public that is most destructive.

Today, just today, Mr. GINGRICH reiterated his support for keeping the frequent-flier perk for Members of the House and admits that he used these freebies to fly members of his own family. Mr. GINGRICH says that he is interested in a more family friendly Congress and worries about Members of Congress of modest means who use the free tickets to fly family members to and from Washington.

Modest means? Members of Congress make \$126,000 a year. I doubt that most

Americans consider this to be modest means.

The American people, indeed, are fed up with public officials who live by a different set of rules. The Congressional Accountability Act begins to address these inequities, and the American public is right, Congress should not live by a different set of rules. But today we had a chance to go a step further and to close that loophole that allows Members of Congress to vacation at the taxpayers' expense.

RECESS

The SPEAKER pro tempore. Pursuant to clause XII, rule 1, the Chair declares the House in recess until 5 p.m. today.

Accordingly (at 2 o'clock and 3 minutes p.m.) the House stood in recess until 5 p.m.

□ 1700

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. DREIER] at 5 o'clock p.m.

CONGRESSIONAL ACCOUNTABILITY ACT OF 1995

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the Senate bill, S. 2.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is one the motion offered by the gentleman from California [Mr. THOMAS] that the House suspend the rules and pass the Senate bill, S. 2, on which the yeas and nays are ordered.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Consistent with the Chair's announced policy of January 4, 1995, as shown on pages H112 and H118 to H119 of the CONGRESSIONAL RECORD, the Chair will keep to a maximum of 17 minutes the time for a recorded vote on this matter. Members should depart for the Chamber immediately upon the start of the vote by the electronic device.

The vote was taken by electronic device, and there were—yeas 390, nays 0, not voting 44, as follows:

[Roll No. 16]

YEAS—390

| | | |
|-------------|--------------|------------|
| Abercrombie | Barrett (NE) | Bliley |
| Ackerman | Barrett (WI) | Blute |
| Allard | Bartlett | Boehlert |
| Andrews | Barton | Boehner |
| Archer | Bass | Bonilla |
| Armey | Bateman | Bonior |
| Bachus | Bellenson | Bono |
| Baessler | Bentsen | Borski |
| Baker (CA) | Bereuter | Boucher |
| Baker (LA) | Bevill | Brewster |
| Baldacci | Bilbray | Browder |
| Ballenger | Bilirakis | Brown (CA) |
| Barr | Bishop | Brown (FL) |

Brown (OH) Gekas
Brownback Geren
Bryant (TN) Gibbons
Bunn Gilchrist
Bunning Gillmor
Burr Gilman
Burton Gonzalez
Buyer Goodlatte
Callahan Gooding
Calvert Gordon
Camp Goss
Canady Graham
Cardin Green
Castle Greenwood
Chabot Gunderson
Chambliss Gutierrez
Chapman Gutknecht
Chenoweth Hall (TX)
Christensen Hamilton
Chrysler Hancock
Clay Hansen
Clayton Harman
Clement Hastert
Clinger Hastings (FL)
Clyburn Hastings (WA)
Coble Hayes
Coburn Hayworth
Coleman Hefner
Collins (GA) Heineman
Collins (IL) Hergert
Collins (MI) Hilleary
Combest Hilliard
Condit Hobson
Conyers Hoekstra
Cooley Hoke
Costello Holden
Cox Horn
Coyne Hostettler
Cramer Houghton
Crane Hoyer
Crapo Hunter
Creameans Hutchinson
Cubin Hyde
Cunningham Inglis
Danner Istook
Davis Jackson-Lee
de la Garza Jacobs
Deal Johnson (CT)
DeFazio Johnson, E.B.
DeLauro Johnson, Sam
DeLay Jones
Dellums Kanjorski
Diaz-Balart Kaptur
Dickey Kasich
Dicks Kelly
Dingell Kennedy (MA)
Doggett Kennelly
Dooley Kildee
Doyle Kim
Dreier King
Duncan Kingston
Dunn Kleczka
Durbn Klink
Edwards Klug
Ehlers Knollenberg
Ehrlich Kolbe
Emerson LaFalce
Engel LaHood
English Largent
Ensign LaTourette
Eshoo Laughlin
Everett Lazlo
Ewing Leach
Fattah Levin
Fawell Lewis (CA)
Fields (LA) Lewis (GA)
Fields (TX) Lewis (KY)
Filner Lightfoot
Flake Linder
Flanagan Lipinski
Foglietta Livingston
Foley LoBlondo
Forbes Lofgren
Ford Longley
Fowler Lowey
Fox Lucas
Frank (MA) Luther
Franks (CT) Maloney
Franks (NJ) Manton
Frelinghuysen Manzullo
Frist Markey
Frost Martinez
Funderburk Martini
Furse Mascara
Ganske Matsui
Geldensson McCarthy

McDade Skelton
McHale Smith (MI)
McHugh Smith (NJ)
McIntosh Smith (TX)
McKinney Smith (WA)
Meehan Solomon
Meek Souder
Menendez Spence
Metcaif Spratt
Meyers Stark
Mica Stearns
Miller (CA) Stenholm
Miller (FL) Stockman
Mineta Stokes
Minge Studts
Mink Stump
Moakley Stupak
Molinari Talent
Mollohan Tanner
Montgomery Tate
Moorhead Tauzin

Taylor (MS) Walsh
Taylor (NC) Wamp
Tejeda Ward
Thomas Watt (NC)
Thornberry Watts (OK)
Thornton Waxman
Thurman Weldon (FL)
Tiahrt Weldon (PA)
Torkildsen Weller
Torrice White
Towns Whitfield
Trafaant Wicker
Tucker Williams
Upton Wise
Velazquez Wolf
Vento Wyden
Visclosky Wynn
Volkmr Young (AK)
Vucanovich Young (FL)
Waldboltz Zelliff
Walker Zimmer

NAYS—0
NOT VOTING—44

Barcia
Becerra
Berman
Bryant (TX)
Deutsch
Dixon
Doolittle
Dornan
Evans
Farr
Fazio
Gallegly
Gephardt
Hall (OH)
Hefley

Hinchey
Jefferson
Johnson (SD)
Johnson
Kennedy (RI)
Lantos
Latham
Lincoln
McCullum
McCrery
McDermott
McInnis
McKeon
McNulty
Mfume

□ 1717

So (two-thirds having voted in favor thereof), the rules were suspended and the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mrs. LINCOLN. Mr. Speaker, due to medical reasons, I was unavoidably absent during roll-call vote No. 16 on agreeing to S. 2, the Congressional Accountability Act.

Had I been present, I would have voted "aye."

PERSONAL EXPLANATION

Mr. MFUME. Mr. Speaker, due to a scheduling conflict in association with the celebration of the birthday of Dr. Martin Luther King, Jr., I was forced to miss the vote that was taken today, Tuesday, January 17, 1995.

Had I been here, I would have voted "aye" to suspend the rules and pass the bill S. 2, the Congressional Accountability Act 1995.

As my record will show, I have been a strong supporter in both 1994 and 1995 of legislation to require that the Congress comply with the legislation it passes. I am pleased that this year this legislation was approved of by the other body, and like many of my colleagues I look forward to seeing it signed into law in the very near future.

PERSONAL EXPLANATION

Mr. MCDERMOTT. Mr. Speaker, during roll-call vote No. 16 on S. 2, I was unavoidably detained. Had I been present I would have voted "yes".

PERSONAL EXPLANATION

Mr. FARR of California. Mr. Speaker, I was unavoidably detained in California because of the floods, just arrived here on the airplane, and inadvertently missed the last vote on rollcall No. 16.

PERSONAL EXPLANATION

Mr. TORRES. Mr. Speaker, I was unavoidably absent on official business on Tuesday, January 17, 1995, for rollcall vote No. 16. Had I been present on the House floor I would have cast my vote as follows:

Roll No. 16: "Yea" on the motion to suspend the rules and pass S. 2., the Congressional Accountability Act, to make certain laws applicable to the legislative branch of the Federal Government.

PERSONAL EXPLANATION

Mr. MCINNIS. Mr. Speaker, due to travel delays, I was not present to vote for S. 2. As a cosponsor of the Congressional Accountability Act in this session, as well as the 103d, I would have clearly voted in support of this legislation, as I did with H.R. 1, on January 5, 1995.

PERSONAL EXPLANATION

Mr. JOHNSON of South Dakota. Mr. Speaker. I rise to inform the House that I was inadvertently detained on Tuesday, January 17, 1995, from voting on final passage of S. 2, the Congressional Accountability Act, due to bad weather and flights which were postponed as I attempted to return to Washington from South Dakota. Had I not been detained, I would have voted in favor of final passage of the Congressional Accountability Act, just as I did on January 5, 1995 when the House passed H.R. 1 by a vote of 429-0.

EXPLANATORY STATEMENT

Ms. WOOLSEY. Mr. Speaker, due to pressing business of responding to the floods in my district, I was unable to arrive in time to vote on S. 2, the Congressional Accountability Act. Had I been present, I would have voted "aye," as I did during House consideration of this bill.

PERSONAL EXPLANATION

Mr. DEUTSCH. Mr. Speaker, I rise to voice my support for S. 2, the Congressional compliance bill, and the conference report which passed the House on January 17, 1995. As the RECORD shows, I voted in support of this measure twice: Once on August 10, 1994 at the close of the 103d Congress (H.R. 4822); and again on January 4, 1995, when the House of Representatives passed this measure in the 104th Congress. Accordingly, had I not been unavoidably detained in travel, I would have voted "yea" on the vote for S. 2.

PERSONAL EXPLANATION

Mr. LATHAM. Mr. Speaker, I was unavoidably detained in my return to Washington from my congressional district on Tuesday, January 17 due to weather conditions.

I request to state for the RECORD that had I been present, I would have voted "aye" on the resolution before the House, the Congressional Accountability Act.

PERSONAL EXPLANATION

Mr. BECERRA. Mr. Speaker, on Tuesday, January 17, 1995, I was unable to cast my floor vote on S. 2, the Congressional Accountability Act of 1995.

As an enthusiastic supporter of this important legislative proposal which I have voted for in the past, I would like to announce for the RECORD that, had I been able to, I would have voted "aye" on S. 2 on January 17, 1995.

PERSONAL EXPLANATION

Ms. PELOSI. Mr. Speaker, I rise to voice my continued support for S. 2, the Congressional Accountability Act of 1995, which was overwhelmingly passed by the House of Representatives on January 17, 1995. As the RECORD indicates, I have supported this legislation twice before. I supported passage of the Congressional Accountability Act when it was considered by the House in the 103d Congress, on August 10, 1994, and then again when the House approved the measure on January 5, 1995. Accordingly, had I not been detained in my district on January 17, 1995, I would have voted "yea" during the vote on S. 2.

PERSONAL EXPLANATION

Ms. SLAUGHTER. Mr. Speaker, I was unable to be present for rollcall vote 16. Had I been present, I would have voted "yea" on rollcall vote 16.

□ 1720

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. WELDON of Pennsylvania). Under the Speaker's announced policy of January 4, 1995, and under a previous order of the House, the following Members are recognized for 5 minutes each.

ON UNFUNDED MANDATES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. GILLMOR] is recognized for 5 minutes.

Mr. GILLMOR. Mr. Speaker, this country needs an end to unfunded mandates by the Federal Government on State and local governments. I am delighted to see that this concept is finally receiving broad support from both the public and from this Congress.

I introduced a constitutional amendment a year and a half ago to end those unfunded mandates by constitutional amendment, and what a difference a year and a half makes.

When I first proposed it, most people thought there was almost no chance of ever seeing a constitutional amendment voted on or adopted in this body. But after the November election and after increasing concern shown by Governors and State legislators, we have an excellent chance of getting this issue before both Houses and to a vote.

There is legislation pending to curtail unfunded mandates by statute. I support that. I cosponsored it last year, and I am cosponsoring it again this year. But the weakness of a statute is that it can be changed by a simple majority vote. And the only real long-term protection is by a constitutional amendment.

During my 22 years in the Ohio Senate, including several terms as Senate President, I witnessed a tremendous increase in the cost and the number of mandates being forced on the States. When the States originally ceded power to the Federal Government, they could not have envisioned a situation where State law would be so lightly overturned and where State funds would be subject to Federal raids.

Unfunded mandates permit the Federal Government to avoid responsibility for its actions. They give the Federal Government the power to reorder and to distort State and local budget priorities. States have had to curtail services they feel are priorities because of those mandates. States have had to cut schools. They have had to cut police protection, programs for senior citizens. They have had to cut police protection.

And examples of unfunded mandates are both large and small. For example, the mayor of Columbus, OH, our capital city, has estimated the cost of unfunded mandates for his city as \$800 per year for every single individual in the city. In 1993, shortly after I introduced the original amendment, I heard from the fire chief of Van Wert, OH, a small city in my district, complaining about Federal regulations that required him to replace the breathing tanks his men use when they enter smoke-filled areas. Not a single one of the tanks were defective or needed to be replaced, but it cost him \$9,500 to replace them.

At the same time he was forced to cut his budget for volunteer firemen. For that \$9,500, the chief could have had 20 volunteer firemen instead of having his force cut down to 5.

There is an EPA requirement that sets atrazine limits at three parts per billion in drinking water. That sounds good until you consider that it would cost one city \$80 million to comply and will not increase public health or safety at all.

How much water does a person have to drink, based on that standard, to

have even a remote chance of having any adverse effect on their health? An individual would have to drink 38 bathtubs full of water every day for the rest of his or her life; and for the same amount of money, that city could have hired 3,700 schoolteachers. What has happened is that Congress has been irresponsibly freeloading on the backs of State and local government.

Congress passes a requirement. It takes the credit. But it refuses to pay the burden for the mandates that are created. State and local governments pay the cost. They get the political blame.

Contrary to what some opponents say, this does not prevent Congress from passing anything on health and safety. It just says, pay for your actions like anybody else. There are some in the Federal Government who have been freeloading and have been irresponsible for so long that they think that freeloading and irresponsibility are virtues.

Now is the time to restore a proper balance in Federal relations. This amendment does not in any way endanger public health or safety. It enhances it by helping assure that public resources are effectively spent and not wasted.

THE NATIONAL DISASTER PROTECTION PARTNERSHIP ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. MINETA] is recognized for 5 minutes.

Mr. MINETA. Mr. Speaker, this morning, as billions of people around the world know, the cities of Kobe and Osaka in southern Japan were struck with a devastating 7.2 magnitude earthquake.

As of noon today, Washington time, nearly 1,600 people were known dead, more than 1,000 were missing, and more than 6,000 were injured.

No words are necessary beyond reading that toll to know that the family lives disrupted by this epic tragedy will never heal completely.

And no words are necessary beyond reading this next tally to know that the tremendous physical damage will not soon be repaired:

More than 4,000 buildings were destroyed this morning. Expressway and rail service has either been severed or disrupted in much of western Japan. Power and telecommunications systems have been cut.

These people are now in crisis, and I know that Americans everywhere share in the sadness caused by this tragedy.

We do so because of the suffering involved. And we do so out of a feeling of a *deja vu* that hits still closer to home.

The sad irony of this earthquake in Japan is that this day also marks the 1-year anniversary of the Northridge earthquake—a 6.7-magnitude quake which killed 61 people and caused 20 billion dollars' worth of damage in the Los Angeles area.

The lesson we should be learning is that the forces of nature continue to strike at will.

The lesson we should be learning is that in our increasingly developed world, the costs of responding to natural disasters and repairing the damage keeps going up—and that we do not have a bottomless checkbook.

Unless and until we act as a nation to mitigate the potential for damage, unless we make it possible to recover from natural disasters with lives and communities more intact than is possible under present law, we will pay a higher and higher cost in lives lost, in the cost to rebuild, and in the dislocation to our economy and society while we rebuild.

As chair of the House Public Works and Transportation Committee in the last Congress, I can tell you that the 1994 Northridge earthquake and the 1993 Midwest flooding became cases in point—as did hurricanes Andrew and Iniki, and the Loma Prieta earthquake in earlier years.

Today, California also suffers from statewide flooding in addition to the Northridge memories of a year ago.

Since last Wednesday, I have spent several days examining the destruction caused by the floods in my State. I have looked at which systems worked, which did not, and how Government agencies and nonprofit voluntary agencies worked to save lives and help communities recover.

These floods reminded me again that we as a nation are not helpless, but that clearly we are not doing all that we can in advance to stave off the human and financial costs of natural disasters.

In the last Congress, the Public Works and Transportation Committee approved legislation—the first of its kind—to get ahead of this particular curve.

This legislation—the Natural Disaster Protection Partnership Act—would create the first public-private partnership to reduce the cost of natural disasters and to keep disaster insurance available and affordable to homeowners so that less of the cleanup and repair cost would be at taxpayer expense.

We would accomplish these two goals in four ways. First, through better preparedness. Second, through spreading out the financial risks, which would lower the costs to homeowners and ensure that coverage would be available.

Third, through better State and local government enforcement of building standards. And fourth, through Federal coordination and required financial backstops to existing insurance pools.

Just about every group affected—from homeowners associations, to consumer advocates, to insurance companies, to emergency service officials—has agreed that the Natural Disaster Protection Partnership Act has the right combination of ideas to end the fear and create greater security, and to do so by putting greater reliance on the private sector.

This is why I was delighted when a bipartisan House task force endorsed the provisions of my bill last month.

If there is any single piece of legislation that cries out for enactment early in this new Congress, it is this one.

Today's earthquake in Japan was another reminder, and warning.

□ 1730

RECOMMENDING A FAVORABLE REPORT ON HOUSE RESOLUTION 15

The SPEAKER pro tempore (Mr. WELDON). Under a previous order of the House, the gentlewoman from Missouri [Ms. MCCARTHY] is recognized for 5 minutes.

Ms. MCCARTHY. Mr. Speaker, while I voted for the final version of the Congressional Accountability Act that was just before us, I want to register my extreme disappointment that it did not include a provision barring House Members from using frequent flyer awards for personal trips. Under this measure, Senators are prohibited from doing so.

For this reason, I joined today as a cosponsor of House Resolution 15, introduced by my colleague, the gentleman from Wisconsin [Mr. BARRETT], which would require that travel awards that accrue due to official travel by Members of the House be used only for official travel. This resolution has been referred to the new Committee on House Oversight. The Speaker has been quoted in this afternoon's Congress Daily as saying he recommends that the Committee on House Oversight review this matter.

I hope the Committee on House Oversight will do more than just review this matter. The legislation of the gentleman from Wisconsin [Mr. BARRETT] is very important. I hope they will favorably report it to the full House, so we can hold ourselves to the same high standard of ethics as the other governing boards, the other House, and all of the U.S. Government.

Mr. Speaker, I feel very strongly that if we do not do this, we demonstrate an hypocrisy that is not appropriate to the governing of this House.

THE ROLE OF UNITED STATES IN SOLVING MEXICO'S MONETARY CRISIS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the Chair recognizes the gentlewoman from Ohio [Ms. KAPTUR] for 60 minutes.

Ms. KAPTUR. Mr. Speaker, while America was celebrating Martin Luther King Day yesterday and the long weekend, officials over at the White House and here in the Nation's Capitol buildings were running around frantically trying to figure out how to bail out Mexico with your taxpayer dollars, without calling it a bailout. They say "It won't cost us a penny because Mexico will pay it all back."

However, Mexico has never paid back its debts. That is why it is in the fix it is today. The powers that be here in Washington, therefore, have devised a multibillion dollar taxpayer bailout plan to prop up Mexico after the recent peso meltdown.

Listen to this. It will conveniently be placed off budget, through some fancy manipulations of lawyer's words that will make it sound like our taxpayer's don't end up holding the bag. First, there was an \$18 billion loan package with a \$9 billion line of credit from the U.S. Treasury and our Federal Reserve.

You know what the Federal Reserve is. When you put money in your local bank, it then goes up in the chain and the local banks end up owning the district banks which then own the Federal Reserve, so it is your money to begin with.

But that was not enough of our taxpayer's money last week, so now we are being asked to put up an additional, are you ready, \$40 billion, that is with a B, dollars in loan guarantees in Mexico. But of course we are being told it is just a safety net and we will probably never really have to pay it, because surely Mexico will not have any problems paying off these new loans.

This is really getting interesting. How ironic that during the very month when Congress is about to consider a balanced budget amendment to put our taxpayers in a vise, we are being asked to close our eyes to this unprecedented back door version of foreign aid that holds the potential to bust any budget that we pass here. Off budget? Off budget means the bill will be on your budget, that taxpayers' budget. Don't you just love it?

Mr. ABERCROMBIE. Will the gentlewoman yield?

Ms. KAPTUR. I yield to my distinguished colleague, the gentleman from Hawaii.

Mr. ABERCROMBIE. Would the gentlewoman characterize the reaction perhaps in her district as I find in my district, that people are under the impression that we may be giving this money to the Mexican Government? And would it be a fair characterization to say we may in fact be doing exactly that, because if they default, won't we in fact be giving it to them by taking it from our own people?

Ms. KAPTUR. We absolutely will. In effect, our people become Mexico's insurance company.

Mr. ABERCROMBIE. Would the gentlewoman kindly explain what that means, if we become their insurance company? What obligation does the taxpayer in America have if there is a default by the Mexican oligarchy?

Ms. KAPTUR. If there is a default—and as I say, Mexico has never paid back its debts. It owes \$89 billion it is not paying off right now. It means that we pledge the full faith and credit of the people of the United States to pay the debts of Mexico.

Mr. ABERCROMBIE. Is it a correct assumption that if they have not paid any of the debt that you have mentioned so far and are unable to pay anything on that which we are going to advance them, that they will be combined and the taxpayers in America will have to take up all of that obligation?

Ms. KAPTUR. That is the way it looks to me, my friend.

Mr. ABERCROMBIE. I thank the gentlewoman.

Ms. KAPTUR. I thank the gentleman. Now the new "leadership," I put leadership in quotes, of this institution is turning cartwheels over one another trying to push this through real fast, real fast. I just love it.

Where is the new Committee on the Budget? Where are the new Members who said that they were going to finally balance the budget of our country? What a joke. Instead of a Contract

With America, this Congress is falling over itself to pass a new contract with Mexico. Who is kidding who?

Members like myself understand the power of Wall Street, and megabanks, and multinational corporations. We understand the power of the media to keep this crisis under wraps at their bidding and hope the taxpayers miss this one.

Last week in Washington over a dozen Members of Congress held a major press conference here in the Press Gallery. There had to be over 100 press people. The rooms were overflowing. I asked my friends around the country, "How much did you read about that in your newspapers?" Who was it that made the telephone calls from the other end of Pennsylvania Avenue, that suppressed the press releases and the messages that we tried to get out to the people of the United States? I have a hunch who it was.

We understand the power of the White House. We understand the power of the leadership here in this Congress. We do not like it, but we understand it. We know they want to slip this baby through with as little public scrutiny as possible. There is a lot of money at stake for their friends.

After all, it would be embarrassing to them, all those high-flying speculators that gambled with mutual funds in this country, the ones who are always complaining about how they want Uncle Sam off their back, until they need to put their hands into our taxpayers' pockets to get them out of another one of their expensive binds.

To them I say, look out, because once the American people figure out the magnitude of what you are trying to do, they are going to be outraged.

Mr. Speaker, I ask, please do not tell us this will be good to the people of Mexico. That autocratic state will not be one whit more democratic when this is all over. Its citizenry will not have any greater standing in that legal system, nor will our businesses, who do business down there.

All that will happen is that the vise around the necks of Mexico's people will continue to grow tighter. Mexican wages will decrease even more. Life that is already tough for the majority of Mexico's citizens will become even more unbearable. Inflation will be even tougher to manage than it is now.

But get this, Mexico's super-rich families took their money out of that country before the peso meltdown. How convenient.

□ 1740

Why are they not being held accountable? Why should United States taxpayers put their money on the line when Mexico's 3 dozen ruling families have their billions safely tucked away offshore?

If we remember back to 1984 and Mexico owed commercial banks in those

days, Mexican funds by these families in United States banks exceeded the amount that Mexico owed to our banks by somewhere between \$40 billion and \$60 billion. Very interesting. Not small potatoes.

They got themselves into this mess. Let them bail out their homeland by repatriating and bringing home their own money and let the big business interests in our country in cahoots with them eat their own losses.

That is free enterprise. That is what free enterprise is supposed to be all about, taking a risk and then being willing to meet the piper.

Just last week when most of America was not looking, the House Banking Committee here on this side of Congress renamed itself and passed new rules under its so-called new leadership mandated by what I call the "Contract on America" that will permit this bill to subvert normal committee procedures. No hearings will be held in the subcommittee of jurisdiction. Don't have to under the new rules they passed.

This will be a real railroad job. Only the full committee will have some sort of lightning speed session, because if you ask too many questions and the public begins to understand what is going on here, somebody in America might actually object. I bet you a dime to a doughnut when that bill gets to this floor, it will be the fastest ball you ever saw come down the pike.

So, what is so new about this Congress? The idea is to hide the truth from the American people once again. Hold as few hearings as possible, limit floor debate, don't let the public know any of the grimy details. So let me ask again, what is so new about this so-called new Congress, anyway?

And let me say to the real gamblers in all of this—you know who you are: The megabanks, the multinational corporations, and the speculators who pushed through NAFTA, there are a few of us who understand. You put our taxpayers now at the helm for your mistakes and for your greed. We are angry. We resent what you have done.

My own feeling is that when you gamble, you should eat your own losses and not come whining to the American people to foot the bill. You are all big boys. You love this kind of free enterprise gamble. So practice some of it. Don't come running home to Mama in the Government.

Let me just say even gamblers have rules. If you go to Las Vegas and consistently lose money, the casinos won't let you play at their tables anymore. It is a good rule. Mexico has consistently lost money and never paid back the principal on its loans from us. Why should we let them play again?

Remember the Brady bonds? They keep flipping around like fish on a deck. If you go to Las Vegas, there are also table limits. In other words, there

is a certain ceiling on how much you can lose. Even gamblers have a code. But with this Mexico deal, there is no limit.

A week ago, the administration first said it needed \$6 billion. Then it raised it to \$9 billion, then to \$18 billion, then to \$25 billion. Then by the end of the week, it became \$40 billion, and that is on top of the \$18 billion line of credit already in place. How's that for 1 week's work?

I have an idea and I thought about this all weekend. Since American taxpayers are being asked to bail the gamblers out on the faulty assumption that Mexico will pay back these new loans, which would be an historical first, let me humbly suggest to the Secretary of Treasury and Chairman of the Federal Reserve, that what is fair is fair. If the American people have to pay, give them something in return. Let them earn the money off your gambling with their money. How about creating a new short-term bond for American taxpayers backed up by Mexican oil? Call it the oil bond. Its benefits will flow to each family in America bankrolling you, not just to a dozen well-connected bond houses and investment banks on Wall Street. Ask Mexico to pay us back in goods, not promises. Then let those oil barrels start rolling north. Call it cash on the barrelhead, using the current price at delivery.

Since this bailout is putting citizens at a \$49 billion risk to start off with, I figure with over 100 million households in America, for each family in our country we are talking about a minimum of one \$600 oil bond per family, not counting the interest due them over the life of the debt instrument. at the U.S. Treasury and Federal Reserve who have gotten us into this mess—you know who I am talking about—the ones who as a result of GATT just stopped guaranteeing average Americans a decent return on their U.S. savings bonds. We used to have a 6-percent floor which said you cannot earn less than 6 percent. Then they lowered it to 4 percent for our people. Now they have even taken out the 4-percent floor. I am asking those same folks over at Treasury to go back to the drawing board. If U.S. taxpayers are going to bankroll you and your speculative buddies, let our people share in the wealth.

Imagine, the oil bonds could be sold through every Federal Reserve regional bank. The Federal Reserve could establish an 800 toll-free number that citizens could call, 1-800-O-I-L-B-O-N-D. How simple and straightforward it would be. Each American would immediately be an owner of 40 barrels of Mexican oil. For the first time in our history, it would democratize the gambling done by our Treasury Department and Federal Reserve at the expense of our taxpayers.

The more I think about it, the more I really like it. Citizens with credit

cards could call right in. The IRS could mail special envelopes back to each taxpaying family after April 15 of this year containing the family's oil bond. All taxpayers would benefit directly, again with goods, not promises. Is this not one of those ideas, the more you mull it over, the more it really grows on you?

In conclusion, I would just like to say, let's stop this clever taxpaying bailout of Mexico. Let's stop this new budget-buster that will completely abrogate any work we do on a balanced-budget amendment here this month. Let's get rid of the biggest unfunded mandate in the history of our country. Let's put our taxpayers back in the driver's seat and let them earn the money for a change.

Mr. Speaker, I yield to the gentleman from Pennsylvania.

Mr. KLINK. I thank the gentlewoman from Ohio again for taking the lead on this issue, and I will tell you when we were on the floor last week, the discussion was about an \$18 billion line of credit which somehow has more than doubled.

I am very troubled given the history of what has occurred in my own district and I know the gentlewoman's district of Toledo, OH is very similar.

We are being told that all this is going to be done off-budget, that there is some magical way of being able to leverage this money and to get it down there so that they can draw down on it, and that, in fact, \$40 billion is more than they will ever need.

□ 1750

What about Ohio and Pennsylvania and Oregon and New York? Can we not do the same thing for those States where our industries have fallen apart? Can we not do the same thing for our own Federal debt that we are very much discouraged over and we have got all kinds of plans about trying to do something about? We are being told that if something does occur, if we do not do this, that there is going to be all sorts of bad ramifications, and I understand what some of those risks are. But one of the things we are being told is that we will discourage investment in Third World countries like Mexico, Chile, Brazil, and Argentina. My question is: Does that encourage investments in firms that are employing people here in our country, because I firmly believe that all of those dollars that have moved offshore, many of them going across the Rio Grande to Mexico, that those are dollars that are not being invested to put Americans to work.

I have seen factory after factory, manufacturer after manufacturer that have moved from my district and districts around me and Volkswagen is one of them. They used to have 5,000 employees in New Stanton, PA. They are now making those same cars just outside of Mexico City.

But as I listened today to some of the explanations from the Fed and from the Treasury Department, a few of their ideas really bother me. No. 1 was the fact they said the Mexican worker can never truly be competitive.

As I listened to that, I go back to our discussion on NAFTA and I remember discussions with people from Volkswagen and General Motors and Ford and Sony and Zenith. They obviously do not agree with that because they have made hundreds of millions of dollars in investments and they are getting their dollars back because the Mexican workers truly are creative, they are very capable, and they can manufacture. And in fact, I have heard Members of our own Congress talk about companies and firms saying they are getting the same productivity from the workers in Mexico as they are getting from the American workers. So that is a wives tale and it just does not wash.

If ideas like this that we know are false are going into this plan to give a \$40 billion line of credit to Mexico, what else is faulty that we do not know about? I think that there probably is a lot of it. If this is such a good deal, if there is not a lot of risk, I think the gentlewoman's idea is correct. Why do we not privatize this debt? Why do we not let those same people who went to Mexico wanting to invest money and making millions of dollars, let us let them invest in that \$40 billion debt rather than the American taxpayers who quite frankly have already invested in the debt that we have run up in this country. They have invested in their own consumer debt because their salaries and their wages have not kept up with the cost of living in this Nation. So why should we ask them to make that kind of a bailout? Let us let the big money interests go ahead and make those investments.

Ms. KAPTUR. If the gentleman will yield on that point, I just want to point out that when any person goes into a financial institution in our country, whether it is a credit union, whether it is a savings and loan, whether it is a commercial bank, there is a little sticker in the window and it says insured by the full faith and credit of the Government of the United States. You do not see that when you go into a securities office or an investment bank on Wall Street. There is not any kind of taxpayer backup of the gambling, professional gambling in a sense, that is done through those investment banks.

What I find really reprehensible about this proposal is that those individuals who chose to gamble, they knew what they were doing. Now whether they explained it to the people who used those institutions to place their money in private instruments, that is another question. But we have no obligation by the taxpayers of this

country to prop up the investment banks of this country or the world.

Mr. KLINK. If the gentlewoman will yield on that point, I think she makes a very valid point and I would say this to Members of this U.S. Congress, many of whom I hope are watching on TVs from their offices. If we go down this path with this loan, with this line of credit to Mexico, we can never say no again. We are breaking new ground. We are saying that the taxpayers of the United States will stand behind this type of loss and this type of loan and this type of a run on a nation. And once we make this exception, once we start down this road, how do we turn our back the next time and say well, we could do it for Mexico, but we will not do it for Argentina, we will not do it for Brazil or Thailand or for India or France, you name the country, and fill in the blanks. This is precedent setting.

This is not Chrysler Corp. which this United States of America and a lot of our workers have a great amount of investment in. This is not New York City, which is a vital city and an important part of our Nation. This is an investment by the American taxpayers in foreign debt where the big money-grabbers went in and when the heat got turned up too tough, they turned around and grabbed their money and ran off shore, including those who are big money people in Mexico.

Mr. DEFAZIO. If the gentlewoman will yield, I think the interesting thing for our colleagues to realize for those listening is that what Alan Greenspan, head of the Federal Reserve Board, and Robert Rubin, an ex-managing partner of Goldman, Sachs, now Secretary of the Treasury said to us, representing the people in Congress: "What are you concerned about? This is only a loan guarantee. There is no risk to the United States. In effect we are only a cosigner."

Well, wait a minute. When I go to the bank to buy a car, they do not ask me to get a cosigner. When somebody with bad credit goes to the bank asking to buy a car, they want a cosigner. We are cosigners because we know Mexico does not have good credit. There is nothing underlying these massive loan guarantees except the full faith and credit of the U.S. Treasury, which is part and parcel the taxpayers of the United States of America, \$40 billion at risk for the taxpayers of America. For what? So we can continue to encourage United States corporations to move manufacturing jobs to Mexico, so we can run a trade deficit with Mexico.

If we assume that Mexico can meet these obligations, we have to assume there will be a massive turnaround in their current accounts deficit. They had a \$28 billion current account deficit this year. They say next year they will cut it in half. There is only one place they can get that. They are assuming by saying that they will be

running a trade surplus with the United States of America of tens of billions of dollars in coming years, and we all know when you run a trade surplus with someone, you are profiting and your people are working. When you are running a deficit, you are exporting jobs.

We are about to enter into the same category, in fact we did in October, with Mexico as we have with every other one of our trading partners. That is, we are going into deficit, and we cannot keep on piling deficit upon deficit in our balance of international trade any more than we can the Federal Treasury.

It looks like with the balanced-budget amendment we are finally waking up to fiscal reality here in Washington, DC, with the domestic economy. But what about the foreign economy? How can we run a trade deficit and expect to have jobs and accumulate wealth and an increased standard of living? How can we run a trade deficit with Mexico and export our manufacturing jobs and expect to increase wages and better working conditions and have jobs for people here, and we are going to pay \$40 billion for this privilege? It is outrageous.

Ms. KAPTUR. If the gentleman will yield, I am reminded of a sad irony in all of this. When you think with the very companies, big companies, we are not talking about little fish now on Main Street, we are talking about big fish that can move their production anywhere in the world to take advantage of cheap labor, those very corporations as well as the big banks, the investment banks, the speculators who supported them got in trouble, and now the very ones who divested investment from the United States and went elsewhere and got their tail caught in the wringer are coming back to the U.S. taxpayers to bail them out. I think it is one of the saddest ironies, and I really feel I almost want to say, you know, if you are going to be a man, be a man, stand up for your investment, at least eat the loss and do not come back to the very people you turned your back on in the first place.

Mr. DEFAZIO. If the gentlewoman will yield, I was in the elevator, kind of in the back, there was a big crowd a little while ago. A number of conservative Members, Republicans, got on the front, and they were talking with some concern saying, you know, what this is about is, you know, we are putting the U.S. taxpayers on the line and really we are going to stick it to the peasants in Mexico because their standard of living is going to go down under their amendment. It is all to bail out the big banks. But the good thing is it is being identified as a Democrat program because it is the President and the Secretary of the Treasury who are so visible on this.

I piped up from the back and said, "You can't pass it with Democratic

votes in the House." So it is not something for our Republican colleagues to be listening and saying they are going to be able to pass blame to the White House and to the Secretary of the Treasury because they are out to lunch on this issue. It can only pass in the House and the Senate if the Republicans support it, because they are in the majority and they run this institution.

□ 1800

So if there is a bailout of Mexico, it is the Republican congressional bailout of Mexico, hand in pocket with the Secretary of the Treasury and the President of the United States who happen to be Democrats on some days.

Mr. KLINK. If this passes, there is enough blame to go along for both parties. I agree with the gentleman.

We are being told there are three things ultimately that led Mexico to be in this position. No. 1 is the fact they have had the civil unrest in Chiapas. We have no guarantee that situation is going to change, in fact, the Mexican Government will not continue the military operation against the rebels in Chiapas and the rebels will not continue their action against the Government.

Also, the assassination of then Presidential candidate Colosio; we have no information, again, the political situation in Mexico has been remedied. Indeed, the same party is in power now as has been in power for some 80 years.

The whole question then is that we are also being told, well, there is an uncertainty having to do with NAFTA. At the risk of saying, "We told you so," we told you so. And the fact of the matter is if you just took a look at the first 6 months under NAFTA, imports from Mexico to our country increased by an unprecedented 21 percent. In the same time period, we had a 32-percent decrease in the same period of time in our overall trade surplus with Mexico.

Now, all of a sudden the peso is devalued. What does that do? American goods in Mexico become more expensive. The Mexicans cannot afford them. Their salary, because they are being paid in pesos, is now 40 percent less than it was. Their goods and services become cheaper to sell here. We are already paying the price.

Yet we have no guarantee the situations which led Mexico to this financial crisis are going to be remedied. We have absolutely no guarantee at all.

Ms. KAPTUR. I am glad the gentleman brought up that point. We just came out of a meeting with the Secretary of the Treasury of our Nation along with the chairman of the Federal Reserve.

One of the questions I asked them, as a democrat with a small "d," I really do believe in democracy. I really believe in every single person being able to develop to their full human poten-

tial whether they live in the United States, whether they live in Mexico, whether they live in China, whether they live in Cuba, wherever they live, I believe in people first. That used to be somebody else's motto. I have not heard it talked about a lot.

We ask the question, "Look, if the United States is going to be giving this big bailout of guarantees to Mexico, what conditions are being put on this money to expand democracy in Mexico?" I asked the question really in this way: I said, "Which political parties down there are sitting around a table talking about the stabilization plan?" And basically we were told the ruling party may be talking to some of the other parties, "But, of course, we haven't been in any of those meetings," so it is business as usual.

That nation will not only suffer those huge wage decreases because of the peso devaluation, but whose productivity has been increasing because they work under very, very difficult conditions, they have been working very hard, and their wages have consistently been cut and cut and cut in 1993 and 1994, and now this cuts it by another 40 percent. Who is the voice for those people?

I believe in democracy so much; I believe the President of our country and the leadership of this Chamber should be a voice for democracy not just in the United States but in all of these other nations that want to talk about trade, because after all, America and this continent should be more than just deals, deal after deal by private companies. It should be about using whatever power we have to build democracy and to treat people fairly, to treat them right, to treat them with respect.

So I am glad that the gentleman brought up that particular point.

Mr. DEFAZIO. On that point, if the gentlewoman, I know she remembers, during our discussions leading up to NAFTA, we were told one reason so many U.S. corporations were avid for the NAFTA agreement was because there were no labor limitations on it. In fact, they were assured by the ruling party they would not allow free labor unions. They would not allow collective bargaining for wages. In fact, they guaranteed that they would cap wages or depress wages, as they have done over the last decade. Now, this is the biggest drop in wages they have managed so far, a 40-percent drop in wages.

Yet somehow, as I recall, I believe his last name is Salin, the largest billionaire in Mexico, somehow he knew the day before the devaluation to change his pesos to dollars. A few of the other billionaires in Mexico somehow, they had really good advice. Of course, they were not getting it under the table from the authorization party which they financed with \$500 million in contributions last year. No, of course not. This was the free market at work.

Ms. KAPTUR. What is really very interesting that our people should know about, when we say the smart money left Mexico before the peso devaluation, we are talking basically about the 30 or so ruling families and their friends. So they take the money out of Mexico which helps to contribute to the problem of that banking system in that nation, and if you look back in 1991, there were two billionaires, and that is with a "b" in Mexico. Today there are 24 billionaires in Mexico as best as we can calculate after NAFTA locked in, which means some people have been getting very, very, very rich, and the majority have actually had a downward pressure on their wages and their life style has been made much more difficult.

And I think what is interesting, if you look, and the gentleman may want to go into this, if you look at what Mexico has been importing from the United States over the last year, what really surprised me, when you went over those figures, the other day that the third highest import from us was art.

Now, I am a member of the Toledo Museum of Art. I think I can draw pretty well myself. I love artists. I love music. I am not speaking against artists here. It surprised me in a nation where the average family earns under \$1,500 a year that art would be the No. 1, in the top three.

Mr. DEFAZIO. The big winner was tobacco. Our tobacco exports went up dramatically. They had the largest percentage increase. Art, collectibles, antiques, and precious jewelry and so forth were No. 3. Now, that may put a few people, you know, who have got expensive boutiques and stores in Manhattan and a few places to work and make them happy, but I do not think it is putting very many Americans to work. I do not think it is helping very many average artists or craftsmen.

Could I just get parochial for a moment? Last year the Pacific Northwest's entire delegation, Republicans and Democrats alike, had a lengthy series of discussions with this administration about refinancing the debt of our regional power authority, the Bonneville Power Administration, because we have had and seen political calls by the Reagan administration, the Bush administration, and now this year the Clinton administration to do a punitive refinancing of our debt.

So we said, "OK, fine, we will go to the private sector and finance, refinancing, this debt," and we got the entire delegation, Democrats and Republicans, to agree.

The Office of Management and Budget would not let us do it. They said they could not count it as a plus under the budget rules, so we could not do this.

But somehow Mexico wants \$40 billion of loan guarantees, and that is OK;

we are not worried about the budget rules here anymore, because this is national security, folks. Those little people up in the Northwest, well, gee, sorry, we could not help you out with your refinancing of EPA, but Mexico, \$40 billion, no problem.

Ms. KAPTUR. Reclaiming my time, I come from one of the highest-cost energy areas in the United States of America, and the reason is because in our region we never had federally subsidized power, and we built nuclear power plants. They were built with private money, private-sector investments. They are investor-owned utilities. We have been trying to figure out a way to help reduce energy costs to our people, and it has been a heck of a problem for us to get our hands around, and we always get the door shut in our face. Well, maybe not shut in our face; people treat us very nicely when we talk to the Department of Energy and even the Vice President's office, but when it comes down to really getting help so we can maintain our manufacturing base and reduce these energy costs as a percent of doing business, we get absolutely no Federal help.

And I am so glad you brought up that point, because I would say that is the chief reason that we are losing jobs from our part of the country, because of power costs, and yet our own Government would not respond to us.

But within 1 week in this Capitol when Mexico needed help, the Chair of the Federal Reserve, who never comes out of the building, has been all over the Congress, has been up at the White House, up at the Treasury, the Secretary of the Treasury running all around here. It has been very interesting to see what it takes to get the attention of the top officials of this Government.

Kind of sad.

Mr. KLINK. If the gentlewoman will yield, it reminds me, and we can go back further; I remember back in the early 1980's, and I mentioned it on this floor many times, of the 150,000-plus manufacturing jobs that were lost in southwestern Pennsylvania in the steel industry and many other industries. But as factories were closing and there were other countries that wanted to come in because of the work force, because of the infrastructure, because of the transportation system, they wanted to keep some of those factories open.

Now, granted, you may have a steel mill that was employing 2,500 people. We may be able only to save 1,000 jobs.

□ 1810

So we are going to have a net loss of 1,500 versus a net loss of 2,500 if that plant shuts down. At that time we were told, "Well, it really doesn't behoove the company that owns it to sell it because they are better off under our tax laws to just close that plant, scrap it, and take the writeoff."

Now, we could not react to that. We could not change something to save thousands of jobs, and I know in Midland, PA, that actually did happen. There Colt wanted to come in and buy up a steel mill that was being shut down. Nothing could happen. Yet Federal dollars came in a year later for job training, and the community fell apart—in fact, today those students in Midland, PA, have to go to school in Ohio because their school district shut down because of the dwindling tax base. We could not do anything for our people. Again there is not a problem here with going down to Mexico and getting \$40 billion that we found, off-budget. We could do it. This is a question the people of my district and, I hope, across this entire country have about this \$40 billion bailout. How can you change the rules? Why all of a sudden are we protecting those who rushed down there to make investment?

I think that is what is really going on. Those of us who oppose NAFTA—and I do not want to speak for all of us—it was not because we were against the idea of a North American Free-Trade Agreement. We were not the isolationists that everybody wants to portray us as. This is just a bad agreement. I think history, in a relatively short period of time, has shown us that it was a bad agreement. But the fact of the matter is that we were told, at that time, we cannot have protections for the workers in Mexico, we cannot have environmental protections, we cannot push for political reforms. It is the wrong thing to do. We could have these side agreements that really do not hold water, that really do not amount to anything, that really were not actually voted on on this floor, in this Chamber. Now we are being told that even though they are coming to us with this \$40 billion, "Well, we can't attach too many protections. We can't really go off-line with this. We want to keep this strictly financial because there are so many different opinions politically throughout the House and the Senate and across this country."

Why not? If Mexico is in such dire need, if they really need this line of credit, if it is to their national interest as well as our national interest, why not, when you are in a position to bargain, bargain?

We are being told that we cannot muddy the agreement, this has to be a clean deal, it has to be \$40 billion, there is no risk. It is not on budget, but the Government has to do it because the private investors will not do it. Why will they not do it? Because it is not such a good deal.

Ms. KAPTUR. Reclaiming my time for just a second, I want say to both gentlemen I think the point that the gentleman from Oregon [Mr. DEFAZIO] raised is an important one, as well. Remember now the Congress is in control of the Republican Party, and if this deal passes, it is on their doorstep.

I often ask myself why is it so difficult for our message to get out? We are using this time on C-SPAN because we know we can reach some of the American people. When we try to get on the evening news or try to get on those Sunday morning talk shows, they do not invite us on. Even when you call in and you want to speak on this, you are not invited.

Why do we not have a right to have our opinion heard in this country? Only those who have one position are being heard.

So I challenge the American public, try this sometime when you are watching the evening news or you are watching those talk shows on Sunday morning, when you are trying to learn about your country and the decisions facing your elected officials, see who the advertisers are.

Do you know that to buy one of those national ads—I know in my district, to buy 30 seconds costs \$3,000. When you buy one of those national ads, it must be megabucks.

I was listening over the weekend to the people who say we should do this, people in our Government who were on the news saying this is something America should do. All I did was I sat there during the commercial breaks, and I said, "OK, which big corporations, multinationals, are sponsoring this show?" Then I know what opinion would be heard. I never used to be that cynical, but I have become that cynical about what information leaks out of Washington, simply because it has proven to be true. You get only one side of the story which gets told.

I yield to the gentleman.

Mr. KLINK. If the gentlewoman would yield for just one moment, I have spent 24 years in broadcasting. I was the newscaster on the other side of the camera, and I saw something which was very disturbing in my later years in broadcasting, when, all of a sudden—and I began broadcasting back in the 1960's—then there was always a line of demarcation between the sales office at the radio or television station and the newsroom. That line evaporated completely sometime during the early 1980's.

All of a sudden there was communication as to the ramifications of, "Well, we are all in this together; if the moneys don't roll in, you understand, Ron, we will not be able to pay your contract for the next couple of"—those kinds of things were being said gently. Believe me, I think it has an impact.

I would imagine that in some instances it is not quite that subtle. But the fact of the matter is our story has not gotten out. We have not had access, not only to the broadcast media but to the major newspapers as well. We had a press conference last week, and the gentlewoman was there, one of the key people, along with the gentleman from Oregon [Mr. DEFAZIO]. I

challenged the people, "Now, your tax dollars are going to begin to pay this." At that time it was only \$18 billion. Now it has more than doubled. Yet their tax dollars are going for it, and yet they still are not getting out, even in counterbalancing the story.

Now, you still want both sides. If we are wrong, at least report our side of the story and say that we were wrong. But we get absolutely no coverage at all.

I think the gentlewoman put her finger on it because I believe the advertising executives and reporters are talking a little—if not the reporters themselves, their editors are talking and having lunch with those advertising executives.

Mr. DEFAZIO. I think it is extraordinary; we did have a lot of press in the room when we made the announcement. Certainly, I guess, they did not have much else to do because they killed about 40 minutes filming us and photographing us. But it did not run in any of the national media when we were talking about the problems with the bailout, the problems with the NAFTA agreement that came to pass. But what did run, the lead—and I happened to watch some of the networks—was President Clinton handing the Prime Minister of Japan a basket of apples to say everything is now going to be OK in trade because the Japanese finally are buying United States apples.

I am happy for my fiends in Washington State that their apples are going to Japan. That is great. But at 50 cents an apple, with a \$60 billion trade deficit with Japan, all we have to do is sell the Japanese 120 billion apples this year and we will be in trade balance. That is a great deal. Now, that is going to be a lot of apple eating for the Japanese.

Mr. KLINK. If the gentleman will yield, only if those apples are computers can we make up the difference.

Ms. KAPTUR. I would just say—and this will probably get me in trouble—but one of the big advertisers on this past Sunday morning, I ask the American people to check me out if this is not true, there is a company in Illinois called Archer-Daniels-Midland Co.

The SPEAKER pro tempore (Mr. WELDON of Pennsylvania). Will the gentlewoman suspend? The Chair will remind all Members' remarks should be addressed to the Chair. It is not in order to direct remarks during the proceedings to persons viewing the proceedings in the galleries or on television or even other Members who are not being present in the Chamber who might be viewing the proceedings on television.

The gentlewoman may proceed.

Ms. KAPTUR. I thank the gentleman. This particular show was one of the major news shows, and I sat there and I listened, and I thought, "No wonder we cannot get our story out on why

NAFTA had flaws, and who is going to actually end up holding the bag on this peso bailout of Mexico."

Archer-Daniels-Midland was one of the biggest promoters of NAFTA, without the side agreements that we wanted in there. They are a sponsor of the show. Why would a sponsor want anyone to say anything that did not agree with their own private interests? This is all a matter of news record.

□ 1820

Right after NAFTA was passed, the Prime Minister of Canada, who was one of the biggest proponents of NAFTA, Mr. Mulroney, was appointed to the board of ADM. This is amazing. It would be like the President of our country being appointed to a major corporate board that was supporting this kind of an agreement, and to get a seat on that board you are paid between \$37,000 and \$100,000 a year. I was really—I thought, in terms of the ethics that I agree with, there should be a cooling-off period. The chair was still warm. The ink on the agreement was not even dry, and I just used that as an example because that happens to be a very powerful corporation in our country with very definite interests, including that you hear the news in a certain way. I really—I never realized how significant it was, but it absolutely does color public opinion.

Last week we sent a—I wanted to mention to the gentleman also in talking about the power interests in the Northwest, "When I watched our Government get all worked up over the past couple of weeks and, with lightning speed, come up with this loan guarantee to Mexico, I thought about all of the problems in my district." The gentleman said he wanted to become parochial.

I cannot get a loan guarantee to clean up the Ottawa River in Toledo, OH. It is a multibillion-dollar cleanup problem that we have with all the toxic sites along that river, and we are told by our Government, "Sorry, Congresswoman, we can't take care of your district because frankly we don't have the money." They will not give me a loan guarantee so that our mayor, and our local officials and our county officials can clean up that toxic river that flows into Lake Erie.

We are trying to get a radio control tower built out at our airport. We have had some pretty close calls, and we are told we are not high enough up on the priority list, so our pilots and our passengers, our private pilots and so forth, have to keep coming into that airport. I cannot get them a loan guarantee to guarantee the construction of that tower.

We have a railroad station we have been trying to fix up with dribs and drabs of Federal money plus a lot of local support from our port authority back home. We want to build a parking

garage, a secure parking garage, next to this railroad station so that people can park their cars there if they go on a 3-day weekend to Chicago, or Toronto, or wherever they go, and feel secure. I cannot get a loan guarantee from Washington to help my people back home.

So, part of the reason I ran for office is I want to help people. I want to help my people, the people who sent me here, and decisions like this do not go down very well when you cannot do as much for your people back home as certain very powerful interests can do in this city for people who do not even live here, for interests in Mexico, for people who have absolutely no interests in my district, and if I were to give Mexico one gift, first it would be the gift of democracy, to use the relationship with this country, be it political, be it business, be it cultural, to help the people there finally gain a voice, because I believe you can only have free trade when you have freedom first, and that politics does matter, and that it has to be a precondition for any kind of economic assistance or trade. We could never get that in the NAFTA accord as it was originally signed.

So, as we stand here tonight, a lot of the people call my office and say, "Why are you standing down there on the floor talking when legislative business is largely complete for the day?"

I guess the answer is "Because it's the only way we can really reach the public."

Mr. KLINK. If the gentlewoman would yield, again I thank her for her leadership on this matter. I say, you have helped us—again I speak as a relatively new Member—you have helped to guide me through this process, and, it's also very nice, I say this also to the gentleman from Oregon, to know that you're not the only one who thinks this way.

We have lost the initial battle on NAFTA; we have lost the battle on GATT in a lame-duck session of Congress. The gentlewoman pointed out those Americans out there that have invested in U.S. savings bonds have no idea what the GATT agreement meant to them, and so I would simply say that we have got to persist, we have got to make sure that those parochial projects, like all you have talked about that affect the lives of taxpaying American citizens, that impact the creation of jobs in the United States of America, the wealth, the security, the lifestyle of American citizens, is in fact the day-to-day business of this House, and we also need to understand, and I do not want to repeat something I said earlier, but once we go down this pathway, the pathway that has been laid out for us to guarantee these loans to Mexico, when could we ever say no again? It is historical, it is setting a precedent, and I hope that the taxpayers will react, and I hope, as Members of Congress, we react.

Mr. Speaker, I just hope that this House will not lend its OK to this inane idea.

Ms. KAPTUR. I wanted to just reclaim my time for a second.

I found it almost laughable today as I sat there and I listened to the Federal Reserve talk about taking our taxpayers' dollars to prop up Mexico in this little mechanism that they have set up when the very same Federal Reserve testified up here in Congress last week and said to every senior citizen across this country, "One way we can save money here in America and balance the budget is give you \$10 less in your Social Security this next year."

Now I find it amazing that the same words could come out of the same institution's mouth in the same week; in other words say to our people, and believe me I have a lot of seniors in my district. They like to be close to their family. They did not move away. They depend on that Social Security check. Sure, there may be some at the top that earn a lot of money, but the average Social Security recipient in my district receives \$400 to \$600 a month. It is not a whole lot of money.

So, we have a lot of need among our seniors, and yet the Federal Reserve can so—it just shows me how far away they are from the public that they could actually come up here and say to our seniors, "We want to take \$150 billion from you, but then out of this pocket we're going to put up \$40 billion of your dollars for Mexico." It was appalling to me.

Mr. KLINK. If the gentlewoman would yield, it was my understanding today from the people from the Fed and Treasury that this has been going on for at least a year in Mexico, the bad monetary policy. Is that the gentlewoman's understanding?

Ms. KAPTUR. That is correct.

Mr. KLINK. Yet in 1 year Mexico did not make any attempt to go through a devaluation of the peso. I think the gentlewoman in past discussions has made some wonderful points about the timing of this devaluation.

Ms. KAPTUR. Well, you know it is very interesting, and I think those in the know in Mexico were very aware of what was going to happen, and that is why they took their money out of the country, because the elections in August—the elections in Mexico were in August. So they did not want any problems in the market before August, so they propped up the peso through August. Then we were considering GATT, the General Agreement on Tariffs and Trade, here, and they did not want any trouble in America. So we delayed that vote until we got back after elections in December, so they kept delaying it, and delaying it, and delaying it.

Then Mr. Salinas left office. The new President was sworn in. GATT was finished, and that is when they devalued the peso. But by then their friends

knew, the 30 ruling families down there; they had already taken their money out of the country. They bought art to insulate themselves against any currency fluctuations, and Members of this House, and I will put on the record the gentleman from Buffalo, NY [Mr. LAFALCE] because he worked so hard to get currency provisions in the original NAFTA. Nobody tried harder than he did. He educated all of us. He tried to help to make that agreement a stronger agreement to avoid this kind of catastrophe and was unable to finally get provisions in the final agreement. In my estimation he has some aspects of heroism in what he tried to do there, but there were plenty of people that cashed in, and now our people are left holding the bag.

Mr. DEFAZIO. And they are saying we could not have possibly anticipated this.

Well, it is strange. It is strange that we stood on this floor 14 months ago, backed by credible economists who said, "Today, as you vote on the NAFTA agreement the Mexican peso is overvalued by 20 to 25 percent to make them look more attractive as a partner for the United States, to make them look as though their currency is stable. But it's inevitable after the passage of NAFTA they will have to devalue the peso by 20 to 25 percent."

And now we are told by the Secretary of the Treasury, a former partner in one of the major investment firms in this country, that no one could have anticipated this. Well, the economists we talked to, who gave us a very critical analysis of NAFTA, could certainly anticipate it, did, and we are right on the money. In fact, they were a little bit overly optimistic about Mexico because we are talking the free market says the Mexican peso should actually go down 40 to 50 percent, and whatever happened to free-market forces? Where is the free market when we need it? If the market says the Mexican peso should be worth half as much, should the United States Government intervene to artificially prop it up?

Ms. KAPTUR. Will the gentleman yield on that point because last week I sent the Secretary of the Treasury a letter signed by several of our colleagues, including yourselves, and one of the questions we asked him is: "Because you are artificially propping up the peso because Mexico owes money, to whom does Mexico owe money specifically?" In other words, it can't make \$26 billion worth of debt payments, \$10 billion in this first quarter. Those sound like big numbers. We want to know which banks, which corporations, if it is part of the Eurodollar market, to whom is this money owed? If it is investment banks, speculators in the market, which ones are they? This is not just owed in general. This is owed in specific, and there are huge banking profits this year and last year.

They have been doing real, real well. Why do they not have the capacity to eat their own losses? What about these big investment banking houses? The speculators? And I appreciate risk-takers. But that is what risk is. Risk is taking the loss if it does not go your way, and you take the gain if it does go your way.

□ 1830

So which investment houses? I want to know specifically, before we vote here on this floor, who is this \$26 billion owed to? And there is another \$89 billion that Mexico owes payments on for their full public debt. To whom is that owed? You are talking about \$40 billion, Congressman KLINK. There is the first \$18 billion from the currency swap and the line of credit last week. Then there is this \$40 billion. Then there is the \$89 billion that they still owe. Now, to whom is that owed? And why should our taxpayers be propping up those corporations, those megabanks, those multinationals that moved jobs out of this country. I mean, what is the sense of it? If they are making profits and if they have cash, why don't they pay it off themselves? That is what you do, you write off losses.

Mr. KLINK. If the gentlewoman would yield, we are being told this not propping up the peso but that we are restructuring short-term loans, 30, 60, 90 days, to 5 and 10 years. Why can't that be negotiated with those same people or institutions the gentlewoman is talking about? Why do the American taxpayers have to become a party to this? If we are just taking short-term debt and transferring it over to 5 to 10 years to make it long-term debt, why can't Mexico just renegotiate that with the people to whom it is owed, because certainly renegotiating on longer terms is better than absorbing the loss.

Ms. KAPTUR. I think the gentleman raises a good point. I cannot tell you, with interest rates going up in this country, I have had builders and title people in this country complaining, gosh, there aren't any real inflationary pressures. Why are interest rates going up? I would posit maybe one of the reasons interest rates are going up is because your money is being taken to prop up the bank of another nation.

We thank the Speaker for this time this evening, and I thank Congressman DEFAZIO and Congressman KLINK, Congressman ABERCROMBIE and all those who have joined us this evening.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. EVANS (at the request of Mr. GEPHARDT), for today, on account of a death in the family.

Ms. SLAUGHTER (at the request of Mr. GEPHARDT), for today, on account of illness in the family.

Mr. McNULTY (at the request of Mr. GEPHARDT), for today, on account of airline cancellation.

Mrs. LINCOLN (at the request of Mr. GEPHARDT), for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. WATT of North Carolina) to revise and extend their remarks and include extraneous material:)

Mr. OWENS, for 5 minutes, today.

Mr. SKAGGS, for 5 minutes, today.

(The following Members (at the request of Mr. THOMAS) to revise and extend their remarks and include extraneous material:)

Mr. MARTINI, for 5 minutes today, and January 18, 19, and 20.

Mr. WELDON of Pennsylvania, for 5 minutes, today.

(The following Member (at her own request) to revise and extend her remarks and include extraneous material:)

Ms. DELAURO, for 5 minutes, today.

(The following Members (at the request of Mr. WATT of North Carolina) to revise and extend their remarks and include extraneous material:)

Mr. MINETA, for 5 minutes, today.

Mrs. COLLINS of Illinois, for 5 minutes, today.

Mrs. LINCOLN, for 5 minutes, today.

Ms. MCCARTHY, for 5 minutes, today.

Ms. JACKSON-LEE, for 5 minutes, today.

(The following Member (at the request of Mr. LEWIS of Kentucky) to revise and extend their remarks and include extraneous material:)

Mr. GOSS, for 5 minutes each day on January 18 and 19.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(Mr. HOKE, and to include therein extraneous material, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost \$1,048.50.)

(The following Members (at the request of Mr. WATT of North Carolina) and to include extraneous matter:)

Mr. BERMAN.

Mr. PALLONE in two instances.

Mr. HALL of Ohio.

Mr. SCHUMER.

Mr. GUTIERREZ.

Mr. OWENS.

Mr. ROEMER.

(The following Members (at the request of Mr. THOMAS) and to include extraneous matter:)

Mr. HOKE.

Mr. FAWELL.

Mr. BEREUTER.

Mr. SHUSTER.

(The following Members (at the request of Mr. WATT) and to include extraneous matter:)

Mr. McDERMOTT.

Mr. COLEMAN.

Mr. DIXON.

Mr. LEVIN.

Mr. CARDIN.

Mr. MFUME.

Mr. UNDERWOOD.

(The following Members (at the request of Mr. DEFAZIO) and to include extraneous matter:)

Mr. MCKEON.

Mr. GOODLING.

Mr. BAKER of California.

Mr. CUNNINGHAM.

Mr. COMBEST.

Mr. RAHALL.

Mrs. SCHROEDER.

Ms. FURSE.

Mr. CAMP.

Mr. STUMP.

Mrs. SEASTRAND.

ADJOURNMENT

Mr. DEFAZIO. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly at 6 o'clock and 32 minutes p.m., the House adjourned until Wednesday, January 18, 1995, at 11 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

168. A letter from the Director, the Office of Management and Budget, transmitting the cumulative report on rescissions and deferrals of budget authority as of January 1, 1995, pursuant to 2 U.S.C. 685(e) (H. Doc. No. 104-19) to the Committee on Appropriations and ordered to be printed.

169. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report involving United States exports to Indonesia, pursuant to 12 U.S.C. 635(b)(3)(1); to the Committee on Banking and Financial Services.

170. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report involving United States exports to Indonesia, pursuant to 12 U.S.C. 635(b)(3)(1); to the Committee on Banking and Financial Services.

171. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report involving United States exports to Russia, pursuant to 12 U.S.C. 635(b)(3)(1); to the Committee on Banking and Financial Services.

172. A letter from the Comptroller General, General Accounting Office, transmitting GAO's compliance report, pursuant to Public Law 101-508, section 13101(a) (104 Stat. 1388-588); to the Committee on the Budget.

173. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C.

112b(a); to the Committee on International Relations.

174. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a corrected certification pursuant to the Cooperative Threat Reduction Act of 1993; to the Committee on International Relations.

175. A letter from the Secretary, Department of Energy, transmitting the annual update of the comprehensive program management plan and the comprehensive technology application and market development plan for the ocean thermal energy conversion technology, pursuant to 42 U.S.C. 9002(d); to the Committee on Science.

176. A letter from the Comptroller General, General Accounting Office, transmitting a report, entitled "U.S.-Canadian Food Safety: Opportunities for Sharing Information and Coordinating Inspections"; jointly, to the Committees on Agriculture and Government Reform and Oversight.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BAKER of California (for himself, Mr. HOKE, Mr. ROHRBACHER, Mr. FRANK of Massachusetts, and Mr. PARKER):

H.R. 525. A bill to repeal the must-carry provisions of the title VI of the Communications Act of 1934, relating to cable television; to the Committee on Commerce.

By Mr. BEREUTER (for himself and Mr. LAUGHLIN):

H.R. 526. A bill to amend title 49, United States Code, to relieve farmers and retail farm suppliers from limitations on maximum driving and on-duty time in the transportation of agricultural commodities or farm supplies if such transportation occurs within a 100-air mile radius of the source of the commodities or the distribution point for the farm supplies; to the Committee on Transportation and Infrastructure.

By Mr. BERMAN:

H.R. 527. A bill to amend the Tariff Act of 1930 to permit an extension for filing drawback claims in cases where the President has declared a major disaster; to the Committee on Ways and Means.

By Mr. CARDIN (for himself and Mr. SHAW):

H.R. 528. A bill to amend the Internal Revenue Code of 1986 to clarify provisions relating to church pension benefit plans, to modify certain provisions relating to participants in such plans, to reduce the complexity of and to bring workable consistency to the applicable rules, to promote retirement savings and benefits, and for other purposes; to the Committee on Ways and Means.

By Mr. CRAPO:

H.R. 529. A bill to authorize the exchange of National Forest System lands in the Targhee National Forest in Idaho for non-Federal lands within the forest in Wyoming; to the Committee on Resources.

By Mr. GOODLING (for himself, Mr. MCKEON, Mr. GUNDERSON, Mr. HOEKSTRA, Mr. BARRETT of Nebraska, Mr. GORDON, Mr. POMEROY, Mr. PETERSON of Florida, and Mr. STENHOLM):

H.R. 530. A bill to amend the Higher Education Act of 1965 to stabilize the student loan programs, improve congressional oversight, and for other purposes; to the Commit-

tee on Economic and Educational Opportunities, and in addition to the Committee on Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HANSEN (for himself, Mr. ORTON, and Mrs. WALDHOLTZ):

H.R. 531. A bill to designate the Great Western Scenic Trail as a study trail under the National Trails System Act, and for other purposes; to the Committee on Resources.

By Mr. HERGER:

H.R. 532. A bill to amend the Internal Revenue Code of 1986 to provide an inflation adjustment for the amount of the maximum benefit under the special estate tax valuation rules for certain farm, and so forth, real property; to the Committee on Ways and Means.

By Mr. KNOLLENBERG:

H.R. 533. A bill to amend section 117 of title 17, United States Code, to permit the lawful possessor of a copy of a computer program to authorize another copy to be made under certain circumstances; to the Committee on the Judiciary.

By Mr. KOLBE (for himself, Mr. TORRES, Mr. BLUTE, Mr. TAYLOR of Mississippi, and Mrs. LOWEY):

H.R. 534. A bill to provide for the minting and circulation of \$1 coins, and for other purposes; to the Committee on Banking and Financial Services.

By Mrs. LINCOLN:

H.R. 535. A bill to direct the Secretary of the Interior to convey the Corning National Fish Hatchery to the State of Arkansas; to the Committee on Resources.

By Mr. MCDADE:

H.R. 536. A bill to extend indefinitely the authority of the Secretary of the Interior to collect a commercial operation fee in the Delaware Water Gap National Recreation Area, and for other purposes; to the Committee on Resources.

By Mr. MORAN:

H.R. 537. A bill to amend the Internal Revenue Code of 1986 to index the basis of certain assets acquired on or after January 1, 1995, for purposes of determining gain, and for other purposes; to the Committee on Ways and Means.

By Mr. OWENS:

H.R. 538. A bill to amend the Internal Revenue Code of 1986 to reduce the lowest rate of income tax imposed on taxpayers other than corporations from 15 percent to 12.5 percent, to provide for a carryover basis of property acquired from a decedent, and for other purposes; to the Committee on Ways and Means.

By Mr. PARKER:

H.R. 539. A bill to amend the Internal Revenue Code of 1986 to provide a tax exemption for health risk pools; to the Committee on Ways and Means.

By Mr. RANGEL:

H.R. 540. A bill to amend the Internal Revenue Code of 1986 to make the exclusion for amounts received under group legal services plans permanent; to the Committee on Ways and Means.

By Mr. SAXTON:

H.R. 541. A bill to reauthorize the Atlantic Tunas Convention Act of 1975, and for other purposes; to the Committee on Resources.

By Mr. SAXTON (by request):

H.R. 542. A bill to approve a governing international fishery agreement between the United States and the People's Republic of China; to the Committee on Resources.

H.R. 543. A bill to approve a governing international fishery agreement between the

United States and the Republic of Estonia; to the Committee on Resources.

By Mr. SCHUMER:

H.R. 544. A bill to protect financial institutions from liability for damages caused by failure to remove asbestos from a residential or commercial building in which the financial institution holds a security interest if an accredited asbestos management planner has recommended in-place management of the asbestos, and for other purposes; to the Committee on Banking and Financial Services, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R. 545. A bill to amend the Federal Trade Commission Act to provide for regulation by the Federal Trade Commission of advertisements by air carriers, and for other purposes; to the Committee on Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R. 546. A bill to amend the Petroleum Marketing Practices Act to provide consumers with additional information concerning octane ratings and requirements, and for other purposes; to the Committee on Commerce.

H.R. 547. A bill to amend title 13, United States Code, to require that any data relating to the incidence of poverty produced or published by the Secretary of Commerce for subnational areas be corrected for differences in the cost of living in those areas; to the Committee on Government Reform and Oversight.

By Mr. STEARNS:

H.R. 548. A bill to amend the Public Health Service Act to provide for a program of research and education regarding menopause and related conditions; to the Committee on Commerce.

H.R. 549. A bill to provide a veterans bill of rights; to the Committee on Veterans' Affairs.

By Mr. ZIMMER (for himself, Mr. PORTER, Mr. LANTOS, and Mr. PAYNE of New Jersey):

H.R. 550. A bill to prohibit economic assistance, military assistance, or arms transfers to the Government of Mauritania until appropriate action is taken to eliminate chattel slavery in Mauritania; to the Committee on International Relations.

By Mr. STEARNS:

H. Con. Res. 14. Concurrent resolution expressing the sense of the Congress that the Congress should pass any health care reform initiative that has overwhelming bipartisan support; to the Committee on Commerce.

By Mr. THOMAS:

H. Res. 35. Resolution providing for payment of a lump sum for accrued annual leave to eligible former employees of the House of Representatives; to the Committee on House Oversight.

By Mr. STEARNS:

H. Res. 36. Resolution congratulating the people of India on the occasion of the 48th anniversary of their nation's independence; to the Committee on International Relations.

H. Res. 37. Resolution expressing the sense of the House of Representatives that aviators who meet the qualification standards

of the Air Force's Escape and Evasion Society should be granted recognition for meritorious service by the Department of Defense; to the Committee on National Security.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. RAMSTAD introduced a bill (H.R. 551) for the relief of Oscar Salas-Velazquez; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 5: Ms. HARMAN, Mr. LARGENT, Mr. TAUZIN, Mr. PARKER, Mr. BARRETT of Nebraska, Mr. BONO, Mr. BURR, Mr. CASTLE, Mr. GALLEGLY, Mr. LAZIO of New York, Mr. LOBIONDO, Mr. MCKEON, Mrs. MYRICK, Mr. ROGERS, Mrs. WALDHOLTZ, Mr. CHAMBLISS, Mr. COBURN, Mr. FOLEY, Mr. WELDON of Pennsylvania, Mr. COX, Mr. CRAPO, Mr. DREIER, Mr. EVERETT, Mr. GOSS, Mr. RAMSTAD, Mr. HAYWORTH, Mr. NORWOOD, Mr. LONGLEY, Mr. FUNDERBURK, and Mr. SENSENBRENNER.

H.R. 8: Mr. COLLINS of Georgia, Mr. SAM JOHNSON, Mr. WALKER, Mr. MOORHEAD, Mrs. SEASTRAND, and Mr. MCKEON.

H.R. 10: Mr. SCHIFF, Mr. MOORHEAD, Mr. CREMEANS, Mr. NORWOOD, Mr. BONILLA, Mr. HUNTER, Mrs. VUCANOVICH, Mr. WALKER, Ms. EDDIE BERNICE JOHNSON of Texas, Mrs. SEASTRAND, and Mr. COLLINS of Georgia.

H.R. 24: Mr. MCHUGH.

H.R. 26: Mr. FOX, Mrs. LINCOLN, Mr. WICKER, Mr. SOLOMON, Mr. FRANK of Massachusetts, Mr. KILDEE, Mr. KLINK, and Mr. KNOLLENBERG.

H.R. 27: Mr. BARTLETT of Maryland, Mr. SOUDER, Mr. TATE, and Mr. HAYES.

H.R. 28: Mr. ZIMMER, Mr. DORNAN, Mr. ROHRABACKER, Mr. SKEEN, Mr. TALENT, Mr. SENSENBRENNER, and Mr. PETE GEREN of Texas.

H.R. 40: Mr. MCHUGH, Mr. LIGHTFOOT, Mr. DAVIS, Mr. BLUTE, Mr. BLILEY, Mr. BUNNING of Kentucky, Mr. HERGER, Mr. HANSEN, Ms. DANNER, Mr. NEY, Mr. COBURN, Mr. SKEEN, Mr. NORWOOD, Ms. MOLINARI, Mr. WELDON of Pennsylvania, Mr. ENGLISH of Pennsylvania, Mr. WICKER, Mrs. MYRICK, and Mr. SENSENBRENNER.

H.R. 65: Mr. MICA, Mr. UNDERWOOD, Mr. BLUTE, Mr. HALL of Texas, Mr. ACKERMAN, and Mrs. THURMAN.

H.R. 77: Mr. HERGER, Mrs. MYRICK, Mr. LEVIN, and Mr. HANSEN.

H.R. 78: Mr. NEY and Mr. FORBES.

H.R. 86: Mr. CREMEANS.

H.R. 94: Mr. WOLF, Mr. DORNAN, Mr. MCHUGH, Mr. ROHRABACHER, Mr. CREMEANS, Mr. FOX, Mr. WALSH, Mr. FORBES, Mr. BARTLETT of Maryland, Ms. MOLINARI, and Mr. CANADY.

H.R. 104: Mrs. MYRICK and Mr. FORBES.

H.R. 107: Mr. PASTOR and Mr. GONZALEZ.

H.R. 109: Mr. BOUCHER, Mr. MICA, Mr. HOLDEN, Mr. FOX, Mrs. MEEK of Florida, Mr. UNDERWOOD, Mr. BUNN of Oregon, Mr. NEY, Mr. WYNN, Mr. FORBES, Mr. BLUTE, Mr. TORRES, Mr. PALLONE, Mr. WILSON, Mr. SOLOMON, Mr. COBURN, Mr. ACKERMAN, and Mr. FLANAGAN.

H.R. 125: Mr. BARCIA of Michigan, Mr. BEVILL, Mr. BUNN of Oregon, Mr. BUNNING of

Kentucky, Mr. COBURN, Mr. FIELDS of Texas, Mr. HAYWORTH, Mr. KOLBE, Mr. NEY, Mr. ROHRABACHER, Mrs. VUCANOVICH, Mr. WICKER, and Mr. Wilson.

H.R. 142: Mr. FORBES, Mr. COLLINS of Georgia, Mr. BAKER of Louisiana, Mr. CUNNINGHAM, and Mr. DORNAN.

H.R. 218: Mr. FIELDS of Texas.

H.R. 219: Mr. BILBRAY.

H.R. 230: Mr. MCHUGH and Mr. KNOLLENBERG.

H.R. 244: Mr. MENENDEZ, Mr. PALLONE, Mr. DEFAZIO, Mr. SCHUMER, Ms. SLAUGHTER, and Mr. ROHRABACHER.

H.R. 303: Mr. UNDERWOOD, Mr. BLUTE, Mr. HALL of Texas, Mr. ACKERMAN, and Mrs. THURMAN.

H.R. 342: Mr. GEJDENSON.

H.R. 357: Mr. KLUG, Mr. MURTHA, Mr. ZIMMER, and Mr. OLVER.

H.R. 359: Mrs. MEYERS of Kansas, Mr. WATTS of Oklahoma, Mr. LIPINSKI, and Mr. BALLENGER.

H.R. 370: Mr. CUNNINGHAM, Mr. CALVERT, Mr. SENSENBRENNER, Mr. PORTER, Mr. WOLF, Mr. ROHRABACHER, Mr. DORNAN, Mr. NORWOOD, Mr. BASS, Mr. ROYCE, Mr. COBURN, Mr. DREIER, Mr. LINDER, Mr. WICKER, Mr. BARTLETT of Maryland, Mr. BONO, Mr. GOSS, Mr. SCARBOROUGH, and Mr. SCHAEFER.

H.R. 372: Mr. CALVERT, Mr. HUNTER, Mr. JACOBS, Mr. SAXTON, Mr. COBURN, Mr. SHUSTER, and Mr. HALL of Texas.

H.R. 373: Mr. CALVERT, Mr. JACOBS, Mr. SAXTON, Mr. SHUSTER, Mr. HALL of Texas, Mr. TRAFICANT, Mr. HANSEN, Mr. BREWSTER, Mr. BARTON of Texas, and Mr. EMERSON.

H.R. 375: Mr. CALVERT, Mr. HUNTER, Mr. JACOBS, Mr. SAXTON, Mr. COBURN, Mr. SHUSTER, Mr. HALL of Texas, and Mr. ROYCE.

H.R. 386: Mr. UNDERWOOD.

H.R. 431: Mr. HILLIARD.

H.R. 436: Mr. BOEHNER, Mr. HOLDEN, Mr. ROHRABACHER, Mr. WALSH, Mrs. MEYERS of Kansas, Mr. ZIMMER, Mr. COMBEST, Mr. EMERSON, Mr. MANTON, and Mr. LIPINSKI.

H.R. 450: Mr. CLINGER, Mr. DORNAN, Mr. LAHOOD, Mr. BUNNING of Kentucky, Mr. WICKER, and Mr. DREIER.

H.R. 464: Mr. BUNNING of Kentucky, Mr. KOLBE, Mr. ROHRABACHER, Mr. CANADY, Mr. SAM JOHNSON, Mr. SOLOMON, and Mr. SENSENBRENNER.

H.R. 491: Mr. METCALF, Ms. PRYCE, Mr. BUNN of Oregon, Mr. JONES, Mr. FOX, Mr. FORBES, Mr. BARTLETT of Maryland, Mr. NEY, Mr. COBURN, Mr. TRAFICANT, Mr. REGULA, and Mr. KNOLLENBERG.

H.R. 493: Mr. UNDERWOOD.

H.R. 494: Mr. TUCKER.

H.R. 521: Mr. GEJDENSON.

H.J. Res. 1: Mr. ANDREWS, Mr. BAKER of Louisiana, Mr. BLILEY, Mr. BUNN of Oregon, Mr. CALLAHAN, Mr. CHABOT, Mr. DOOLITTLE, Mr. FIELDS of Texas, Mr. FUNDERBURK, Mr. GRAHAM, Mr. HANSEN, Mr. HAYES, Mr. HEFLEY, Mr. HOEKSTRA, Mr. LIVINGSTON, Mr. LAUGHLIN, Mr. LEWIS of California, Mr. LONGLEY, Mr. MANZULLO, Mr. MCKEON, Mr. METCALF, Mr. NEY, Mr. NORWOOD, Mr. PALLONE, Mr. POSHARD, Mr. RAMSTAD, Mr. ROBERTS, Mr. ROHRABACHER, Mr. SALMON, Mr. SCARBOROUGH, Mrs. SEASTRAND, Mrs. SMITH of Washington, Mr. SOUDER, Mrs. VUCANOVICH, Mr. WALKER, and Mr. WELDON of Florida.

H.J. Res. 4: Mr. METCALF and Mr. MCCRERY.

H. Res. 15: Mrs. SCHROEDER, Mr. NEUMANN, Mr. ANDREWS, Ms. RIVERS, Mr. SHAYS, Mr. COBURN, Mr. OBEY, and Ms. MCCARTHY.

H. Res. 28: Mr. BARTLETT of Maryland, Mr. BUNN of Oregon, Mr. DORNAN, Mr. HANCOCK, Mr. STUMP, Mr. FOX of Pennsylvania, Mr. TALENT, and Mr. COBURN.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 5

OFFERED BY: MR. MORAN

AMENDMENT NO. 1: In the proposed section 425(a)(2) of the Congressional Budget Act of 1974, strike the period at the end of subparagraph (C) and insert "; or", and add after subparagraph (C) the following:

"(D) the Federal intergovernmental mandate—

"(i) is also a Federal private sector mandate; and

"(ii) imposes a duty described in section 421(5)(A) on an activity that is not a traditional governmental activity, or would reduce or eliminate an amount of authorization of appropriations of assistance as described in section 421(5)(B) for an activity that is not a traditional governmental activity".

H.R. 5

OFFERED BY: MR. MORAN

AMENDMENT NO. 2: Insert at the end of section 201 the following:

(d) LEAST BURDENSOME OPTION OR EXPLANATION REQUIRED.—An agency may not issue a rule that contains a Federal mandate if the rulemaking record for the rule indicates that there are 2 or more methods that could be used to accomplish the objective of the rule, unless—

(1) the Federal mandate is the least costly method, or has the least burdensome effect, for—

(A) States, local governments, and tribal governments, in the case of a rule containing a Federal intergovernmental mandate, and

(B) the private sector, in the case of a rule containing a Federal private sector mandate; or

(2) the agency publishes with the final rule an explanation of why the more costly or burdensome method of the Federal mandate was adopted.

H.R. 5

OFFERED BY: MR. MORAN

AMENDMENT NO. 3: At the end of title II insert the following:

SEC. 206. JUDICIAL REVIEW.

(A) REVIEW OF AGENCY ACTIONS SUBJECT TO REVIEW UNDER OTHER FEDERAL LAW.—If an agency action that is subject to section 201 or 202 is subject to judicial review under any other Federal law (other than chapter 7 of title 5, United States Code)—

(1) any court of the United States having jurisdiction to review the action under the other law shall have jurisdiction to review the action under sections 201 and 202; and

(2) in any proceeding under paragraph (1), any issue relating exhaustion of remedies, the time and manner for seeking review, venue, or the availability of a stay or preliminary injunctive relief pending review shall be determined under the other law.

(b) LIMITATION ON PRELIMINARY INJUNCTIVE RELIEF.—The second sentence of section 705 of title 5, United States Code (relating to preliminary relief pending review), shall not apply with respect to review under subsection (a)(1) of an agency action, unless process authorized by that sentence is not authorized by the other law under which the action is reviewed.

H.R. 5

OFFERED BY: MR. OWENS

AMENDMENT NO. 4: In section 301(2), in the matter proposed to be added as a new section

422 to the Congressional Budget Act of 1974, strike "or" after the semicolon at the end of paragraph (6), strike the period at the end of paragraph (7) and insert "; or", and at the end add the following new paragraph:

"(8) provides for protection of the health of individuals with disabilities.

H.R. 5

OFFERED BY: MR. OWENS

AMENDMENT NO. 5: In section 4, strike "or" after the semicolon at the end of paragraph (6), strike the period at the end of paragraph (7) and insert "; or", and after paragraph (7) add the following:

(8) provides for protection of the health of individuals with disabilities.

H.J. RES. 1

OFFERED BY: MR. COLEMAN

AMENDMENT NO. 2: Strike all after the resolving clause and insert the following:

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission for ratification:

"ARTICLE

"SECTION 1. Total outlays of the operating funds of the United States for any fiscal year shall not exceed total receipts to those funds for that fiscal year plus any operating fund balances carried over from previous fiscal years.

"SECTION 2. Not later than the first Monday in February in each calendar year, the President shall transmit to the Congress a proposed budget for the United States Government for the fiscal year beginning in that calendar year in which total outlays of the operating funds of the United States for that fiscal year shall not exceed total receipts to those funds for that fiscal year.

"SECTION 3. Total receipts shall include all receipts of the United States except those derived from borrowing and total outlays shall include all outlays of the United States except those for repayment of debt principal. The receipts (including attributable interest) and outlays of the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, the Federal Hospital Insurance Trust Fund, and the Federal Supplemental Medical Insurance Trust Fund shall not be counted as receipts or outlays for purposes of this article.

"SECTION 4. This article shall be implemented and enforced only in accordance with appropriate legislation enacted by Congress, which may rely on estimates of outlays and receipts.

"SECTION 5. The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect. The provisions of this article may be waived for any fiscal year in which the United States is engaged in military conflict which causes an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House of the Congress, that becomes law. If real economic growth has been or will be negative for two consecutive quarters, Congress may by law waive the article for the current and the next fiscal year.

"SECTION 6. This article shall take effect beginning with fiscal year 2002 or the second fiscal year beginning after its ratification, whichever is later."

H.J. RES. 1

OFFERED BY: MR. JACOBS

AMENDMENT NO. 3: Strike all after the resolving clause and insert the following:

That the following article is hereby proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within two years after its submission to the States for ratification:

"ARTICLE —

"SECTION 1. Beginning in fiscal year 1999, the United States Government shall not borrow money or any other thing of value except for the purpose of rolling over its existing debt balance, and shall not issue additional currency except as it reflects additional United States productivity.

"SECTION 2. Beginning in fiscal year 2000, and for the next 39 succeeding fiscal years thereafter, the national debt shall be retired by an amount equal to 2½ percentum of the national debt at the beginning of fiscal year 2000.

"SECTION 3. The Congress shall have the power to enforce this article by appropriate legislation."

H.J. RES. 1

OFFERED BY: MR. OWENS

AMENDMENT NO. 4: Strike all after the resolving clause and insert the following:

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission for ratification:

"ARTICLE —

"SECTION 1. Prior to each fiscal year, Congress shall, by law, adopt a statement of receipts and outlays for such fiscal year in which total outlays are not greater than total receipts. Congress may, by law, amend that statement provided revised outlays are not greater than revised receipts. Congress may provide in that statement for a specific excess of outlays over receipts by a vote directed solely to that subject in which three-fifths of the whole number of each House agree to such excess. Congress and the President shall ensure that actual outlays do not exceed the outlays set forth in such statement.

"SECTION 2. Prior to each fiscal year, the President shall transmit to Congress a proposed statement of receipts and outlays for such fiscal year consistent with the provisions of this Article.

"SECTION 3. Congress may waive the provisions of this Article for any fiscal year in which a declaration of war is in effect. The provisions of this Article may be waived for any fiscal year in which the United States faces an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law. The provisions of this Article may be waived for any fiscal year for which the President notifies the Congress that the national unemployment rate is projected to exceed 4 percentum and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law.

"SECTION 4. Total receipts shall include all receipts of the United States except those derived from borrowing and total outlays shall include all outlays of the United States except those for the repayment of debt principal.

"SECTION 5. The amount of the debt of the United States held by the public as of the date this Article takes effect shall become a permanent limit on such debt and there shall be no increase in such amount unless three-fifths of the whole number of each House of Congress shall have passed a bill approving such increase and such bill has become law.

"SECTION 6. All votes taken by the House of Representatives or the Senate under this Article shall be rollcall votes.

"SECTION 7. Congress shall enforce and implement this Article by appropriate legislation.

"SECTION 8. This Article shall take effect for the fiscal year 2002 or for the second fiscal year beginning after its ratification, whichever is later."