SENATE—*Tuesday, November 14, 1995*

The Senate met at 12:03 p.m., and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Lord of history, we gain perspective on the perplexities of the present by remembering how Your power has been released in response to prayer in the past. We think of Washington on his knees, of Franklin asking for prayer when the Constitutional Convention was deadlocked, of Lincoln praying for wisdom in the dark night of our Nation's divided soul. Gratefully, also we remember Your answers to prayers seeking Your strength in struggles and Your courage in crises. Especially, today we remember those times when Your guidance brought consensus out of conflict, and creative decisions out of discord.

In the midst of the continuing discussions and debate over the Federal budget, we continue to need Your divine intervention and inspiration. May the Senators be united in seeking Your best for the future of our Nation. Give them strength to communicate their perceptions of truth with mutual respect and without rancor. We are of one voice in asking for Your blessing on this Senate as it exercises the essence of democracy in open debate. You have been our guide over the 206 years of the history of the Senate of the United States, and we trust You to lead us forward today. In Your holy name. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. DOLE. Mr. President, we will have morning business until the hour of 12:30 today, and then we will recess from 12:30 to 2:15 for the weekly policy conferences.

At 2:15, we will begin 2 hours of debate on the conference report to accompany S. 395, the Alaska Power Administration bill. There will be a roll-call vote on that conference report, and at that time we may be able to announce additional items to take up. If not, we will stand in recess subject to the call of the Chair, in hopes that we can work out some agreement on a continuing resolution.

I might say, at this very moment, there is a meeting in Senator DOMENICI's office with a number of representatives of the President and the chairman of the House Budget Committee, Congressman KASICH, Congressman SABO, Senator EXON, and Senator DOMENICI. We will see what happens or what the results of that meeting may be.

Hopefully, we can come to some resolution so that we can pass a continuing resolution and end what has been described as a shutdown of Government. I think, on the other hand, we should keep in mind that, as pointed out today in the Washington Post, the issue here is not Medicare, Medicaid, welfare reform, the issue is a balanced budget—balanced budget. That is what this confrontation and conflict is all about.

Will we balance the budget by the year 2002? Will we keep our word to the American people? Will we get sidetracked with all these little sideshows going on about Medicare part B, not an issue.

Keep in mind, the taxpayers are picking up the 68.5 percent of everybody's premium—the people working in the kitchens, working everywhere, are putting money in the general revenues to pay part B Medicare premiums for people who have $100,000 a year income, or $1 million, and the President is trying to defend that. It is very hard to defend.

So it is not about Medicare. Medicare is a very sensitive word. We want to strengthen Medicare and preserve it. But this debate and this conflict between the White House and the Congress is about a balanced budget amendment, and about whether or not we will keep our word to the American people to balance the budget by the year 2002.

All the rhetoric, and everything else that has been spoken about on the Senate floor, may resonate well with some people. But most Americans are worried about the future. They are worried about their children's children. They are worried about what future they will have, and they know that unless this Congress—all of us—are willing to make tough decisions and balance the budget, we can talk back and forth about all these words that frighten people and all the rhetoric, and we can call people terrorists or refer to Republican leaders as guilty of terrorism and extremism and all these things. That is not going to change a thing. Right now, we are doing the heavy lifting on this side of the aisle. It is easy when you do nothing but criticize. We are trying to balance the budget. We are going to get it done, and I am very optimistic.

I believe the American people see this happening, and we hope to pass the balanced budget act of 1995 either late Thursday night or early Friday morning of this week—this week. We will send it to the President, and he will make a choice.

Hopefully, he will sign it, because in that reconciliation package, called a Balanced Budget Act of 1995, will be a long-term extension of the debt ceiling. We will also take care of the continuing resolution problem.

I am optimistic. I hope if we work on this in a bipartisan, nonpartisan way today, we can come together with some agreement.

We left the White House last night and we agreed we would be very positive in our statements to the media. I must say some of us were and some of us were not. I was a little disappointed in comments from some of my Democratic colleagues after we said, very honestly, we had a very candid meeting, we had a very candid discussion and were trying to work something out.

We have made some progress, and I think we have. We will see what happens after the meeting with Chief of Staff Panetta, Senator DOMENICI, and others, and hopefully we will be able to announce to our colleagues sometime tonight or sometime this afternoon or late evening that we have reached some agreement and we can pass a temporary continuing resolution.

I yield the floor. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent the call of the quorum be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 12:30 p.m, with Senators permitted to speak therein not to exceed 5 minutes.

The Senator from North Dakota.

TRAIN WRECK IS NO ACCIDENT

Mr. DORGAN. Mr. President, let me share the sentiments offered by the majority leader moments ago that both sides get together early today and resolve this issue.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

Let me also disagree on one statement. This is not about whether there should be a balanced budget. Of course there should be a balanced budget. I think all Members of the Senate agree there should be a balanced budget and a plan to bring the fiscal policies in this country into balance.

The question is, how? How do we do that? Where do we make cuts? Who bears the brunt of those cuts? Who bears the brunt of the sacrifice?

I will read from an editorial written by David Gergen, who served both the Republican and Democratic Presidents. He said, in giving the Republicans credit for pushing for a balanced budget:

> But in their eagerness to satisfy one principle, fiscal responsibility, the Republicans would ask the country to abandon another, equally vital, principle—fair play. This is a false, cruel choice we should not make.
>
> When George Bush and then Bill Clinton achieved large deficit reductions, we pursued the idea of "shared sacrifice." Not this time. Instead, Congress now seems intent on imposing new burdens upon the poor, the elderly, and vulnerable children while, incredibly, delivering a windfall for the wealthy.

That is what this issue is about, not whether the budget should be balanced. Of course it should. It is how it is balanced and whether there is fair play involved.

I want to make one additional point. We come to a shutdown not by accident, in my judgment. Let me read some quotes. We have heard boasts in this town about shutdowns for some months. April 3, this year, NEWT GINGRICH, Speaker GINGRICH, vowed to "create a titanic legislative standoff with President Clinton by adding vetoed bills to must-pass legislation increasing the national debt ceiling."

April 3, Speaker GINGRICH boasted the President will "veto a number of things, and we'll put them all on the debt ceiling. And then he'll decide how big a crisis he wants."

June 3, Speaker GINGRICH:

> We're going to go over the liberal Democratic part of the Government and then we will say to them: We could last 60 days, 90 days, 120 days, 5 years, a century. There's a lot of stuff we don't care if it is ever funded.

June 5, Speaker GINGRICH, speaking about the President:

> He can run the parts of the government that are left [after the Republican budget cuts] or he can run no government. Which of the two of us do you think worries more about not showing up?

September 22, Speaker GINGRICH:

> I don't care what the price is. I don't care if we have no executive offices and no bonds for 30 days—not this time.

Investor's Business Daily, November 8, GINGRICH said he would force Government to "miss interest and principal payment for the first time ever to force Democrat Clinton's administration to agree to his deficit reduction." Budget Chairman JOHN KASICH said:

> We'll probably have a few train wrecks, but that's always helpful in a revolution.

The point I make is we do not arrive at this issue accidentally. This is an issue that is planned by persons who, as David Gergen says in his analysis, have decided to balance the budget by adding to the burdens of the children, the poor, the vulnerable in society, and incredibly, he says, delivering a windfall for the wealthy.

Some of us think that is not the way to do business. Others apparently think it is a perfect way for the Federal Government to behave and, if it does not behave that way, they want to force the Federal Government to shut its doors.

That is not, in my judgment, a thoughtful way to do public policy. Rather, I think, it is a thoughtless, reckless approach to public policy, and I hope that sometime today in some way the leadership of both parties and the President will agree to this bridge or stopgap legislation to get us to December when we then clearly debate the larger reconciliation package.

This is just the road on the way to the stadium. The main event, the main contest in December over the big reconciliation bill is not what this is about. This is the toll extracted on the road to the stadium. It makes no sense to me to see the Government shut down in these circumstances.

I read these quotes from Speaker GINGRICH and others to demonstrate it is no accident. I am sure there are people who take great delight in the fact that there is no agreement on a continuing resolution or on a debt extension; they take great delight in that because they have accomplished what they boasted about to some months.

I think there is no credit for anyone in this kind of failure. I hope more thoughtful voices, more responsible voices in both political parties today will resolve to decide to bridge this impasse and provide a continuing resolution and a debt extension to take us into mid-December when we finally come to grips with the continuing resolution.

There is no disagreement among Democrats and Republicans about whether this country ought to balance its budget. There is profound disagreement among many of us in this country who believe you ought not kick kids off Head Start and take health money away from old folks so we can build B-2 bombers and Star Wars.

There is profound disagreement about priorities, but not about goals of balancing the Federal budget. While we have speakers today trying to debate what this debate is about, I want people of this country to understand this debate is about priorities—not destinations or goals. We all want to balance the Federal budget.

There is a right way and a wrong way to do it. On the road to finding the right way to do it, the wrong approach is to shut the Government down as boasted by Speaker GINGRICH and others they would do for some months. That serves no one's interest and does not accomplish any useful purpose for this country, in my judgment.

HONORING DESMOND AND MARY ANN LEE FOR THEIR CONTRIBUTIONS TO EDUCATION IN ST. LOUIS, MO

Mr. ASHCROFT. Mr. President, today I rise to honor two dear friends of mine whose generosity and giving spirit have made a positive impact on many throughout their home of St. Louis, MO. This week Desi and Mary Ann Lee were honored by the Missouri Botanical Garden as winners of the 1995 Henry Shaw Medal, the highest honor presented by the Garden. The Lees were honored for their generosity and service to the Botanical Garden by their establishment of the E. Desmond Lee and Family education program. The program is designed to improve science education for underserved schools in the city of St. Louis by giving teachers expanded opportunities for training and resources in science education. The program also increases opportunities available to students using the Botanical Gardens, the St. Louis Science Center, and the St. Louis Zoo creating a partnership to improve science education in St. Louis. Desi and Mary Ann also gave the gift that allowed the Botanical Garden to purchase and renovate a building near the Garden to provide needed space and classroom facilities for the Garden's education program.

The Lee's generosity toward the education programs at the Botanical Gardens is but one of many ways that their commitment to their home of St. Louis is evident. Desmond Lee graduated from the Washington University School of Business in St. Louis in 1940 after founding the Lee/Rowan Co. while still a student. He has served on countless boards of directors in the St. Louis area, including the St. Louis Science Center, the St. Louis Symphony, and the St. Louis Zoo. An elder in his local Presbyterian Church, Desi Lee has also received many awards in the St. Louis community for his service, including an honorary doctorate of humane letters from the University of Missouri at St. Louis in 1995, and the 1995 A World of Difference Community Service Award.

I rise today to salute my good friends for not only their service to the Missouri Botanical Garden for which they received the Henry Shaw Medal this week, but for their lifelong dedication to their home of St. Louis, where they have worked and given tirelessly to improved life for all who call St. Louis home.

I yield the floor. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislation clerk proceeded to call the roll.

Mr. GRAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ASHCROFT). Without objection, it is so ordered.

THE FEDERAL GOVERNMENT SHUTDOWN

Mr. GRAMS. Mr. President, at midnight last night, President Clinton threw in the towel, so to speak, and bailed out on his constitutional responsibility to keep the Federal Government in operation.

By vetoing legislation to extend the Federal Government's borrowing ability, and by vetoing a continuing resolution that would have kept the Federal Government funded, President Clinton set the engine on full throttle and barreled the U.S. Government into the train wreck we have been hearing so much about over the last several months.

And it is all because he is unwilling to follow through on a promise to balance the budget. Despite calls from the American taxpayers for a little leadership from the Nation's Chief Executive.

Did you know that every day, the Washington Times prints a little chart illustrating exactly how much this Government owes its creditors?

This morning's paper, for example, shows the U.S. Government approximately $4.984 trillion in debt.

In just one 2-day period recently, the national debt increased more than $2.2 billion—enough, estimated the Times, to buy a Big Mac, medium french fries, and medium-sized drink for every person in the entire United States and Mexico.

Just the interest alone on a debt that massive is accumulating at the rate of $4 million an hour.

If our national debt were shared equally among all Americans, each of us would owe more than $19,000.

Every child born today in the United States of America—and that is going to be about 8,200 children—comes into this world already saddled with more than $19,000 in debt.

That is immoral, Mr. President.

So the difference between Congress and the President—the difference in what we apparently see when we look at those staggering statistics—is the difference between passion and politics.

Congress is passionate about fulfilling our promise to balance the budget and end the legacy of debt we continue to build for the coming generations. We cannot imagine what it took to build up a national debt of nearly $5 trillion—that is a 5 followed by 12 zeroes—and we cannot imagine letting it go on for another day.

That is passion.

The President's guiding force, meanwhile, is politics. For him to shut down the Government is nothing more than a political move—an attempt to derail all our hard work at balancing the Federal budget merely to satisfy the radical liberal wing of his own party.

Congress wants to move forward, while President Clinton wants to stop the people's agenda dead in its tracks.

Harry Truman used to have a sign on his desk that read: "The Buck Stops Here."

Well, President Clinton ought to have a sign on his that says "The Revolution Stops Here." For him, leadership is not about fulfilling promises or making change, or principled decision-making. It is all about politics.

Mr. President, I came to the floor last Tuesday to speak about the budget and the President's unwillingness to work with us, in good faith, toward the goals shared by a majority of all Americans.

Immediately afterward, one of my good colleagues from across the aisle responded with his own thoughts about the budget debate, and he chided me for making the Senate what he called "a political arena."

All I can say is that it is nearly impossible to talk about this President without somehow mentioning politics.

His public comments of the past week have been nothing but political rhetoric, and desperate rhetoric, at that. In his Saturday radio address, he asked listeners to:

> Imagine the Republican Congress as a banker, and the United States as family that has to go to the bank for a short-term loan, for a family emergency. The banker says to the family, "I will give you the loan, but only if you will throw the grandparents and the kids out of the house first."

Mr. President, my constituents in Minnesota and the rest of the American people asked for fundamental changes last November from their Government, not empty rhetoric. But President Clinton has made the decision not to climb aboard.

Of course, that is his choice, and none of us is apparently going to change his mind.

But hear this—Congress will not bow out of its responsibility to deliver to the people a budget that balances within 7 years, that draws the line at tax increases, and in fact cuts taxes for working-class Americans, that preserves and protects Medicare.

The question of why the President of the United States of America is so vehemently opposed to a balanced budget that does not increase taxes that he would shut down the Federal Government and default on the Nation's financial obligations, can only be answered by the President himself.

And the American people are waiting for an answer.

WELCOMING CROATIAN-SERBIAN AGREEMENT ON EASTERN SLAVONIA

Mr. PELL. Mr. President, finally, there is good news from former Yugoslavia. On Sunday in Croatia, Croatian leaders and rebel Serbs signed an agreement ending the territorial conflict over Eastern Slavonia, the last part of Croatia still occupied by Serbs. As late as last week, Croatian Government officials, including President Tudjman, were threatening to retake the territory by force. I am pleased that Croatia has recognized the folly of carrying out those threats, and has opted instead for a diplomatic solution.

There are still serious questions about this agreement that need to be answered. For example: Who will participate in the transitional administration to be established by the United Nations to govern the region? Will there be separate military and civilian administrations? How does this agreement relate to the continuing negotiations on Bosnia? What, if anything, does Serbia get in return for its agreeing to this accord?

Despite these and other questions, this much is clear: The agreement will avert a military confrontation between Croatia and Serbia over Eastern Slavonia, and together with last week's agreement on the Federation, offer needed momentum to the Dayton negotiations.

Our Ambassador to Croatia, Peter Galbraith and U.N. Envoy Thorvald Stoltenberg deserve a great deal of credit for their work in bringing the parties to and keeping them at the table.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, before discussing today's bad news about the Federal debt, how about "another go", as the British put it, with our pop quiz. Remember? One question, one answer.

The question: How many millions of dollars does it take to add up to a trillion dollars? While you are thinking about it, bear in mind that it was the U.S. Congress that ran up the Federal debt that is now slightly in excess of $14 billion shy of $5 trillion.

To be exact, as of the close of business yesterday, November 13, the total Federal debt—down to the penny—stood at $4,986,513,994,276.71. Another depressing figure means that on a per capita basis, every man, woman, and child in America owes $18,928.89.

Mr. President, back to our pop quiz, how many million in a trillion: There are a million million in a trillion.

NOTICE OF PROPOSED RULEMAKING

Mr. THURMOND. Mr. President, pursuant to section 303 of the Congressional Accountability Act of 1995, 2

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U.S.C. Sec. 1384(b), a notice of proposed rulemaking was submitted by the Office of Compliance, U.S. Congress. The notice relates to the procedures for consideration and resolution of alleged violations of the laws made applicable under part A of title II of the Congressional Accountability Act (P.L. 104–1).

Section 304(b) requires this notice to be printed in the CONGRESSIONAL RECORD, therefore I ask unanimous consent that the notice be printed in the RECORD.

There being no objection, the notice was ordered to be printed in the RECORD; as follows:

OFFICE OF COMPLIANCE—THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995: PROCEDURAL RULES

NOTICE OF PROPOSED RULEMAKING

Summary: The Executive Director of the Office of Compliance is publishing proposed rules to govern the procedures for consideration and resolution of alleged violations of the laws made applicable under Part A of Title II of the Congressional Accountability Act (P.L. 104–1). The proposed rules have been approved by the Board of Directors, Office of Compliance.

Dates: Comments are due within 30 days after publication of this notice in the Congressional Record.

Addresses: Submit written comments to the Executive Director, Office of Compliance, Room LA 200, 110 Second Street, S.E., Washington, DC 20540–1999. Those wishing to receive notification of receipt of comments are requested to include a self-addressed, stamped post card. Comments may also be transmitted by facsimile ("FAX") machine to (202) 252–3115. This is not a toll-free call. Copies of comments submitted by the public will be available for review at the Law Library Reading Room, Room LM–201, Law Library of Congress, James Madison Memorial Building, Washington, D.C., Monday through Friday, between the hours of 9:30 a.m. and 4:00 p.m.

For Further Information Contact: Executive Director, Office of Compliance at (202) 252–3100. This notice is also available in the following formats: large print, braille, audio tape, and electronic file on computer disk. Requests for this notice in an alternative format should be made to Mr. Russell Jackson, Director, Service Department, Office of the Sergeant at Arms and Doorkeeper of the Senate, (202) 224–2705.

Supplementary Information: Background—General. The Congressional Accountability Act of 1995 ("CAA"), PL 104–1, was enacted into law on January 23, 1995. In general, the CAA applies the rights and protections of eleven federal labor and employment law statutes to covered employees and employing offices within the legislative branch. Section 301 of the CAA establishes the Office of Compliance as an independent office within that branch. Section 303 of the CAA directs that the Executive Director, the chief operating officer of the Office of Compliance, shall, subject to the approval of the Board, adopt rules governing the procedures for the Office of Compliance. The rules that follow establish the procedures by which the Office of Compliance will provide for the consideration and resolution of alleged violations of the laws made applicable under Part A of Title II of the CAA. The rules include procedures for counseling, mediation, and for electing between filing a complaint with the Office of Compliance and filing a civil action in a district court of the United States. The rules also address the procedures for the conduct of hearings held as a result of the filing of a complaint and for appeals to the Board of Directors of the Office of Compliance from Hearing Officer decisions, as well as other matters of general applicability to the dispute resolution process and to the operations of the Office of Compliance.

The Executive Director invites comment from interested persons on the content of these proposed rules.

Part I—Office of Compliance Rules of Procedure

Subpart A—General Provisions

§1.01 Scope and policy
§1.02 Definitions
§1.03 Filing and Computation of Time
§1.04 Availability of Official Information
§1.05 Designation of Representative
§1.06 Maintenance of Confidentiality

§1.01 Scope and policy.

These rules of the Office of Compliance govern the procedures for consideration and resolution of alleged violations of the laws made applicable under Part A of title II of the Congressional Accountability Act of 1995. The rules include procedures for counseling, mediation, and for electing between filing a complaint with the Office of Compliance and filing a civil action in a district court of the United States. The rules also address the procedures for the conduct of hearings held as a result of the filing of a complaint and for appeals to the Board of Directors of the Office of Compliance from Hearing Officer decisions, as well as other matters of general applicability to the dispute resolution process and to the operations of the Office of Compliance. It is the policy of the Office that these rules shall be applied with due regard to the rights of all parties and in a manner that expedites the resolution of disputes.

§1.02 Definitions

Except as otherwise specifically provided in these rules, for purposes of this Part:

(a) Act. The term "Act" means the Congressional Accountability Act of 1995;

(b) Covered Employee. The term "covered employee" means any employee of

(1) the House of Representatives;

(2) the Senate;

(3) The Capitol Guide Service;

(4) the Capitol Police;

(5) the Congressional Budget Office;

(6) the Office of the Architect of the Capitol;

(7) the Office of the Attending Physician;

(8) the Office of Compliance; or

(9) the Office of Technology Assessment.

(c) Employee. The term "employee" includes an applicant for employment and a former employee.

(d) 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.

(e) Employee of the Capitol Police. The term "employee of the Capitol Police" includes any member or officer of the Capitol Police.

(f) 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 allowance of the House of Representatives but not any such individual employed by any entity listed in subparagraphs (3) through (9) of paragraph (b) above.

(g) 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 (3) through (9) of paragraph (b) above.

(h) Employing Office. The term "employing office" means:

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

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

(3) 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

(4) 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.

(i) Party. The term "party" means the employee or the employing office or the designated representatives of either of them.

(j) Office. The term "Office" means the Office of Compliance.

(k) Board. The term "Board" means the Board of Directors of the Office of Compliance.

(l) Chair. The term "Chair" means the Chair of the Board of Directors of the Office of Compliance.

(m) Executive Director. The term "Executive Director" means the Executive Director of the Office of Compliance.

(n) General Counsel. The term "General Counsel" means the General Counsel of the Office of Compliance.

(o) Hearing Officer. The term "Hearing Officer" means any individual designated by the Executive Director to preside over a hearing conducted on matters within the Office's jurisdiction.

§1.03 Filing and computation of time

(a) Method of Filing. Documents may be filed in person or by mail, including express, overnight and other expedited delivery. Requests for mediation under Section 2.04 and complaints under Section 2.06 of these rules may also be filed by facsimile (FAX) transmission. The original copies of documents filed by FAX must also be mailed to the office no later than the day following FAX transmission. The filing of all documents is subject to the limitations set forth below.

(1) In Person. A document shall be deemed timely filed if it is hand delivered to the Office in: Adams Building, Room LA 200, 110 Second Street, S.E., Washington, D.C. 20540–1999, before the expiration of the applicable time period.

(2) Mailing. (a) If mailed, a request for mediation or a complaint is deemed filed on the date of its receipt in the Office of Compliance.

(b) A document, other than a request for mediation or a complaint, is deemed filed on the date of its postmark or proof of mailing. Parties, including those using franked mail, are responsible for ensuring that any mailed document bears a postmark date or other proof of the actual date of mailing. In the absence of a legible postmark a document will be deemed timely if it is received by the Office at Adams Building, Room LA 200, 110 Second Street, S.E., Washington, D.C. 20540–1999, by mail within five (5) days of the expiration of the applicable filing period.

(3) Faxing documents. Documents transmitted by FAX machine will be deemed filed on the date received at the Office of Compliance at 202-252-3115. A FAX filing will be timely only if the Office receives the document no later than 5:00 PM Eastern Time on the day that it is due under the applicable filing period. Any party using a FAX machine to file a document bears the responsibility for ensuring both that the document is timely and accurately transmitted and confirming that the Office has received a facsimile of the document. The party or individual filing the document may rely on its FAX status report sheet to show that it filed the document in a timely manner.

(b) Computation of Time. All time periods in these rules that are stated in terms of days are calendar days unless otherwise noted. However, when the period of time prescribed is five (5) days or less, intermediate Saturdays, Sundays and Federal government holidays shall be excluded in the computation. To compute the number of days for taking any action required or permitted under these rules, the first day shall be the day after the event from which the time period begins to run and the last day for filing or service shall be included in the computation. When the last day falls on a Saturday, Sunday, or federal government holiday, the last day for taking the action shall be the next regular federal government workday.

(c) Time Allowances for Mailing of Official Notices. Whenever a person or party has the right or is required to do some act within a prescribed period after the service of a notice or other document upon him or her and the notice or document is served by regular mail, five (5) days shall be added to the prescribed period. Only two (2) days shall be added if a document is served by express mail or other form of expedited delivery. When documents are served by certified mail, return receipt requested, the prescribed period shall be calculated from the date of receipt as evidenced by the return receipt.

§1.04 Availability of official information

(a) Policy. It is the policy of the Board, the Office and the General Counsel, except as otherwise ordered by the Board, to make available for public inspection and copying final decisions and orders of the Board and the Office, as specified and described in paragraph (d) below.

(b) Availability. Any person may examine and copy items described in paragraph (a) above at the Office of Compliance, Adams Building, Room LA200, 110 Second Street, S.E., Washington, D.C. 20540-1999, under conditions prescribed by the Office, including requiring payment for copying costs, and at reasonable times during normal working hours so long as it does not interfere with the efficient operations of the Office. As ordered by the Board, identifying details or other necessary matters may be deleted and placed under seal, and, in each case, the reason for the deletion shall be stated in writing.

(c) Copies of forms. Copies of blank forms prescribed by the Office for the filing of complaints and other actions or requests may be obtained from the Office.

(d) Final decisions. Pursuant to Section 416(f) of the Act, a final decision entered by a Hearing Officer or by the Board under Section 405(g) or 406(e) of the Act, which is in favor of the complaining covered employee or reverses a Hearing Officer's decision in favor of a complaining covered employee, shall be made public, except as otherwise ordered by the Board.

§1.05 Designation of Representative

(a) An employee, a witness, or an employing office wishing to be represented by another individual must file with the Office a written notice of designation of representative. The representative may be, but is not required to be, an attorney.

(b) Service where there is a representative. All service of documents shall be directed to the representative, unless the represented individual specifies otherwise and until such time as that individual notifies the Executive Director of an amendment or revocation of the designation of representative. Where a designation of representative is outstanding, all time limitations for receipt of materials by the represented individual shall be computed in the same manner as for unrepresented individuals with service of the documents, however, directed to the representative, as provided.

§1.06 Maintenance of confidentiality

(a) Policy. In accord with Section 416 of the Act, it is the policy of the Office to maintain, to the fullest extent possible, the confidentiality of the proceedings and of the participants in proceedings conducted under Sections 402, 403, 405, and 406 of the Act and these rules.

(b) At the time that any individual, employing office or party, including a designated representative, becomes a participant in counseling under Section 402, mediation under Section 403, the complaint and hearing process under Section 405, or an appeal to the Board under Section 406 of the Act, or any related proceeding, the Office will advise the participant of the confidentiality requirements of Section 416 of the Act and these rules and that sanctions might be imposed for a violation of those requirements.

Subpart B—Procedures Applicable to Consideration of Alleged Violations of Part A of Title II of the Congressional Accountability Act of 1995

§2.01 Matters Covered by Subpart B
§2.02 Requests for Advice and Information
§2.03 Counseling
§2.04 Mediation
§2.05 Election of Proceedings
§2.06 Complaints
§2.07 Appointment of the Hearing Officer
§2.08 Filing, Service and Size Limitations of Motions, Briefs, Responses and other Documents
§2.09 Dismissal of Complaint
§2.10 Confidentiality
§2.11 Filing of Civil Action

§2.01 Matters covered by subpart B

(a) These rules govern the processing of any allegation that Sections 201 through 206 of the Act have been violated and any allegation of intimidation or reprisal prohibited under Section 207 of the Act. Sections 201 through 206 apply to covered employees and employing offices certain rights and protections of the following laws:

(1) The Fair Labor Standards Act of 1938

(2) Title VII of the Civil Rights Act of 1964

(3) The Americans with Disabilities Act of 1990

(4) The Age Discrimination in Employment Act of 1967

(5) The Family and Medical Leave Act of 1993

(6) The Employee Polygraph Protection Act of 1988

(7) The Worker Adjustment and Retraining Notification Act

(8) The Rehabilitation Act of 1973

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

(b) This subpart applies to the covered employees and employing offices as defined in Section 1.02 (b) and (h) of these rules and any activities within the coverage of the laws referred to in Section 2.01(a).

§2.02 Requests for advice and information

At any time, an employee or an employing office may seek from the Office informal advice and information on the procedures of the Office and under the Act and information on the protections, rights and responsibilities under the Act and these rules. The Office will maintain the confidentiality of requests for such advice or information.

§2.03 Counseling

(a) Initiating a proceeding; formal request for counseling. In order to initiate a proceeding under these rules, an employee who believes that he or she is covered by the Act shall formally request counseling from the Office regarding an alleged violation of the Act, as referred to in Section 2.01(a), above. All formal requests for counseling shall be confidential, unless the employee agrees to waive his or her right to confidentiality under Section 2.03(e)(2), below.

(b) Who may request counseling. A covered employee who believes that he or she has been or is the subject of a violation of the Act as referred to in Section 2.01(a) may formally request counseling.

(c) When, how and where to request counseling. A formal request for counseling:

(1) Shall be made not later than 180 days after the date of the alleged violation of the Act;

(2) May be made to the Office in person, by telephone, or by written request;

(3) A request for counseling shall be directed to: Office of Compliance, Adams Building, Room LA 200, 110 Second Street, S.E., Washington, D.C. 20540-1999; telephone: (202) 252-3100; FAX (202) 252-3115.

(d) Purpose of counseling period. The purpose of the counseling period shall be: to discuss the employee's concerns and elicit information regarding the matter(s) which the employee believes constitute a violation(s) of the Act; to advise the employee of his or her rights and responsibilities under the Act and the procedures of the Office under these rules; to evaluate the matter; and to assist the employee in achieving an early resolution of the matter, if possible.

(e) Confidentiality and waiver. (1) Absent a waiver under paragraph 2, below, all counseling shall be strictly confidential. Nothing in these rules shall prevent a counselor from consulting with personnel within the Office concerning a matter in counseling, except that, when the person being counseled is an employee of the Office, the counselor shall not consult with any individual within the Office who might be a party or witness without the consent of the person requesting counseling. Nothing contained in these rules shall prevent the Executive Director from reporting statistical information to the Senate and House of Representatives, so long as that statistical information does not reveal the identity of the employees involved or of employing offices that are the subject of a request for counseling.

(2) The employee and Office may agree to waive confidentiality of the counseling process for the limited purpose of contacting the employing office to obtain information to be used in counseling the employee or to attempt a resolution of any disputed matter(s). Such a limited waiver must be written on the form supplied by the Office and signed by both the counselor and the employee.

(f) Role of Counselor in informing employee of his or her rights and responsibilities. The counselor will provide the employee with appropriate information concerning rights and responsibilities under the Act and these rules.

(g) Role of Counselor in defining concerns. The counselor may:

(1) obtain the name, home and office mailing addresses, and home and office telephone numbers of the person being counseled;

(2) obtain the name and title of the person(s) whom the employee claims has engaged in a violation of the Act and the employing office in which this person(s) works;

(3) obtain a detailed description of the action(s) at issue, including all relevant dates, and the covered employee's reason(s) for believing that a violation may have occurred;

(4) inquire as to the relief sought by the covered employee;

(5) obtain the name, address and telephone number of the employee's representative, if any, and whether the representative is an attorney.

(h) Role of Counselor in attempting informal resolution. In order to attempt to resolve the matter brought to the attention of the counselor, the counselor must obtain a waiver of confidentiality pursuant to Section 2.03(e)(2) of this chapter. If the employee executes such a waiver, the counselor may:

(1) conduct a limited inquiry for the purpose of obtaining any information necessary to attempt an informal resolution or formal settlement;

(2) reduce to writing any formal settlement achieved and secure the signatures of the employee, his or her representative, if any, and a member of the employing office who is authorized to enter into a settlement on the employing office's behalf; and, pursuant to Section 414 of the Act and Section 9.03 of these rules, seek the approval of the Executive Director.

(i) Counselor not a representative. The counselor shall inform the person being counseled that the counselor does not represent either the employing office or the employee. The counselor provides information and may act as a third-party intermediary with the goals of increasing the individual's understanding of his or her rights and responsibilities under the Act and of promoting the early resolution of the matter.

(j) Duration of counseling period. The period for counseling shall be 30 days, beginning on the date that the request for counseling is received by the Office unless the employee and the Office agree to reduce the period.

(k) Duty to proceed. An employee who initiates a proceeding under this part shall be responsible at all times for proceeding, regardless of whether he or she has designated a representative. An employee, however, may withdraw from counseling at any time without prejudice to the employee's right to reinstate counseling regarding the same matter, provided that counseling on a single matter will not last longer than a total of 30 days.

(l) Conclusion of the counseling period and notice. The Executive Director shall notify the employee in writing of the end of the counseling period, by certified mail, return receipt requested. The Executive Director, as part of the notification of the end of the counseling period, shall inform the employee of the right to file with the Office a request for mediation within 15 days after receipt by the employee of the notice of the end of the counseling period.

(m) Employees of the Office of the Architect of the Capitol and Capitol Police.

(1) Where an employee of the Office of the Architect of the Capitol or of the Capitol Police requests counseling under the Act and these rules, the Executive Director may recommend that the employee use the grievance procedures of the Architect of the Capitol or the Capitol Police. Pursuant to Section 401 of the Act and by agreement with the Architect of the Capitol and the Capitol Police Board, when the Executive Director makes such a recommendation, the following procedures shall apply:

(A) The Executive Director shall recommend to the employee that the employee use the procedures of the Architect or of the Capitol Police Board, as appropriate, for a period generally up to 90 days, unless the Executive Director determines a longer period is appropriate for resolution of the employee's complaint through the internal procedures of the Architect or the Capitol Police Board;

(B) After having contacted the Office and having utilized the grievance procedures of the Architect or to the Capitol Police Board, the employee may return to the procedures under these rules:

(i) after the expiration of the period recommended by the Executive Director, if the matter has not been resolved; or

(ii) within 20 days after receiving a final decision as a result of the procedures of the Architect or of the Capitol Police Board.

(C) The period during which the matter is pending in the internal procedure shall not count against the time available for counseling or mediation under the Act. If the grievance is resolved to the employee's satisfaction, the Office will consider the case to be closed in its official files.

(2) Notice to employees who have not initiated counseling with the Office. When an employee of the Architect of the Capitol or the Capitol Police raises in the internal procedures of the Architect or of the Capitol Police Board an allegation which may also be raised under the procedures set forth in this subpart, the Architect or the Capitol Police Board should advise the employee in writing that a request for counseling about the allegation must be initiated with the Office within 180 days after the alleged violation of law occurred if the employee intends to use the procedures of the Office.

(3) Notice in final decisions when employees have not initiated counseling with the Office. When an employee raises in the internal procedures of the Architect or of the Capitol Police Board an allegation which may also be raised under the procedures set forth in this subpart, any final decision pursuant to the procedures of the Architect of the Capitol or of the Capitol Police Board should include notice to the employee of his or her right to initiate the procedures under these rules within 180 days after the alleged violation occurred.

(4) Notice in final decisions when there has been a recommendation by the Executive Director. When the Executive Director has made a recommendation under paragraph 1 above, the Architect or the Capitol Police Board should include notice to the employee of his or her right to resume the procedures under these rules within 20 days after service on the employee of the final decision and shall transmit a copy of the final decision, settlement agreement, or other final decision, settlement agreement, or other final disposition of the case to the Executive Director.

§ 2.04 Mediation

(a) Explanation. Mediation is a process in which employees, employing offices and their representatives meet separately and/or jointly with a neutral trained to assist them in resolving disputes. As parties to the mediation, employees, employing offices and their representatives openly discuss alternatives to continuing their dispute, including any and all possibilities of reaching a voluntary, mutually satisfactory resolution. The neutral has no power to impose a specific resolution, and the mediation process, whether or not a resolution is reached, is strictly confidential, pursuant to Section 416 of the Act.

(b) Initiation. Not more than 15 days after receipt by the employee of the notice of the conclusion of the counseling period under Section 2.03(l), the employee may file with the Office a written request for mediation. The request for mediation shall contain the employee's name, address, and telephone number, and the name of the employing office. Failure to request mediation within the prescribed period will preclude the employee's further pursuit of his or her claim.

(c) Notice of commencement of the mediation period. The Office shall notify the employing office or its designated representative of the commencement of the mediation period.

(d) Selection of Neutrals; Disqualification. Upon receipt of the request for mediation, the Executive Director shall assign one or more neutrals to commence the mediation process. In the event that a neutral considers him or herself unable to perform in a neutral role in a given situation, he or she shall withdraw from the matter and immediately shall notify the Office of the withdrawal. Any party may ask the Office to disqualify a neutral by filing a written request, including the reasons for such request, with the Executive Director. This request shall be filed as soon as the party has reason to believe there is a basis for disqualification. The Executive Director's decision on this request shall be final and unreviewable.

(e) Duration and Extension. (1) The mediation period shall be 30 days beginning on the date the request for mediation is received, unless the Office grants an extension.

(2) The Office may extend the mediation period upon the joint request of the parties. The request shall be written and filed with the Office no later than the 28th day of the mediation period. The request shall set forth the joint nature of the request and the reasons therefor, and specify when the parties expect to conclude their discussions. Requests for additional extensions may be made in the same manner. Approval of any extensions shall be within the sole discretion of the Office.

(f) Procedures. (1) The Neutral's Role. After assignment of the case, the neutral will promptly contact the parties. The neutral has the responsibility to conduct the mediation, including deciding how many meetings are necessary and who may participate in each meeting. The neutral may accept written submissions from the parties.

(2) The Agreement to Mediate. At the commencement of the mediation, the neutral will ask the parties to sign an agreement ("the Agreement to Mediate") to adhere to the confidentiality of the process. The Agreement to Mediate will also provide that the parties to the mediation will not seek to have the counselor or the neutral testify or otherwise present evidence in any subsequent civil action under Section 408 of the Act or any other proceeding.

(g) Who may participate. The covered employee, the employing office, their respective representatives, and the Office may meet,

jointly or separately, with the neutral. A representative of an employing office who has actual authority to agree to a settlement agreement on behalf of the employing office must be present at the mediation or must be immediately accessible by telephone during the mediation.

(h) Conclusion of the Mediation Period and Notice. If, at the end of the mediation period, the parties have not resolved the matter that forms the basis of the request for mediation, the Office shall provide the employee and the employing office, and their representatives, with written notice that the mediation period has concluded. At the same time, the Office will notify the employee of his or her right to elect to file a complaint with the Office in accordance with Section 405 of the Act and Section 2.06 of these rules or to file a civil action pursuant to Section 408 of the Act and Section 2.11 of these rules.

(i) Independence of the Mediation Process and the Neutral. The Office will maintain the independence of the mediation process and the neutral. No individual, who is appointed by the Executive Director to mediate, may conduct or aid in a hearing conducted under Section 405 of the Act with respect to the same matter or shall be subject to subpoena or any other compulsory process with respect to the same matter.

(j) Confidentiality. Except as necessary to consult with the parties, their counsel or other designated representatives, the parties to the mediation, the neutral, and the Office shall not disclose, in whole or in part, any information or records obtained through, or prepared specifically for, the mediation process. This rule shall not preclude a neutral from consulting with the Office, except that a neutral shall not consult with a party or witness within the Office when the covered employee is an employee of the Office. This rule shall also not preclude the Office from reporting statistical information that does not reveal the identity of the employees or employing offices involved in the mediation. All parties to the action and their representatives will be advised of the confidentiality requirements of this process and of the sanctions that might be imposed for violating these requirements.

§ 2.05 Election of proceeding

(a) Pursuant to Section 404 of the Act, not later than 90 days after a covered employee receives notice of the end of mediation under Section 2.04(h) of these rules, but no sooner than 30 days after that date, the covered employee may either:

File a complaint with the Office in accordance with Section 405 of the Act and the procedure set out in Section 2.06, below; or

File a civil action in accordance with Section 408 of the Act and Section 2.11 below in the United States District Court for the district in which the employee is employed or for the District of Columbia.

(b) A covered employee who files a civil action pursuant to Section 2.11, may not thereafter file a complaint under Section 2.06 on the same matter.

§ 2.06 Complaints

(a) Who may file. An employee who has completed mediation under Section 2.04 may timely file a complaint with the Office.

(b) When to file. A complaint may be filed no sooner than 30 days after the date of receipt of the notice under Section 2.04(h), but no later than 90 days after that notice.

(c) Form and Contents. A complaint shall be written or typed on a complaint form available from the Office. All complaints shall be signed by the covered employee, or his or her representative, and shall contain the following information:

(1) the name, mailing address, and telephone number(s) of the complainant;

(2) the name(s) and title(s) of the individual(s) involved in the action that the employee claims is a violation of the Act;

(3) the name, address and telephone number of the employing office involved;

(4) a description of the conduct being challenged, including the date(s) of the conduct;

(5) a brief description of why the complainant believes the challenged conduct is a violation of the Act and the Section(s) of the Act involved;

(6) a statement of the relief or remedy sought; and

(7) the name, address, and telephone number of the representative, if any, who will act on behalf of the complainant.

(d) Amendments. Amendments to the complaint may be permitted by the Office or, after assignment, by a Hearing Officer, on the condition that all parties to the proceeding have adequate notice to prepare to meet the new allegations, and so long as the amendments relate to the violations for which the employee has completed counseling and mediation and permitting such amendments will not unduly prejudice the rights of the employing office or other parties, unduly delay the completion of the hearing or otherwise interfere with or impede the proceedings.

(e) Service of Complaint. Upon receipt of a complaint or an amended complaint, the Office shall serve the employing office named in the complaint, or its designated representative, with a copy of the complaint or amended complaint and a copy of these rules. The Office shall include a service list containing the names and addresses of the parties and their designated representatives.

(f) Answer. Within 15 days after service of a copy of a complaint or an amended complaint, the respondent employing office shall file an answer with the Office and serve one copy on the complainant. The answer shall contain a statement of the position of the respondent employing office on each of the issues raised in the complaint, including admissions, denials, or explanations of each allegation made in the complaint and any other defenses to the complaint. Failure to raise a claim or defense in the answer shall not bar its submission later unless to do so would unduly prejudice the rights of the other party or unduly delay or otherwise interfere with or impede the proceedings.

§ 2.07 Appointment of the Hearing Officer

Upon the filing of a complaint, the Executive Director will appoint an independent Hearing Officer, who shall have the authority specified in Section 7.01(b) below. The Hearing Officer shall not be the neutral who mediated the matter under Section 2.04 of these rules.

§ 2.08 Filing, service, and size limitations of motions, briefs, responses or other documents

(a) Filing with the Office; Number. One original and three copies of all motions, briefs, responses, or other documents, must be filed, whenever required, with the Office or Hearing Officer. However, when a party aggrieved by the decision of a Hearing Officer files an appeal with the Board, one original and seven copies of both any appeal brief and any responses must be filed with the Office.

(b) Service. The parties shall serve on each other one copy of all briefs or motions filed with the Office, other than the Complaint, which the Office will serve pursuant to Section 2.06(e) of these rules. Service shall be made by mailing or by hand delivering a copy of the motion, brief, response or other document to each party on the service list previously provided by the Office. Each of these documents, other than the Complaint, must be accompanied by a certificate of service specifying how and when service was made. It shall be the duty of all parties to notify the Office and one another in writing of any changes in the names or addresses on the service list.

(c) Time limitations for response to motions or briefs and reply. Unless otherwise specified by the Hearing Officer or these rules, a party shall file a response to a motion or brief within 15 days of the service of the motion or brief upon the party. Any reply to such response shall be filed and served within 5 days of the service of the response.

(d) Size limitations. Except as otherwise specified by the Hearing Officer or these rules, no brief, motion, response, or supporting memorandum filed with the Office shall exceed 35 pages, or 8,750 words, exclusive of attachments. The Board, the Office or Hearing Officer may waive, raise or reduce this limitation for good cause shown or on its own initiative. Briefs, motions, responses, and supporting memoranda shall be on standard letter-size paper (8½" x 11").

§ 2.09 Dismissal of complaints

(a) A Hearing Officer may, after notice and an opportunity to respond, dismiss any claim that the Hearing Officer finds to be frivolous or that fails to state a claim upon which relief may be granted.

(b) A Hearing Officer may, after notice and an opportunity to respond, dismiss a complaint because it fails to comply with the applicable time limits or other requirements under these rules.

(c) If any employee fails to proceed with an action, the Hearing Officer may dismiss the complaint with prejudice.

(d) Appeal. A dismissal by the Hearing Officer made under Section 7.17 of these rules may be subject to appeal before the Board if the aggrieved party files a timely petition for review under Section 8.01.

(e) Withdrawal of Complaint by Complainant. At any time an employee may withdraw his or her own complaint by filing a notice with the Office for transmittal to the Hearing Officer and by serving a copy on the employing office or representative. Any such withdrawal must be approved by the Executive Director.

§ 2.10 Confidentiality

Pursuant to Section 416(c) of the Act, all proceedings and deliberations of Hearing Officers and the Board, including any related records, shall be confidential. A violation of the confidentiality requirements of the Act and these rules could result in the imposition of sanctions. Nothing in these rules shall prevent the Executive Director from reporting statistical information to the Senate and House of Representatives, so long as that statistical information does not reveal the identity of the employees involved or of employing offices that are the subject of a matter.

§ 2.11 Filing of civil action

(a) Filing. Section 4.04 of the Act provides that as an alternative to filing a complaint under Section 2.06, an employee who receives notice of the end of mediation pursuant to Section 2.04(h) may elect to file a civil action in accordance with Section 408 of the Act in the United States district court for

the district in which the employee is employed or for the District of Columbia.

(b) Time for filing. A covered employee may file such a civil action no earlier than 30 days after receipt of the notice under the Section 2.04(h), but no later than 90 days after that receipt.

Subpart C—[Reserved (part B—Section 210—ADA Public Services)]

Subpart D—[Reserved (Part C—Section 215—OSHA)]

Subpart E—[Reserved (Part D—Section 220—LMR)]

Subpart F—Discovery and Subpoenas

§6.01 Discovery
§6.02 Requests for Subpoenas
§6.03 Service
§6.04 Return of Service
§6.05 Motion to Quash
§6.06 Enforcement

§6.01 Discovery

(a) Explanation. Discovery is the process by which a party may obtain relevant information, not privileged, from another person, including a party, for the purpose of assisting that party in developing, preparing and presenting its case at the hearing.

(b) Office policy regarding discovery. It is the policy of the Office to encourage the early and voluntary exchange of relevant and material nonprivileged information between the parties, including the names and addresses of witnesses and copies of relevant and material documents, and to encourage Hearing Officers to develop procedures which allow for the greatest exchange of relevant and material information and which minimize the need for parties to formally request such information.

(c) Discovery availability. Pursuant to Section 405(e) of the Act, the Hearing Officer in his or her discretion may permit reasonable prehearing discovery. In exercising that discretion, the Hearing Officer may be guided by the Federal Rules of Civil Procedure.

(1) The Hearing Officer may authorize discovery by one or more of the following methods: depositions upon oral examination or written questions; written interrogatories; production of documents or things or permission to enter upon land or other property for inspection or other purposes; physical and mental examinations; and requests for admission.

(2) The Hearing Officer may make any order setting forth the forms and extent of discovery, including orders limiting the number of depositions and interrogatories and requests for production of documents, and may also limit the length of depositions.

(3) The Hearing Officer may issue any other order to prevent discovery or disclosure of confidential or privileged materials or information, as well as hearing or trial preparation materials and any other information deemed not discloseable, or to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense.

(d) Claims of privilege. Whenever a party withholds information otherwise discoverable under these rules by claiming that it is privileged or confidential or subject to protection as hearing or trial preparation materials, the party shall make the claim expressly and shall describe the nature of the documents, communications or things not produced or disclosed in a manner that, without revealing the information itself privileged or protected, will enable other parties to assess the applicability of the privilege or protection.

§6.02 Request for subpoena

(a) Authority to issue subpoenas. At the request of a party, a Hearing Officer may issue subpoenas for the attendance and testimony of witnesses and for the production of correspondence, books, papers, documents, or other records. The attendance of witnesses and the production of records may be required from any place within the United States.

(b) Request. A request for the issuance of a subpoena requiring the attendance and testimony of witnesses or the production of documents or other evidence under paragraph (a) above shall be submitted to the Hearing Officer at least 15 days in advance of the date scheduled for the commencement of the hearing. If the subpoena is sought as part of the discovery process, the request shall be submitted to the Hearing Officer at least 10 days in advance of the date set for the attendance of the witness at a deposition or the production of documents.

(c) Forms and showing. Requests for subpoenas shall be submitted in writing to the Hearing Officer and shall specify with particularity the witness, correspondence, books, papers, documents, or other records desired and shall be supported by a showing of general relevance and reasonable scope.

(d) Rulings. The Hearing Officer shall promptly rule on the request.

§6.03 Service

Service of a subpoena may be made by any person who is over 18 years of age and not a party to the proceeding. Service may be made either:

(a) In person,

(b) By registered or certified mail, or express mail with return receipt, or

(c) By delivery to a responsible person (named) at the residence or place of business (as appropriate) of the person to be served.

§6.04 Return of service

When service of a subpoena is effected, the person serving the subpoena shall certify on the return of service the date and the manner of service.

§6.05 Motion to quash

Any person against whom a subpoena is directed may file a motion to quash or limit the subpoena setting forth the reasons why the subpoena should not be complied with or why it should be limited in scope. This motion shall be filed with the Hearing Officer within 10 days after service of the subpoena.

§6.06 Enforcement

(a) Objections and Requests for enforcement. If a person has been served with a subpoena pursuant to Section 6.03 but fails or refuses to comply with its terms or otherwise objects to it, the party or person objecting or the party seeking compliance may seek a ruling from the Hearing Officer. The request for a ruling should be submitted in writing to the Hearing Officer. However, it may be made orally on the record at the hearing at the Hearing Officer's discretion. The party seeking compliance shall present the return of service and, except where the witness was required to appear before the Hearing Officer, shall submit evidence, by affidavit or declaration, of the failure or refusal to obey the subpoena.

(b) Ruling by Hearing Officer. (1) The Hearing Officer shall promptly rule on the request for enforcement and/or the objection(s).

(2) On request of the objecting 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.

(c) Review by the Board. The Board may overrule, modify, remand or affirm the ruling of the Hearing Officer and in its discretion, may direct the General Counsel to apply in the name of the Office for an order from a United States district court to enforce the subpoena.

(d) Application to an appropriate court; civil contempt. If a person fails to comply with a subpoena, the Board may direct 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. Any failure to obey a lawful order of the district court may be held by such court to be a civil contempt thereof.

Subpart G—Hearings

§7.01 The Hearing Officer
§7.02 Sanctions
§7.03 Disqualification of the Hearing Officer
§7.04 Motions and Prehearing Conference
§7.05 Scheduling the Hearing
§7.06 Consolidation and Joinder of Cases
§7.07 Conduct of Hearing; disqualification of representatives
§7.08 Transcript
§7.09 Admissibility of Evidence
§7.10 Stipulations
§7.11 Official Notice
§7.12 Confidentiality
§7.13 Immediate Board Review of a Ruling by a Hearing Officer
§7.14 Briefs
§7.15 Closing the record
§7.16 Official Record
§7.17 Hearing Officer Decisions; Entry in Records of the Office

§7.01 The Hearing Officer

(a) Exercise of authority. The Hearing Officer may exercise authority as provided in paragraph (b) of this Section upon his or her own initiative or upon the motion of a party, as appropriate.

(b) Authority. Hearing Officers shall conduct fair and impartial hearings and take all necessary action to avoid undue delay in the disposition of all proceedings. They shall have all powers necessary to that end unless otherwise limited by law, including, but not limited to, the authority to:

(1) Administer oaths and affirmations;

(2) Rule on motions to disqualify designated representatives;

(3) Issue subpoenas in accordance with Section 6.02;

(4) Rule upon offers of proof and receive relevant evidence;

(5) Rule upon discovery issues as appropriate under Sections. 6.01 to 6.06;

(6) Hold prehearing conferences for the settlement and simplification of issues;

(7) Convene a hearing as appropriate, regulate the course of the hearing, and maintain decorum and exclude from the hearing any person who disrupts, or threatens to disrupt, that decorum;

(8) Exclude from the hearing any person, except any complainant, any party, the attorney or representative of any complainant or party, or any witness while testifying;

(9) Rule on all motions, witness and exhibit lists and proposed findings, including motions for summary judgment;

(10) Require the filing of briefs, memoranda of law and the presentation of oral argument with respect to any question of law;

(11) Order the production of evidence and the appearance of witnesses;

(12) Impose sanctions as provided under Section 7.02 of these rules;

(13) File decisions on the issues presented at the hearing;

(14) Maintain the confidentiality of proceedings: and

(15) Waive or modify any procedural requirements of Sections 6 and 7 of these rules so long as permitted by the Act.

§7.02 Sanctions

The Hearing Officer may impose sanctions upon the parties, under, but not limited to, the circumstances set forth in this Section.

(a) Failure to comply with an order. When a party fails to comply with an order (including an order for the taking of a deposition, for the production of evidence within the party's control, or for production of witnesses), the Hearing Officer may:

(1) Draw an inference in favor of the requesting party on the issue related to the information sought.

(2) Stay further proceedings until the order is obeyed.

(3) Prohibit the party failing to comply with such order from introducing evidence concerning, or otherwise relying upon, testimony relating to the information sought.

(4) Permit the requesting party to introduce secondary evidence concerning the information sought.

(5) Strike any part of the complaint, briefs, answer, or other submissions of the party failing to comply with such request.

(6) Direct judgment against the non-complying party in whole or in part.

(7) Order that the non-complying party, or the representative advising that party, pay all or part of the attorney's fees and reasonable expenses of the other party or parties or of the Office, caused by the failure, unless the Hearing Officer or the Board finds that the failure was substantially justified or that other circumstances make an award of attorney's fees and/or expenses unjust.

(b) Failure to prosecute or defend. If a party fails to prosecute or defend a position, the Hearing Officer may dismiss the action with prejudice or rule for the petitioner.

(c) Failure to make timely filing. The Hearing Officer may refuse to consider any request, motion or other action that is not filed in a timely fashion in compliance with this Part.

§7.03 Disqualification of the Hearing Officer

(a) In the event that a Hearing Officer considers himself or herself disqualified, either because of personal bias or of an interest in the case or for some other disqualifying reason, he or she shall withdraw from the case, stating in writing or on the record the reasons for his or her withdrawal, and shall immediately notify the Office of the withdrawal.

(b) Any party may file a motion requesting that a Hearing Officer withdraw on the basis of personal bias or of an interest in the case or for some other disqualifying reason. This motion shall specifically set forth the reasons supporting the request and be filed as soon as the party has reason to believe that there is a basis for disqualification.

(c) The Hearing Officer shall rule on the withdrawal motion. If the motion is denied, the party requesting withdrawal may take the motion to the Executive Director. The motion to the Executive Director, together with a supporting brief, shall be filed within 5 days of service of the denial of the motion by the Hearing Officer. Upon receipt of the motion, the Executive Director will determine whether a response from the other party or parties is required, and if so, will fix by order the time for the filing of the response. Any objection to the ruling of the Executive Director on the withdrawal motion shall not be deemed waived by further participation in the hearing and may be the basis for an appeal to the Board from the decision of the Hearing Officer under Section 8.01 of these rules. Such objection will not stay the conduct of the hearing.

§7.04 Motions and prehearing conference

(a) Motions. When a case is before a Hearing Officer, motions of the parties shall be filed with the Hearing Officer and shall be in writing except for oral motions made on the record during the hearing. All written motions and any responses to them shall include a proposed order, where applicable. Only with the Hearing Officer's advance approval may either party file additional responses to the motion or to the response to the motion. Motions for extension of time will be granted only for good cause shown.

(b) Scheduling of the Prehearing Conference. Within 7 days after assignment, the Hearing Officer shall serve on the employee and the employing office and their designated representatives written notice setting forth the time, date, and place of the prehearing conference.

(c) Prehearing conference memoranda. The Hearing Officer may order each party to prepare a prehearing conference memorandum. That memorandum may include:

(1) The major factual contentions and legal issues that the party intends to raise at the hearing in short, successive, and numbered paragraphs, along with any proposed stipulations of fact or law. For example, in a case of alleged unlawful discrimination, a complainant's statement of legal issues should include that party's statement of the appropriate prima facie case; an employing office's statement should include the alleged legitimate, non-discriminatory reason(s) that the employing office will articulate; and affirmative defenses, if any, which may be raised.

(2) An estimate of the time necessary for presentation of the party's case;

(3) The specific relief, including the amount of monetary relief, that is being or will be requested;

(4) The names of potential witnesses for the party's case, except for potential rebuttal witnesses, and the purpose for which they will be called and a list of documents that the party is seeking from the opposing party, and, if discovery was permitted, the status of any pending request for discovery. (It is not necessary to list each document requested. Instead, the party may refer to the request for discovery.)

(5) A brief description of any other unresolved issues.

(d) At the prehearing conference, the Hearing Officer may discuss the subjects specified in paragraph 4 above and the manner in which the hearing will be conducted and proceed. In addition the Hearing Officer may explore settlement possibilities and consider how the factual and legal issues might be simplified and any other issues that might expedite the early resolution of the dispute. The Hearing Officer shall issue an order, which recites the action taken at the conference and the agreements made by the parties as to any of the matters considered and which limits the issues to those not disposed of by admissions or agreements of the parties. Such order, when entered, controls the course of the proceeding, subject to later modification by the Hearing Officer by his or her own order or upon proper request of a party for good cause shown.

§7.05 Scheduling the hearing

(a) Date, time, and place of hearing. The Office shall issue the notice of hearing, which shall fix the date, time, and place of hearing. In no event, absent a postponement granted by the Office, will a hearing commence later than 60 days after the filing of the complaint.

(b) Motions for postponement or a continuance. Motions for postponement or for a continuance by either party shall be made in writing to the Office, shall set forth the reasons for the request and the position of the opposing party on the postponement. Such a motion may be granted upon a showing of good cause. In no event will a hearing commence later than 90 days after the filing of the complaint.

§7.06 Consolidation and joinder of cases

(a) Explanation. (1) Consolidation is when two or more parties have cases that might be treated as one because they contain identical or similar issues or in such other appropriate circumstances.

(2) Joinder is when one person has two or more claims pending and they are united for consideration. For example, where a single individual who has one appeal pending challenging a 30-day suspension and another appeal pending challenging a subsequent dismissal, joinder might be warranted.

(b) The Board, the Office, or a Hearing Officer may consolidate or join cases on their own initiative or on the motion of a party if to do so would expedite processing of the cases and not adversely affect the interests of the parties, taking into account the confidentiality requirements of Section 416 of the Act.

§7.07 Conduct of hearing; disqualification of representatives

(a) Pursuant to Section 405(d)(1) of the Act, the Hearing Officer will conduct the hearing in closed session on the record. Only the Hearing Officer, the parties and their representatives, and witnesses during the time they are testifying, will be permitted to attend, except that the Office may not be precluded from observing the hearings. The Hearing Officer, or a person designated by the Hearing Officer or the Executive Director, shall control the recording of the proceedings.

(b) The hearing will be conducted as an administrative proceeding. Witnesses shall testify under oath or affirmation. Except as specified in the Act and in these rules, the Hearing Officer will conduct the hearing, to the greatest extent practicable, in accordance with the principles and procedures in Sections 554 through 557 of title 5 of the United States Code.

(c) No later than the opening of the hearing, or as otherwise ordered by the Hearing Officer, each party shall submit to the Hearing Officer and to the opposing party a typed list of the witnesses, except rebuttal witnesses, expected to be called to testify.

(d) At the commencement of the hearing, or as otherwise ordered by the Hearing Officer, the Hearing Officer may consider any stipulations of facts and law pursuant to Section 7.10, take official notice of certain facts pursuant to Section 7.11, rule on objections made by the parties and hear the examination and cross-examination of witnesses. Each party will be expected to present his or her cases in a concise manner, limiting the testimony of witnesses and submission of documents to relevant matters.

(e) If the Hearing Officer concludes that a representative of an employee, a witness, or an employing office has a conflict of interest, he may, after giving the representative an opportunity to respond, disqualify the representative. In that event, within the time limits established by the Act, the affected party will have a reasonable time to retain other representation.

§ 7.08 Transcript

(a) Preparation. An accurate electronic or stenographic record of the hearing shall be kept and shall be the sole official record of the proceeding. The Office shall be responsible for the cost of transcription of the hearing. Upon request, a copy of a transcript of the hearing shall be provided to each party, provided, however, that such party has first agreed to maintain and respect the confidentiality of such transcript in accordance with the applicable rules prescribed by the Office or the Hearing Officer in order to effectuate Section 416(c) of the Act. Additional copies of the transcript shall be made available to a party upon payment of costs. Exceptions to the payment requirement may be granted for good cause shown. A motion for an exception shall be made in writing and accompanied by an affidavit or declaration setting forth the reasons for the request and shall be granted upon a showing of good cause. Requests for copies of transcripts shall be directed to the Office. The Office may, by agreement with the person making the request, make arrangements with the official hearing reporter for required services to be charged to the requester.

(b) Corrections. Corrections to the official transcript will be permitted. Motions for correction must be submitted within 10 days of service of the transcript upon the party. Corrections of the official transcript will be permitted only when errors of substance are involved and only upon approval of the Hearing Officer. The Hearing Officer may make corrections at any time with notice to the parties.

§ 7.09 Admissibility of evidence

The Hearing Officer shall apply the Federal rules of evidence to the greatest extent practicable. These rules provide that the Hearing Officer may exclude evidence if, among other things, it constitutes inadmissible hearsay or its probative value is substantially outweighed by the danger of unfair prejudice, by confusion of the issues, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

§ 7.10 Stipulations

The parties may stipulate as to any matter of fact. Such a stipulation will satisfy a party's burden of proving the fact alleged.

§ 7.11 Official notice

The Hearing Officer on his or her own motion or on motion of a party, may take official notice of a fact that is not subject to reasonable dispute because it is either: (a) A matter of common knowledge; or (b) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned. Official notice taken of any fact satisfies a party's burden of proving the fact noticed.

Where a decision, or part thereof, rests on the official notice of a material fact not appearing in the evidence in the record, the fact of official notice shall be so stated in the decision, and any party, upon timely request, shall be afforded an opportunity to show the contrary.

§ 7.12 Confidentiality

Pursuant to Section 416 of the Act, all proceedings and deliberations of Hearing Officers and the Board, including the transcripts of hearings and any related records, shall be confidential, except as specified in Section 416(d), (e), and (f) of the Act. All parties to the proceeding and their representatives, and witnesses who appear at the hearing, will be advised of the importance of confidentiality in this process and of their obligations, subject to sanctions, to maintain it.

§ 7.13 Immediate Board Review of a Ruling by a Hearing Officer

(a) Review strongly disfavored. Board review of a ruling by a hearing officer while a proceeding is ongoing (an "interlocutory appeal") is strongly disfavored. In general, a request for interlocutory review may go before the Board for consideration only if the Hearing Officer, on his or her own motion or by motion of the parties, determines that the issue presented is of such importance to the proceeding that it requires the Board's immediate attention.

(b) Standards for review. In determining whether to forward a request for interlocutory review to the Board, the Hearing Officer shall consider the following:

(1) Whether the ruling involves a significant question of law or policy about which there is substantial ground for difference of opinion; and

(2) Whether an immediate review of the Hearing Officer ruling by the Board will materially advance the completion of the proceeding; and

(3) Whether denial of immediate review will cause undue harm to a party or the public.

(c) Time for Filing. A motion by a party for interlocutory review of a ruling of the Hearing Officer shall be filed with the Hearing Officer within 5 days after service of the ruling upon the parties. The motion shall include arguments in support of both interlocutory review and the determination to be made by the Board upon review. Responses, if any, shall be filed with the Hearing Officer within 3 days after service of the motion.

(d) Hearing Officer Action. If the conditions set forth in paragraph (b) above are met, the Hearing Officer may forward a request for interlocutory review to the Board for its immediate consideration. Any such submission shall explain the basis on which the Hearing Officer concluded that the standards for interlocutory review have been met.

(e) Grant of Interlocutory Review Within Board's Sole Discretion. The Board, in its sole discretion, may grant interlocutory review.

(f) Stay pending review. Unless otherwise directed by the Board, the stay of any proceedings during the pendency of either a request for interlocutory review or the review itself shall be within the discretion of the Hearing Officer.

(g) Denial of Motion not Appealable; Mandamus. The grant or denial of a motion for a request for interlocutory review shall not be appealable. The Hearing Officer shall promptly bring a denial of such a motion, and the reasons therefor, to the attention of the Board. If, upon consideration of the motion and the reason for denial, the Board believes that interlocutory review is warranted, it may grant the review sua sponte. In addition, the Board may in its discretion, in extraordinary circumstances, entertain directly from a party a writ of mandamus to review a ruling of a Hearing Officer.

(h) Procedures before Board. Upon its acceptance of a ruling of the Hearing Officer for interlocutory review, the Board shall issue an order setting forth the procedures that will be followed in the conduct of that review.

(i) Review of a Final Decision. Denial of interlocutory review will not affect a party's right to challenge rulings, which are otherwise appealable, as part of an appeal to the Board from the Hearing Officer's decision issued under Section 7.17 of these rules.

§ 7.14 Briefs

(a) May be filed. The Hearing Officer may permit the parties to file posthearing briefs on the factual and the legal issues presented in the case.

(b) Length. No principal brief shall exceed 50 pages, or 12,500 words, and no reply brief 25 pages, or 6,250 words, exclusive of tables and pages limited only to quotations of statutes, rules, and the like. Motions to file extended briefs shall be granted only for good cause shown; the Hearing Officer may in his or her discretion also reduce the page limits. Briefs in excess of 10 pages shall include an index and a table of authorities.

(c) Format. Every brief must be easily readable. Briefs must have double spacing between each line of text, except for quoted texts and footnotes, which may be single-spaced.

§ 7.15 Closing the record

(a) The record shall be closed at the conclusion of the hearing. However, when the Hearing Officer allows the parties to submit additional evidence previously identified for introduction, the Hearing Officer may allow an additional period before the conclusion of the hearing as is necessary for that purpose.

(b) Once the record is closed, no additional evidence or argument shall be accepted into the record except upon a showing that new and material evidence has become available that was not available despite due diligence prior to the closing of the record. However, the Hearing Officer shall make part of the record any motions for attorney fees, supporting documentation, and determinations thereon, and any approved correction to the transcript.

§ 7.16 Official record

The transcript of testimony and the exhibits, together with all papers and motions filed in the proceeding, shall constitute the exclusive and official record.

§ 7.17 Hearing Officer decisions; entry in records of the Office

(a) Pursuant to Section 405(g) of the Act, no later than 90 days after the conclusion of the hearing, the Hearing Officer shall issue a written decision.

(b) Upon issuance, the decision and order of the Hearing Officer shall be entered into the records of the Office.

(c) The Office shall promptly provide a copy of the decision and order of the Hearing Officer to the parties.

(d) If there is no appeal of a decision and order of a Hearing Officer, that decision becomes a final decision of the Office, which is subject to enforcement under Section 8.01 of these rules.

Subpart H—Proceedings before the Board

§ 8.01 Appeal to the Board

§ 8.02 Compliance with Final Decisions, Requests for Enforcement

§ 8.03 Judicial Review

§ 8.01 Appeal to the Board

(a) No later than 30 days after the entry of the decision of the Hearing Officer in the records of the Office, an aggrieved party may seek review of that decision by the Board by filing with the Office a petition for review by the Board. The appeal must be served on the opposing party or its representative.

(b) Unless otherwise ordered by the Board, within 21 days following the filing of a petition for review to the Board, the appellant shall file and serve a supporting brief. That brief shall identify with particularity those findings or conclusions in the decision that are challenged and shall refer specifically to the portions of the record and the provisions of statutes or rules that are alleged to support each assertion made on appeal.

Unless otherwise ordered by the Board, within 21 days following the service of the

appellant's brief, the opposing party may file and serve a responsive brief. Unless otherwise ordered by the Board, within 10 days following the service of the appellee's responsive brief, the appellant may file and serve a reply brief.

(c) Upon the request of any party or upon its own order, the Board, in its discretion, may hold oral argument on an appeal.

(d) Upon appeal, the Board shall issue a written decision setting forth the reasons for its decision. The Board may affirm, reverse, modify or remand the decision of the Hearing Officer in whole or in part.

(e) The Board may remand the matter to the Hearing Officer for further action or proceedings, including the reopening of the record for the taking of additional evidence. The Hearing Officer shall render a report to the Board on the remanded matters. Upon receipt of the report, the Board shall determine whether the views of the parties on the content of the report should be obtained in writing and, where necessary, shall fix by order the time for the submission of those views. A decision of the Board following completion of the remand shall be the final decision of the Board and shall be subject to judicial review.

(f) Pursuant to Section 406(c) of the Act, in conducting its review of the decision of a Hearing Officer, the Board shall set aside a decision if it 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.

(g) In making determinations under paragraph (g), above, 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.

(h) Record: what constitutes. The complaint and any amendments, notice of hearing, answer and any amendments, motions, rulings, orders, stipulations, exhibits, documentary evidence, depositions, and the transcript of the hearing (together with any electronic recording of the hearing if the original reporting was performed electronically) together with the hearing officer's decision and the petition for review, and any cross-petition, shall constitute the record in the case.

§8.02 Compliance with final decisions, requests for enforcement

(a) A party required to take any action under the terms of a final decision of the Office shall carry out its terms promptly, and shall within 30 days after the decision or order becomes final and goes into effect by its terms, provide the Office and all parties to the proceedings with a compliance report specifying the manner in which compliance with the provisions of the decision or order has been accomplished. If complete compliance has not been accomplished within 30 days, the party required to take any such action shall submit a compliance report specifying why compliance with any provision of the decision order has not yet been fully accomplished, the steps being taken to assure full compliance, and the anticipated date by which full compliance will be achieved.

(b) The Office may require additional reports as necessary;

(c) If the Office does not receive notice of compliance in accordance with paragraph (a) of this Section, the Office shall make inquiries to determine the status of compliance. If the Office cannot determine that full compliance is forthcoming, the Office shall report the failure to comply to the Board and recommend whether court enforcement of the decision should be sought.

(d) Any party may petition the Board for enforcement of a final decision of the Office or the Board. The petition shall specifically set forth the reasons why the petitioner believes enforcement is necessary.

(e) Upon receipt of a report of non-compliance or a petition for enforcement of a final decision, or as it otherwise determines, the Board may issue a notice to any person or party to show cause why the Board should not seek judicial enforcement of its decision or order.

(f) Within the discretion of the Board, it may direct the General Counsel to petition the Court for enforcement of a decision under Section 406(e) of the Act whenever the Board finds that a party has failed to comply with its decision and order.

§8.03 Judicial review

Pursuant to Section 407 of the Act, a party aggrieved by a final decision of the Board under Section 406(e) in cases arising under Part A of Title II of the Act may file a petition for review with the United States Court of Appeals for the Federal Circuit.

Subpart I—Other Matters of General Applicability

§9.01 Attorney's Fees and Costs
§9.02 Ex parte Communications
§9.03 Settlement Agreements
§9.04 Revocation, amendment or waiver of rules

§9.01 Attorney's fees and costs

(a) Request. No later than 20 days after the entry of a Hearing Officer's decision under Section 7.17 or after service of a Board decision by the Office, the complainant, if he or she is a prevailing party, may submit to the Hearing Officer who heard the case initially a request for the award of reasonable attorney's fees and costs, following the form specified in paragraph (b) below. The Board or the Hearing Officer, after giving the respondent an appointment to reply, shall rule on the request.

(b) Form of Request. In addition to setting forth the legal and factual bases upon which the attorney's fees and/or costs are sought, a request for attorney's fees and/or costs shall be accompanied by:

(1) accurate and contemporaneous time records;

(2) a copy of the terms of the fee agreement (if any);

(3) the attorney's customary billing rate for similar work; and

(4) an itemization of costs related to the matter in question.

§9.02 [Reserved—Ex parte Communications]

§9.03 Settlement agreements

(a) Application. This Section applies to formal settlement agreements between parties under Section 414 of the Act.

(b) Informal Resolution. At any time before a covered employee files a complaint under Section 405, a covered employee and the employing office, on their own, may agree voluntarily and informally to resolve a dispute, so long as the resolution does not require a waiver of a covered employee's rights or the commitment by the employing office to an enforceable obligation.

(c) Formal Settlement Agreement. The parties may agree formally to settle all or part of a disputed matter. In that event, the agreement shall be in writing and submitted to the Executive Director for review and approval.

§9.04 Revocation, amendment or waiver of rules

(a) The Executive Director, subject to the approval of the Board, may revoke or amend these rules by publishing proposed changes in the Congressional Record and providing for a comment period of not less than 30 days. Following the comment period, any changes to the rules are final once they are published in the Congressional Record.

(b) The Board or a Hearing Officer may waive a procedural rule contained in this Part in an individual case for good cause shown if application of the rule is not required by law.

Signed at Washington, D.C., on this 13th day of November, 1995.

R. Gaull Silberman,
Executive Director, Office of Compliance.

TRIBUTE TO ALEX BING

Mr. DOLE. Mr. President; I know I speak for all Members of the Senate in extending our condolences to the family of Alex Bing, who passed away on September 28, 1995.

At the time of his death, Alex had worked for the Senate for 10 years as a valued employee of the Sergeant at Arms' environmental service operation.

In 1992 and 1993 Alex was selected as the environmental services' Employee of the Year, in recognition of his outstanding performance and attendance record.

Alex's primary responsibility was the care and maintenance of the Minton tile floors located throughout the Senate wing of the Capitol Building.

Alex was a dedicated and loyal employee who took great pride in his work. As a result of his dedication, many visitors to the Capitol have been provided the opportunity to view this historic building at its very best.

All those who knew Alex knew him as a kind, quiet, and caring person. He will be missed by all.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CRAIG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m., having arrived, the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, at 12:31 p.m., the Senate recessed until 2:16 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. COATS).

The PRESIDING OFFICER. The Senator from Alaska is recognized.

ALASKA POWER ADMINISTRATION ASSET SALE AND TERMINATION ACT—CONFERENCE REPORT

Mr. MURKOWSKI. Mr. President, on behalf of Senator DOLE, I ask that the Chair lay before the Senate the conference report to accompany S. 395, the Alaska Power Administration bill.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 395) to authorize and direct the Secretary of Energy to sell the Alaska Power Marketing Administration, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of November 6, 1995.)

Mr. MURKOWSKI. Mr. President, it is my understanding that the Senator from Washington, who is here, has agreed to 2 hours equally divided on this issue.

The PRESIDING OFFICER. That is the order.

Mr. MURKOWSKI. I thank the Chair.

Mr. President, I am pleased to bring before the Senate the conference report on S. 395, historic legislation that our State has sought for over a decade. Our citizens will no longer be discriminated against and kept from selling the State's most valuable resource in the world market. Working with small and integrated oil producers, with independent tanker operators, and with maritime labor, we have demonstrated that it still is possible to get something good done for the country.

Title I of the conference report provides for the sale of the Alaska Power Administration's assets and the termination of the Alaska Power Administration once the sale is completed.

The Alaska Power Administration is unique among the Federal power marketing administrations. First, unlike the other Federal power marketing administrations, the Alaska Power Administration owns its power generating facilities, which consists of two hydroelectric projects. Second, these single-purpose hydroelectric projects were not built as the result of a water resource management plan, as is the case with most other Federal hydroelectric dams. Instead, they were built to promote economic development and the establishment of essential industries. Third, the Alaska Power Administration operates entirely in one State. Fourth, the Alaska Power Administration was never intended to remain indefinitely under Government control. That is specifically recognized in the Eklutna project authorizing legislation.

The Alaska Power Administration owns two hydroelectric projects, Snettisham and Eklutna. Snettisham is a 78-megawatt project located 45 miles south of Juneau. It has been Juneau's main power source since 1975, accounting for 80 percent of its electric power supply. Eklutna is a 30-megawatt project located 34 miles northeast of Anchorage. It has served the Anchorage and Matanuska Valley areas since 1955, accounting for 5 percent of its electric power supply.

The Alaska Power Administration's assets will be sold pursuant to the 1989 purchase agreements between the Department of Energy and the purchasers. Snettisham will be sold to the State of Alaska, and Eklutna will be sold jointly to the municipality of Anchorage, the Chugach Electric Association, and the Matanuska Electric Association. For both, the sale price is determined under an agreed-upon formula. It is the net present value of the remaining debt service payments that the Treasury would receive if the Federal Government had retained ownership of the two projects. The proceeds from the sales are currently estimated to be about $85 million, however, the actual sales price will vary with the interest rate at the time of purchase.

S. 395 and a separate formal agreement provide for the full protection of fish and wildlife. The purchasers, the State of Alaska, the U.S. Department of Commerce National Marine Fisheries Service, and the U.S. Department of the Interior have jointly entered into a formal binding agreement providing for post-sale protection, mitigation, and enhancement of fish and wildlife resources affected by Eklutna and Snettisham. S. 395 makes that agreement legally enforceable.

The Alaska Power Administration has 34 people located in Alaska. The purchasers of the two projects have pledged to hire as many of these as possible. For those who do not receive offers of employment, the Department of Energy has pledged that it will offer employment to any remaining Alaska Power Administration employees, although the DOE jobs are expected to be in the lower 48.

Title II of the bill would at long last allow exports of Alaska's North Slope crude oil when carried in U.S.-flag vessels. This legislation will finally allow my State to market its most valuable product in the global marketplace, letting the market determine its ultimate usage.

So that my colleagues will better understand the provisions of title II, let me expand on the description provided in the "Statement of Managers." Section 201 of the conference report authorizes ANS exports, making inapplicable the general and specific restrictions in section 7(d) of the Export Administration Act of 1979, section 28(u) of the Mineral Leasing Act of 1920, section 103 of the Energy Policy and Conservation Act, and the Department of Commerce's short supply regulations, unless the President determines that they would not be in the national interest. The conference report negates, as well, any other existing law, regulation, or executive order that might otherwise be interpreted to block ANS exports.

Before making his national interest determination, the President must consider an appropriate environmental review. Because questions were raised when the bill was first before the Senate, I want to assure my colleagues that the conferees have recommended a provision fully consistent with the National Environmental Policy Act. Under the conference report, the administration is directed to conduct an "appropriate environmental review." As my colleagues may know, "appropriate environmental review" is not a term defined in NEPA. Because it is unique to this legislation and was not given a statutory definition, I think I should explain what the conferees meant through the selection of this term and how it will operate consistently with NEPA.

In its comprehensive report on the costs and benefits of exporting ANS crude oil, the Department of Energy found "no plausible evidence of any direct negative environmental impact from lifting the ANS crude export ban." In fact, the Department concluded that, "[w]hen indirect effects are considered, it appears that the market response to removing the ANS export ban could result in a production and transportation structure that is preferable to the status quo in certain respects." The Department found, for example, that "[l]ifting the export ban will reduce overall tanker movements in U.S. waters." The Department also found that the "[i]mported oil that would substitute for ANS crude exports would have a lower sulfur content than ANS crude, thereby lowering the average sulfur content of the crude processed in California refineries." The weight of the testimony taken before my committee and the House Resources Committee affirmed the appropriateness of the Department's ultimate finding that enactment of this legislation would not have any direct negative effect on the environment.

In light of the work already done and the conclusions reached by the Department of Energy, the conference report directs, as the "appropriate environmental review," an abbreviated 4-month study. The environmental review is intended to be thorough and comprehensive. Given the Department's findings and the compressed time frame, neither a full environmental impact statement nor a more limited environmental assessment is

contemplated. NEPA is satisfied because the conference report directs that, if any potential adverse effects on the environment are found, the study is to recommend "appropriate measures" to mitigate or cure them. This procedure tracks the well-recognized procedure whereby an agency may forego a full EIS by taking appropriate steps to correct any problems found during an EA. Under current law, if an EA reveals some potentially adverse environmental effects, an agency may take mitigating measures that lessen or eliminate the environmental impact and, thereupon, make a finding of no significant impact and decline to prepare a formal EIS. Similarly, as long as potentially adverse impacts can be mitigated by conditions on exports included in the President's national interest determination, NEPA is satisfied.

In making his national interest determination, the President may impose—with one significant exception—appropriate terms and conditions on ANS exports. As set forth in the original Senate bill and the House companion measure, the President may not impose a volume limitation of any kind. We want the market given a chance to work. Having been discriminated against for so long, we fought hard to ensure that our oil could be sold under free market conditions. The conference report is intended to permit ANS crude oil to compete with other crude oil in the world market under normal market conditions.

To facilitate competition and in recognition that the conference report precludes imposition of a volume limitation, the conferees intend that the President direct exports to proceed under a general license. Although crude oil exports historically have been governed through the use of individual validated licenses, this type of before-the-fact licensing procedure would not be appropriate here. Like the rule governing exports of refined petroleum products, which are permitted under a general license, the rule governing ANS exports should permit use of a general license for at least three reasons.

First, the conference report explicitly negates the short supply regulations and the statutory authority underlying them as they relate to ANS exports. Our intent was to clear away two decades of accumulated obstructions to ANS exports.

Second, the conference report specifically precludes the President from imposing a volume limitation. In almost every instance today, individual validated licenses on crude exports are necessary because of the need to deal with volume limitations, such as those imposed on exports of California heavy crude oil or ANS crude to Canada. Finally, it is our intent that the market finally be given an opportunity to operate. We do not want unnecessary paperwork to impede proper functioning of the market.

We understand that some information is needed to monitor exports. We have looked at the model for exports of refined petroleum products as a guide. Refined petroleum product exporters submit export declarations to the U.S. Customs Service at the time or after they export. The Department of Commerce compiles this information for trade statistics purposes. Similarly, exporters of ANS crude under a general license would routinely file export declarations contemporaneously or after the time of export. These filings will provide any information needed for monitoring ANS crude exports.

In view of the anticipated substantial benefits to the nation of ANS exports, the President should make his national interest determination as promptly as possible. Moreover, given the exhaustive DOE study and the long time that has been available since the bill cleared the Senate to study any potential adverse environmental effects, we believe the President should soon have at hand the necessary information to promptly make the necessary affirmative determination. Because any delay will only delay the benefits the Nation will reap through exports, we hope the President will act as quickly as may be practicable.

As many Members of this body know, there has long been concern in the domestic maritime community that lifting the ban would force the scrapping of the independent tanker fleet and would destroy employment opportunities for merchant mariners. There can be little doubt that Congress has a compelling interest in preserving a fleet essential to our Nation's military security, especially one vital to moving an important natural resource such as my State's oil. In recognition of this, the conference report requires that ANS exports be carried in U.S.-flag vessels. The only exceptions are exports to Israel under a bilateral treaty and to others under the International Emergency Oil Sharing Plan of the International Energy Agency.

Prior to our taking the underlying bill to the floor, the U.S. Trade Representative assured my committee that this provision would not violate our GATT obligations. As made clear in the statement of managers, the conferees concur with the administration's view that this provision is fully consistent with our international obligations. Moreover, it is supported by ample precedent, including in particular a comparable provision in the implementing legislation for the United States-Canada Free Trade Agreement.

The conference report also directs the Secretary of Commerce to issue any rules necessary to govern ANS exports within 30 days of the President's national interest determination. In light of the overwhelming benefits to the Nation of ANS exports, the Secretary should promulgate any rules necessary contemporaneously with the President's national interest determination.

Title III of the bill would provide royalty relief for leases on Outer Continental Shelf tracts in deep water in certain areas of the Gulf of Mexico. Deep water royalty is an issue I have been working on with the ranking member of the Energy Committee for some time.

I support measures to stimulate oil and gas exploration and production on the Outer Continental Shelf [OCS] and the deep water royalty provisions in S. 395 would be an important step in stimulating energy exploration and development and reducing our reliance on foreign oil.

A report released earlier this year by the Commerce Department suggests that our national security is at risk because we now import more than 50 percent of our domestic petroleum requirements. Department of Energy [DOE] figures predict that crude oil imports will hit 65 percent in the year 2000, and by the year 2005 we will be importing over two-thirds—68 percent—of our crude oil.

The OCS is an invaluable oil and natural gas resource and a prolific source of revenue to the U.S. Treasury, having generated more than $100 billion in revenues over the years. The OCS could play a major role in reducing the amount of dollars we send overseas to import oil and natural gas. In 1993, our energy deficit was $46 billion—roughly 40 percent of the total U.S. merchandise trade deficit of $116 billion.

OCS production from deep water areas could help improve energy security, reduce our deficit in our balance of payments, create jobs, stimulate demand for related goods and services, and provide needed revenue through bonus bids, royalties, and ripple effect tax benefits.

The basic need for this legislation is very easy to justify: oil and gas reserves nearest to shore or with easiest access are being depleted, and as this happens companies are forced to look in deeper water for more reserves. That is especially true in the Western and Central Gulf of Mexico, where oil and gas exploration and production activity has declined and it is now necessary for companies to move further and further offshore into water depths previously thought to be prohibitive, both economically and technologically.

I believe the deep water royalty provisions are necessary to stimulate OCS oil and gas production and reduce our reliance on foreign imports. I support the deep water provisions and urge adoption of the conference report on these important provisions.

Mr. President, let me give a brief outline of the legislation that is before

us, S. 395, title I, called the Alaska Power Administration sale. Title I of S. 395 provides for the sale of the Alaska Power Administration's assets and the termination of the Alaska Power Administration once the sale occurs.

The sale of the Alaska Power Administration has been a bipartisan effort on the part of both the House and the Senate and the culmination of the efforts of three administrations. It has been some time in the process. It was initiated during the Reagan administration, it was signed during the Bush administration, and the implementing legislation which is contained in this bill was proposed by the current administration.

On September 29 of this year, the Department of Energy, Secretary O'Leary, wrote in support of this legislation, and on October 10 of this year, the Edison Electric Institute wrote in support of the legislation on behalf of the investor-owned electric utility industry.

Mr. President, this organization, known as the Alaska Power Administration, is really unique among the Federal marketing administrations. First of all, unlike the other Federal power marketing administrations, the Alaska Power Administration owns its power generating facilities. These are two hydroelectric projects, one in Anchorage and another near Juneau. They are approximately 600 to 700 miles apart.

Second, the single-purpose hydroelectric projects were not built as a result of water resource management plans. Instead, they were built to promote economic development and the establishment of essential industries within the areas that they serve.

Third, the Alaska Power Administration operates entirely within one State. These services do not cross State lines. And because of the distance between the two areas; namely, Anchorage and Juneau, there is no opportunity for an intertie. These facilities are separate and distinct.

Furthermore, the Alaska Power Administration was never intended to remain indefinitely under Government control. This is specifically recognized in the Eklutna project authorization legislation.

Fifth, the sale terms of the Alaska Power Administration that were specifically negotiated between the Federal Government and the purchasers are memorialized in the purchase contract.

So for those who might be concerned that this sets precedent, Mr. President, for PMA's, this is clearly not the case, as it is applied to the Alaska Power Administration.

Now, as I have indicated, these two hydroelectric projects in Anchorage and Juneau are known as Snettisham in Juneau and Eklutna in Anchorage. Snettisham is a 78-megawatt project located about 45 miles south of Juneau. It has been in Juneau, which is the capital city's main power source, since 1975, accounting for approximately 80 percent of the electric supply utilization in that area. Eklutna is a smaller plant, a 30-megawatt project, located 34 miles northeast of Anchorage. It has served that area since 1955, accounting for about 5 percent of the electric supply in the Anchorage area.

The Alaska Power Administration's assets will be sold pursuant to the 1989 purchase agreement between the Department of Energy and the purchasers. Snettisham will be sold to the State of Alaska. Eklutna will be sold jointly to the municipality of Anchorage, the Chugach Electric Association, and the Matanuska Electric Association.

The sales price is determined by calculating the net present value to the remaining debt service payments that the Treasury would receive if the Federal Government had retained ownership of the two projects. It is anticipated that the sale proceeds will be in the area of $85 million. Actual sales price will vary with the interest rate at the time of purchase.

I might add, the bill and separate formal agreements provide for the full protection of fish and wildlife on each of these hydroelectric projects. The purchaser, the State of Alaska, U.S. Department of Commerce, National Marine Fisheries Service, and U.S. Department of the Interior have jointly entered into a formal binding agreement providing for post-sale protection, mitigation, and enhancement of fish and wildlife resources affected by the Eklutna and Snettisham projects. S. 395 makes that agreement legally enforceable.

As a result of this formal agreement, the Department of Energy, Department of the Interior, and the Department of Commerce all agree that the two hydroelectric projects warrant exemption from FERC licensing under the Federal Power Act.

The August 7, 1991, purchase agreement states in part,

> The National Marine Fisheries Service and U.S. Fish and Wildlife Services in the State agree that the following mechanisms to protect and implement measures to protect and mitigate damages to and enhance fish and wildlife, including related spotting grounds and habitat, obviate the need for Eklutna purchasers to obtain FERC licensing.

Further, the Alaska Power Administration has some 34 people located currently in Alaska. The purchasers of the two projects have pledged to hire as many of these individuals as possible. For those who do not receive offers of employment, the Department of Energy has pledged that it will offer other employment.

Let me return at this time briefly to title II, known as the Alaska North Slope crude oil exports. Title II of Senate bill 395 would allow the exports of Alaska North Slope crude oil, limited to U.S.-flag and U.S. crude vessels.

The export restrictions were first enacted shortly after the commencement of the 1973 Arab-Israeli war and the first Arab oil boycott. Following the second major oil shock in 1979, Congress effectively imposed a ban on exports. Much has changed since then.

Last year, for the first time, imports met more than half of our domestic consumption because domestic consumption production has drastically declined.

By precluding the market from operating normally, the export ban has had the unintended effect of discouraging further energy production.

With this market disorientation eliminated, producers will make substantial investments in California and other areas that would lead to additional production on shore.

Every barrel of additional oil produced in California and on the North Slope is one less that would have to be imported from the Middle East or anywhere else in the world, where currently our imports are about 51 percent of our total consumption.

Some Senators have expressed concern that lifting the ANS export oil ban would jeopardize the supply of U.S. crude on the west coast. It is important to recognize that Washington and California are the closest and are natural markets for ANS crude because of the transportation distance. Washington and California ports are the closest to Alaska, and the ANS crude will continue to be supplied to their refineries because of the cost and proximity.

Furthermore, the only major refinery that previously opposed the lifting of the ban, Tosco, has a 5-year contract with one of the major oil companies to keep the refinery in Washington supplied. There is still nearly 4 years to run on that contract.

Further, the lifting of the oil export ban would relieve the pressure that forces some of the ANS crude oil down to Panama where it is unloaded and transported across Panama via pipeline and then reloaded onto vessels to take it into the gulf coast.

It no longer makes economic sense to handle the oil that many times and transport it the long distance. That is the oil that will be available for export.

Let me elaborate a little more on this because there has been concern expressed in this body, and by others, as to the merits of why we would attempt to increase development of oil on the west coast of the United States and Alaska, from the standpoint of exploration, at the same time we are authorizing the export of Alaskan oil that previously has been precluded from export.

Again, let me ask the Chair to visualize the circumstances. The oil that is produced from Alaska initially was 2 million barrels a day—now 1½ million

barrels a day—moves down the west coast and is dropped off at Puget Sound, or San Francisco Bay, or the Los Angeles area for their refineries to refine that oil. There is some excess. That excess, for the last 17 to 18 years, has been going down to Panama.

In Panama, there is a pipeline across the isthmus, and that excess oil is unloaded off United States-flag vessels from Valdez, AK, moving through the pipeline across the Isthmus of Panama and then is required to be reloaded on a smaller United States tanker and taken into the gulf ports of Galveston and other areas, where the oil is refined.

Because of the double handling, it is no longer economic to take that oil in that rather cumbersome process. This is the oil that we would anticipate that would be marketed into primarily the Pacific Rim ports. And one has to consider the merits of taking oil that is excess to the west coast and transporting it over the Pacific, across the Pacific to Japan, Korea, and Taiwan, in United States-flag vessels with United States crews, when indeed that oil can be imported into those countries, the Mideast or whatever, in foreign-flag vessels.

So I want to put to rest the thought that there would be any significant amount of oil moved that would be detrimental to the concentration of where the oil is currently consumed; namely, the West Coast of the United States. What we are really looking at is that oil that is excess to the west coast, currently moving through the Panama Canal at substantial costs, that it simply makes sense to move that oil to the markets where that oil can be consumed in a more economic, viable manner.

So, Mr. President, the current prohibition just does not make economic sense. For too long it has hurt the citizens of my State of Alaska. It has certainly damaged the California oil and gas onshore industry and precluded many of the small stripper wells from producing in the market and from functioning normally and freely.

I might add, a recently released Department of Energy report determined that lifting the Alaska crude oil export ban would specifically: First, add as much as $180 million in tax revenue to the U.S. Treasury by the year 2000; second, allow California to earn as much as $230 million during that same period; third, increase U.S. employment somewhere between 11,000 and 16,000 jobs by 1995, and perhaps 25,000 jobs by the year 2000.

Mr. JOHNSTON. Will the Senator yield?

Mr. MURKOWSKI. I am happy to yield to the Senator.

Mr. JOHNSTON. I want to ask my colleague what the vote was in the energy committee on this bill, the Alaska North Slope bill, when it came out?

Mr. MURKOWSKI. If I can respond just very briefly, the energy committee, Energy and Natural Resources Committee, voted to support that. It would take me a moment to look at the exact vote, but it was overwhelming in support. I want to acknowledge that my good friend from Louisiana, who is the ranking member of that committee, perhaps he has the exact figure available to him.

Mr. JOHNSTON. My recollection was that it came out without opposition. I do not recall precisely.

Mr. MURKOWSKI. The Senator from Louisiana is almost correct. Since this is government business, it is close enough for government work, but it was 17 to 4.

Mr. JOHNSTON. What was the position of the administration on this bill?

Mr. MURKOWSKI. As I indicated in my remarks earlier, the administration does support the bill. The Secretary of Energy supports the bill, and I know of no opposition within the administration to the bill.

Mr. JOHNSTON. When the bill came up on the floor here for a vote, does the Senator recall that was cleared on the hotline and passed on a voice vote? Am I correct on that?

Mr. MURKOWSKI. If my memory serves me correct, it was voted on and it passed. I think we had about 70 votes, but I have to defer to the RECORD.

Mr. JOHNSTON. I stand corrected. I am advised it was 74 yeas and 25 nays.

Mr. MURKOWSKI. And if I may correct the RECORD in response to the Senator from Louisiana, the vote in question in the Energy Committee was 14 to 4.

Mr. JOHNSTON. It was 14 to 4. I thank the Senator.

Mr. President, I would like to offer my strong support and endorsement of the conference report on S. 395, the Alaska Power Administration sale and exports of Alaskan North Slope oil. This legislation is supported by the President, was passed with an overwhelming margin by the House last week and should be passed with a similar margin in the Senate.

Title III of S. 395 is the Outer Continental Shelf [OCS] Deep Water Royalty Relief Act. This provision is straightforward. For the next 5 years, deep water leases will be offered for sale under the following terms: First, payment of an upfront bonus bid, and second, waiver of the royalty on a fixed volume of oil and gas based on the water depth of the lease. In addition, this provision provides for royalty relief to encourage production on existing leases only if the Secretary of the Interior determines the leases would not be drilled but for the relief. It only affects leasing and development in oil and gas producing areas of the central and western Gulf of Mexico west of the Alabama-Florida border. This provision does not in any way affect leasing or development off the coast of Florida or any other region of the Outer Continental Shelf, nor does it affect any areas or leases subject to moratorium.

The Treasury will gain in two ways from these leases that otherwise would never have been developed—from current tax revenues and from royalties once the waiver volume has been produced. This provision will generate substantial revenues over the next 5 years as companies bid more for deep water leases and risk investing in leases that are currently too marginal to even consider. The revenues received by the Treasury for oil and gas leases are the combination of bonus bids received at the time of lease sales and royalties paid in the event a lease is developed and brought into production. Since the Federal leasing system began in 1954, $56 billion in bonus payments have been generated versus $47 billion in royalty revenues. In other words, we have received more money from producers paying for the option to produce leases than from actual production royalties. This is especially true in deep waters where only one out of 16 leases ever produce and pay royalties.

The Congressional Budget Office [CBO] estimated the Outer Continental Shelf Deep Water Royalty Relief Act, introduced in the Senate as S. 158, would generate additional revenues of $100 million over 5 years. The Minerals Management Service [MMS] of the Department of Interior has estimated that bonus bids would increase by $485 million over 5 years as a direct result of enactment of this legislation. In particular, MMS stated that the leases sold over the next 5 years "could be expected to rise by 150 percent, with higher percentage increases at greater water depths."

It is essential that the United States remedy this inane policy of chronic reliance on oil imports when we can more effectively develop our domestic resources in areas such as the central and western gulf. The United States is currently importing 50 percent of its oil at a cost of over $50 billion per year. By the year 2010, the Department of Energy predicts imports will have risen to 60 percent of consumption. In February of this year, the President announced that the current level of oil imports "threaten[s] the Nation's security because they increase U.S. vulnerability to oil supply disruptions." Some 4.2 million of the 8 million barrels per day of oil imports are from OPEC countries.

Major deep water development projects are funded with international capital. Failure to invest in the Gulf of Mexico is a lost opportunity for the United States. Those dollars will not move into other domestic development; they will move to Asia, South America, the Middle East, or the former Soviet Union. In 1985, the domestic producers

capable of developing projects of this magnitude were investing two-thirds of their exploration and production capital in the United States. This figure has been on a steady downward trend, currently only one-third of those dollars are being invested in the United States. Due to the high cost of development in deep waters, currently only 6 percent of the leases sold are ever developed. The Department of the Interior projects this provision will more than double production otherwise expected to be brought on line. One deep water platform costs upward of $1 billion—this translates directly into jobs. According to the Bureau of Labor statistics each $1 billion invested in the oil and gas extraction industry generates 20,000 new jobs.

This provision will improve our energy security situation, create jobs, and benefit the Treasury.

Mr. MURKOWSKI. I add, from the standpoint of the ranking member, Senator JOHNSTON, his position has always been in support of this legislation covering all aspects of title I, title II, and I have not mentioned title III, but that is the deep-water royalty, which I know the Senator from Louisiana supports as well.

May I take this opportunity to thank him and his colleagues on the Energy Committee for their continued support.

Let me just very briefly conclude a couple points on title II and a few remarks very briefly on title III.

I was recounting the Department of Energy report determining that the lifting of the Alaska crude oil ban would accomplish some specific objectives and inject an economic impact of substance. First was to add as much as $180 million in tax revenue to the U.S. Treasury by the year 2000; second, to allow California to earn as much as $230 million in the same period; third, increase U.S. employment by 11,000 to 16,000 jobs by 1995, and up to 25,000 by the year 2000; preserve as many as 3,300 maritime jobs; increase American oil production by as much as 110,000 barrels a day by the year 2000; add 200 to 400 million barrels of Alaska oil reserves.

Another point I think deserves mentioning is some Members have expressed concern that gas prices might go up on the west coast if export of ANS oil is authorized. That is a legitimate concern, but it is simply not the case. The Department of Energy studied this issue and concluded that customers and consumers would not see a discernible increase at the gas pump.

Another concern you might hear today is that the crude oil exports will create some increased hazards, including increased chances of oil spills. I think that needs some definitive identification. The Department of Energy carefully studied this issue and found that exports of Alaskan oil will actually decrease—decrease, Mr. President—tanker traffic in the U.S. waters.

Furthermore, any tankers exporting ANS oil exported from Alaska will proceed over 200 miles off the coast of Alaska—over 200 miles offshore—while proceeding overseas. In other words, the oil has all been moving off the coast of Alaska, off the coast of British Columbia and the Queen Charlotte Islands, off the coast of Washington, Oregon, and California.

That will not be the case with that portion of the oil that will be exported. It will move in larger vessels, hence reducing the number of vessels, and it will move across the ocean as compared to moving parallel to our west coast of the United States and Canada.

There are other concerns that exporting oil will decrease work for U.S. shipyards. However, I think it will have the reverse effect. Most tankers in the trade will stay in the U.S. trade and therefore be repaired in U.S. yards.

If Alaska crude oil production continues to decline in part because of the depressed prices caused by the export ban, why, then, there would be less tankers in service to put in and available for repair.

One should remember that any U.S.-flagged tanker that is repaired in a foreign yard is subject to a 50-percent fee that is paid to the Federal Government as a penalty for repair in those foreign yards. Clearly, there is enough opposition and enough economic detraction to ensure that those tankers will not be repaired in U.S. yards.

Finally, of course, what we are doing is ensuring that more vessels will be employed in the trade because what we are doing is moving some of this oil—not very much, but some of it—farther. If you move it farther, it takes more time. It takes more time, you need more ships.

So it is anticipated more steps would be taken on a lay up with U.S. crews. So we are putting U.S. sailors to work in the international trade.

Finally, title III, which is part of the Senate bill, is entitled "deep-water OCS royalty relief." I know my good friend from Louisiana has worked very hard, and his colleagues, to ensure that we had adequate support in both the Senate and the House on this portion. It is in the energy security interests of our Nation to do so.

It would encourage oil and gas exploration and production in the deep waters of the western and central Gulf of Mexico. It would offer the incentive to drill in deep-water areas defined as those being in water depths greater than roughly 200 meters, or 600 feet, by exempting increasingly larger amounts of new production as water depths increase. With modern technology, we will be able to allow oil and gas extraction in deep-water areas in excess of this 2,000 to 3,000 feet, but the cost would be tremendous, Mr. President.

Stimulus is needed to recover oil resources believed to lie in the deep-water areas of the central and western Gulf of Mexico. It would not cost the American taxpayer a cent, but would cause oil to be produced that otherwise would remain in the ground without this relief.

This legislation is necessary as a consequence of the recent Commerce Department report indicating the United States is importing now more than half of its domestic crude oil needs, and this presents a potential threat to our national security.

Further, the Department of Energy figures predict the crude oil imports will hit some 65 percent by the year 2000, and by the year 2005 we could be exporting more than two-thirds or 68 percent of our crude oil. Two-thirds of our crude oil would be imported in less than 10 years.

The OCS is an invaluable oil and natural gas resource and prolific source of revenue to the U.S. Treasury which has generated historically more than $100 billion in revenues. The OCS could play a major role in reducing the amount of dollars spent overseas to import oil and natural gas. We import dollars and export our jobs, Mr. President. In 1993, it was important to note the energy deficit ran as high as $46 billion, roughly 40 percent of the total U.S. merchandise trade deficit of $116 billion.

If we look at our trade deficit, Mr. President, half of it primarily with our trade inequity with Japan and the other half is imported oil. OCS production for deep-water areas could help improve energy security, reduce the deficit and balance of payments, create jobs, stimulate demand for related goods and services, and provide needed revenue through bonus bids, royalty, ripple effects, and so forth.

Mr. President, I might add again that President Clinton has indicated that he will sign this legislation, and I know there are concerns that were concerns expressed by my good friend, the junior Senator from Washington, relative to ensuring adequate safeguards be implemented in regard to tankers in Puget Sound. I am sure she is prepared to speak on that.

I know my colleague, the senior Senator from Oregon, is concerned about the effect that this activity would have on his shipyard on the Columbia River.

So I am sure that we will have some debate on the Senate bill, and I look forward to that.

At this time, Mr. President, I ask for the yeas and nays on the conference report, and ask how much time I have taken on my hour.

The PRESIDING OFFICER. The Senator has 36 minutes 40 seconds remaining.

The yeas and nays have been requested.

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. MURKOWSKI. I thank the Chair.

Mrs. MURRAY. Mr. President, I yield myself 10 minutes at this time.

The PRESIDING OFFICER. The Senator is recognized.

Mrs. MURRAY. Mr. President, I stand here today concerned, anxious, and worried. Along with all Americans, we have nervously waited as this budget impasse puts every citizen in a precarious situation.

It seems incredible to me on a day where the Government is shut down and the budget is in crisis we are on the floor of the Senate debating a major giveaway to foreign oil companies. I must say that I am deeply concerned that in the midst of a national catastrophe we may pass legislation that begins another national crisis.

I know that not all of my colleagues understand the ramifications of S. 395. I realize that many feel this is an Alaskan issue and, because of that, some have questioned my intense interest in this issue. For nearly 2 days this past spring I held the Senate floor expressing my dissatisfaction with this bill. I often stood alone. But in the end several of my colleagues came forward to express concerns of their own. All of the arguments raised on each side of this issue are, unfortunately, based on assumptions, and that remains the crux of our problem in this debate. Those in favor of exporting Alaskan North Slope oil say it will increase production, promote jobs, and raise revenues for the State of Alaska. These are positive possibilities that certainly help my neighboring State of Alaska, and if the impact of exporting that oil stops within Alaska's boundaries, I would have wholeheartedly accepted this legislation and would have wished my neighbor success. However, that additional income for a few of our citizens must be weighed by a body charged with addressing the concerns of an entire nation.

After 8 months of intense scrutiny of this issue, I am still convinced that the exporting of American oil can only lead to job losses, price increases, a dependence on foreign oil, and great environmental risks.

I know that my colleagues from Alaska can show stunning charts that predict differently. However, these are merely predictions. We do not know that tankers heading to Asia with Alaskan oil will not stay in Asia for ship repair. This means 5,000 jobs within our region and $160 million in annual employment income—more than half of the marine industry's west coast employment.

We do not know that Alaskan oil, once bound for independent refineries within Puget Sound will now steer for Far-Eastern markets throwing 2,000 refinery workers out on the streets. We do not know that exports of our oil will not lead to price increases at the pump for our citizens.

And perhaps most importantly to me and the millions of residents of Washington State that live, play, and work along the beautiful waters of Puget Sound and the Strait of Juan de Fuca, we have no guarantee that exporting U.S. oil will not lead to increased oil imports on environmentally risky, foreign ships. The Coast Guard rates as high risk one half of the current foreign tanker fleet that carries crude through Puget Sound.

This is why I have stood for so long. I have remained stubborn and angered some of my colleagues for concerns that I truly believe outweigh the benefits garnered by a single State.

I was able to include several amendments that I thought would attempt to address these concerns. Knowing that a Senate cloture vote was impossible, I relented on this legislation with the assurance that my amendments would be included. These amendments included a thorough GAO study that examines job, price, and environmental changes before oil exports may begin. I was also able to include language that mandated an escort vessel, dedicated at the entry to Washington State waters and available 24 hours a day to assist tankers that have run adrift.

For the first time, we had created legislation that proactively fought oilspills. This amendment would have prevented the spill before it occurred rather than focusing on the millions spent on cleanup of these spills once the damage is done.

Unfortunately, even this was too much for House conferees concerned more with overmanagement of the Coast Guard rather than the protection of our fragile coast. The current language adopted by the House mandates a 15-month plan that would implement a private-sector tug-of-opportunity system. This system utilizes current vessels already in operation, coordinated to provide timely emergency response to vessels in distress. It also directs the Coast Guard commandant to work with the Canadian Government in implementing this plan and making available Coast Guard equipment for purposes of response.

I am pleased that this language incorporates the private industry. I applaud the proactive segments of this community who came forward to seek a compromised solution. Our intent was never to tax cargo and grain shippers, but to impose a fee on those who stand to gain millions from these oil exports—the oil companies themselves. This new amendment does clarify that U.S. shippers will not be taxed and their continued desire to meet these environmental concerns is commendable.

I still feel this language does not go far enough, though. I am concerned that without a dedicated vessel at one location, the availability of an operating tug may put them out of reach of the distressed vessel. I am also concerned that once that tug reaches the distressed tanker, it may not have the capability to tow that large vessel, or in the least hold it from running aground.

Sadly, we may not know the answers to all of these questions until oil is exported, foreign tankers are moving through our waters and we experience a major oilspill. None of us, particularly my colleagues from Alaska, ever want to relive the *Valdez* situation. None of us want oil on our hands under our watch. When and where it will happen remains the paramount question. I only hope that all in this body can head home at night knowing that we did all within our power to decrease that risk. The White House has committed to me that they will proactively seek out these risks, even before the 15-month study expires. They are prepared to conduct hearings in the State that address these issues and will enter into the RECORD a letter from the White House stating these actions. I appreciate that commitment and hope I can count on the Alaskan leadership to do all that they can to meet these environmental concerns before exports begin.

I realize that I can stand again for 2 days or 2 weeks and try to delay this legislation. However, I am a realist who knows that this legislation could be attached to reconciliation without amendments, and I understand that the votes to stop these exports that were there for decades have now been reversed. I only ask my colleagues to try to understand some of the logic that has motivated the debate to export oil. It is truly in our national interest to produce our own oil, and if we agree that the North Slope of Alaska has a finite amount of oil left, why must we send our oil overseas and more quickly dry up our own wells? There are certainly projected increases, but to whose benefit?—executives of British Petroleum and car owners in Tokyo.

Further, it will only lead us closer and much more quickly to the opening of ANWR. More U.S. oil can be expected to be exported, and will again pit profits of international interests against environmental concerns.

I ask everyone to consider the implications of exporting our oil: the policy implications, job risks, price concerns, and environmental risks. If you truly believe that these questions pale in comparison to the profits of a very few, then support 395. Otherwise, vote with a clear conscience that errs on the side of people and the world we are entrusted to protect. I urge my colleagues to vote against this conference report.

Again, Mr. President, I must say that it does seem very disconcerting to me when my office phones are ringing off the hook with my constituents who are saying this Government is shut down, it is hurting me, and it is hurting our country. It is not the right direction

that we are standing in front of this body debating a bill that will benefit an oil company, a special interest.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. I thank the Chair. I believe my senior colleague from Alaska would like time on this bill. I yield 15 minutes.

The PRESIDING OFFICER. The Senator is recognized for 15 minutes.

Mr. STEVENS. Mr. President, let me ask the Senator from Massachusetts. Is he going to make a statement on this? Does the Senator from Massachusetts seek time on this bill, or another matter?

Mr. KERRY. Mr. President, the Senator sought time on the bill but not speaking specifically to the subject matter.

Mr. STEVENS. I thank the Senator.

Mr. President, in February, Senator MURKOWSKI and I introduced this bill, the Alaska Power Administration Sale Act. There are several bills put together here. I am very pleased to be here today to congratulate Senator MURKOWSKI and to speak in support of this conference report. The House has agreed to this bill, and the President said that he would sign it. I urge the Members of the Senate to support the conference report.

For Senators not familiar with the Alaska Power Administration, I would like to point out that Congress authorized the Eklutna and Snettisham hydroelectric projects in 1950 and in 1962, respectively. Those were to encourage and promote economic development and to foster establishment of essential industry in Alaska. The projects have provided, at moderate prices, substantial amounts of hydroelectric energy for marketing in our area. There are no other proposed Federal projects in Alaska.

As Alaska's economy has grown, the relative importance of the Federal power program in Alaska has decreased. This is a bill that is long overdue. The idea to privatize the Alaska Power Administration is not new. During the Nixon administration, I introduced the bill that proposed to sell the Federal energy project in Alaska, and in the last 20 years, during three administrations, there have been 14 different studies of whether or not this APA, as we call it, should be privatized.

Today, more than 90 percent of the State's electric power needs are provided by non-Federal power plants. Federal operations such as the Alaska Power Administration can be managed more efficiently by non-Federal public or private entities. The State of Alaska and the local electric utilities which have entered into formal agreements to purchase these projects are capable of planning, building, and managing our State's power facilities in a manner that is consistent with our future energy needs.

We are concerned about the people who work for the Alaska Power Administration, and we should be. Today, there are 34 people who still work in the Federal Government for the APA. The project purchasers have pledged to hire as many of these employees as possible, and the Department of Energy has pledged that it will offer employment to any Alaska Power Administration employee who does not receive offers, although the Department jobs are probably going to be in what we call the lower 48 States.

The sales of Eklutna and Snettisham are expected to generate Federal proceeds now of about $73 million. That is nearly a total recovery of the original investment in these projects, and there have been payments made over the period of their use.

The sale and termination of the Alaska Power Administration now is supported by each of the Alaska Power Administration's utility customers, the municipalities of Juneau and Anchorage, Alaska's Governor, and the administration here in Washington.

I do support that portion of this conference report and urge the Senate to approve the report that recommends the privatization of the APA.

Let me now just mention briefly title II, which is the Trans-Alaska Pipeline Authorization Act amendment, which will permit the export of Alaska's North Slope crude oil carried in U.S.-flag vessels.

This legislation will create jobs and economic wealth around the Nation and increase oil production in Alaska and in California. It will ensure the survival of an independent U.S. tanker fleet manned by U.S. crews, a critical component I believe of our national security.

This legislation eliminates the discrimination that has persisted exclusively against our State of Alaska for over 20 years, and the citizens of Alaska have waited for this day. They have waited too long.

For those who may have forgotten, who were not around then, the first export restrictions of Alaska North Slope crude oil were enacted after commencement of the 1973 Arab-Israeli War and the first Arab boycott. Many believed that enactment of these restrictions would enhance our national security. Congress effectively banned export of Alaska crude oil in 1979, following a second major oil shock. But times have changed, and I have argued for a long time that the ban itself was and is unconstitutional.

We have discovered that the ban has had the unintended effect of actually threatening our energy security by discouraging further energy production and creating unfair hardships for the struggling oil industry, particularly in the Southwest. Fundamentally, the existing export restriction distorts the crude oil markets in Alaska and the west coast. The ban has created a glut of oil on the west coast, and faced with glut-induced prices small independent producers have been forced to abandon wells, the so-called stripper wells, particularly in California.

In 1994, for the first time in history, more than half of the oil used in the United States was imported at a cost of over $50 billion a year. By the year 2010, we will be importing over 60 percent of our oil needs but part of the reason is the reason for this legislation itself. We have in our increased reliance on foreign oil brought about the situation where it is not profitable to drill and produce new discoveries in our own country. We are importing over half of our Nation's oil not because consumption is rising but because domestic production is declining so significantly and this legislation will provide the incentive to domestic producers to correct that situation.

Currently, most North Slope crude oil is delivered to the west coast, especially California, on U.S.-flag vessels. The existence of a single market for Alaskan oil drastically reduces the value of the oil and creates an artificial surplus on the west coast. This depresses the production and development of both North Slope crude and the heavy crude produced by small independent producers in California.

As existing oil fields become depleted, the domestic oil industry must find new sources of oil and new technologies of production if they are going to stay in business. But they don't have the incentive.

In June 1994, the Department of Energy issued a comprehensive report as part of the administration's "Domestic Natural Gas and Oil Initiative." The Department concluded in this report that the export ban is an artificial subsidy that has depressed the price that west coast refiners pay for crude oil. A key conclusion of the report is that the national economic and energy benefits of permitting export of Alaska North Slope crude oil would be significant. It would create new jobs, stimulate onshore production, and increase State and Federal revenues.

Oil production-related employment would increase by up to 25,000 jobs nationally by the end of the decade; many would be in California oil production.

The export of Alaskan oil would boost production in Alaska and California by 100,000 to 110,000 barrels per day by the end of the century.

Federal receipts would total between $99 and $180 million in 1992 dollars.

Alaska and California would also gain. Alaska would gain $700 million to

$1.6 billion in taxes and royalties, while California's return would be as much as $230 million. These are net gains.

The Department of Energy also found that there would be no significant environmental implications from the export of Alaskan oil.

Mr. President, in addition to creating jobs and economic wealth for the Nation at little cost to the environment, this legislation will go a long way toward helping to preserve our U.S. tanker fleet. Congress has a compelling interest in preserving a fleet essential to the Nation's military security, especially one which transports such a valuable commodity as oil. This bill requires that Alaskan oil exports be carried in U.S.-flag vessels. The only exceptions are exports to Israel under a bilateral treaty and to others under the international emergency oil sharing plan of the International Energy Agency.

Finally, as I have said before, the prohibition on the export of Alaskan North Slope crude oil is unfair. Alaska is the only State prohibited from exporting its most marketable product.

Mr. President, thank you for the opportunity to speak in support of this legislation. I urge my colleagues to support it.

I do again congratulate the chairman of the Energy Committee, my good friend and colleague, Senator MURKOWSKI, for his persistence, and I thank him for the opportunity to speak in support of this conference report. I urge my colleagues to support it.

If I have any further time, I yield it back.

The PRESIDING OFFICER. Who yields time?

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. I did want to enter into the RECORD a statement from the White House at this point stating their plans to evaluate the environmental problems including holding field hearings in my State. Ironically, due to the Government shutdown, the Council of Economic Advisers and other White House staff working on that letter had to go home at noon today, so I will have to submit it when I get it. I guess irony goes to show it is extremely incredible to me that we are continuing to talk about this bill at a time when our budget is in crisis.

I yield to my colleague from Massachusetts 5 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 5 minutes.

Mr. KERRY. I thank the Chair. I thank the Senator from Washington.

SHUTDOWN OF THE GOVERNMENT

Mr. President, I had hoped to have time later today to talk about the situation we find ourselves in with respect to the budget and the so-called shutdown of Government. Regrettably, we hear that the majority leader is going to, at least it appears, put the Senate into recess after the discussion on this bill. I think it would be unfortunate to deprive the Senate of the debate it is supposed to have on issues of great concern, and I hope it is not true that the majority leader intends to recess the Senate as a way of silencing voices that want to talk about what is happening to this country.

Mr. President, what we find ourselves in is a moment of entirely predictable, crass, brazen, craven, basic political trickery.

What we are living out at this moment is a simple choice by the Speaker of the House to confront America, and to confront the Senate, with either bowing to the will of one group of people, without the legislative process duly working its will, or suffering the consequences of a shutdown. That is what has happened. It is fundamentally a form of blackmail. It is a hard term. It is a tough term. But that is exactly what is happening. It is either, you accept our way or everybody is going to pay a big price. Either you buy on to those things, which we are not able to pass through the normal legislative process, or we're willing to shut the Government down.

Now, our colleague from North Dakota shared with us earlier this morning some very important statements that simply document what I have just said. If you do not want to believe the partisan words of a Democrat, fine. But listen to what NEWT GINGRICH himself said. On April 3, in the Washington Times, NEWT GINGRICH vowed to "create a titanic legislative standoff with President Clinton by adding vetoed bills to must-pass legislation, increasing the national debt ceiling."

On April 3, again the Washington Times, Speaker GINGRICH boasted that the President "will veto a number of things, and we'll then put them all on the debt ceiling. And then he'll decide how big a crisis he wants."

On June 3, Speaker GINGRICH, in the Rocky Mountain News, said, :

> We're going to go over the liberal Democratic part of the government and then say to them: 'We could last 60 days, 90 days, 120 days, five years, a century. There's a lot of stuff we don't care if it's ever funded.

What is the "stuff" they do not care if it is ever funded? Well, evidently it is money for veterans because $15 billion is going to be cut right after we just marched around and celebrated Veterans Day. Perhaps as many as 35 out of 172 hospitals will be shut over the next 7 years; 5 in the next year. I have veterans all over my State saying to me, "What are you guys doing? Don't you remember the contract, the real contract with America?"

Evidently, what they are willing to shut down is education, making it more expensive for kids to go to school, at the same time as they give people earning more than $300,000 a tax break; a fundamental breach of fairness.

Now, I am not the only one who feels that fundamental breach of fairness. Let me read what one of their own, David Gergen, wrote just yesterday in the U.S. News & World Report. The headline: "The GOP's 'Fairness Doctrine'." And what he says is:

> U.S. News reported last week that internal studies by the executive branch estimate that the lowest 20 percent of the population would lose more income under these spending cuts than the rest of the population combined. At the other end, the highest 20 percent would gain more from the tax cuts than everyone else combined.

It goes on to say:

> Ronald Reagan is often invoked as the patron saint of this revolution. How soon we forget that as president, Reagan insisted that seven key programs in the safety net—Head Start, Medicare, Social Security, veterans, Supplemental Security Income, school lunches, and summer jobs for youth—would not be touched; now, six of those seven are under the knife.

So, Mr. President, what we have here is a fundamental confrontation with fairness, a fundamental confrontation with how we should do our legislative business.

We Democrats are prepared to vote for a temporary extension immediately and are prepared to negotiate a fair budget. But NEWT GINGRICH and his soul mates want to come down here and say, "Oh, no, no, no, no, that is not good enough. You're going to have to accept programs that we want to pass that we're not able to pass through the normal process. And if you don't do that, we're willing to continue to keep the Government shut down."

So, they have huge Medicare cuts included in here.

Mr. President, I ask for 2 additional minutes.

Mrs. MURRAY. I yield 2 additional minutes.

The PRESIDING OFFICER (Ms. SNOWE). The Senator is recognized for 2 additional minutes.

Mr. KERRY. Mr. President, here are these massive Medicare cuts, the largest ever in recent—I think ever in American history, $270 billion, so you can have a $245 billion tax cut. We have had 1 day of hearings on the impact of those cuts, and yet we have had in the House 42 days of hearings on Whitewater, Waco, and Ruby Ridge, and in the Senate we have had about 48 days of hearings on Whitewater and Ruby Ridge. One day of hearings on Medicare, which will affect millions of citizens, and day after day after day of hearings on Whitewater and Ruby Ridge. And now they are trying to ram that through with increases in Medicare payments on senior citizens by holding the entire Government hostage.

Mr. President, it just violates most Americans' sense of fairness. It violates the tradition in this institution

of legislating and of letting the votes fall where they may in trying to decide something. It really violates, I think, everybody's sense of how we ought to do business here. I tell you, as you look around the country, this is a very different revolution from what most Americans wanted.

Most Americans voted for common sense. We are prepared to balance the budget. We are prepared to try to do it in 7 years or whatever. We are prepared to do that, Mr. President. But we are not prepared to succumb to a kind of political blackmail that forces people to do things that are against the Constitution of this country. And I hope that in the hours ahead, we will get back to a levelheadedness, a reasonableness that is the higher standard of how we should do business in the U.S. Senate.

The PRESIDING OFFICER. Who yields time?

Mr. KERRY. I yield back, if there is any time.

Mrs. MURRAY. Mr. President, I yield 5 minutes to my colleague from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota is recognized for 5 minutes.

Mr. DORGAN. Mr. President, it is my hope that later today we will have an opportunity to have a discussion with our colleagues on the other side of the aisle about the issues that have brought us to this point. I must say that I think today describes for all the American people why it is important, even in the Contract With America, to understand what the fine print in the contract really means.

We are starting now to discover that something that is high sounding and was put together through polls and focus groups that looked attractive to the American people has some fine print that causes some dilemma.

My colleague just read an analysis of this by David Gergen. David Gergen has worked in two Republican administrations: President Reagan and President Bush. He also worked in the Clinton administration. He described our circumstances this way: He said, "The Republicans should get some credit for wanting to balance the budget." I agree. So should Democrats. In 1993, when we had a bill on the floor of the Senate that cut $500 billion from the deficit and led us to a position from having a $270 billion yearly deficit down to a $160 billion yearly deficit, I voted for that. That was heavy lifting because a lot of it was not very popular.

We did not get one Republican vote, not even by accident. You would think occasionally someone would make a mistake here and vote for something good. But we did not even get one Republican vote for that. We passed it with all Democratic votes. The fact is, the deficit substantially reduced from $270 billion down to $160 billion.

There is a lot of work left to do. I agree with that. And I think both parties ought to roll up their sleeves and get it done. But David Gergen is absolutely correct when he describes the problem with the Contract With America and the imposition of this so-called solution on the country at this point.

What he describes is this: He says that a study that was developed last week shows the lowest 20 percent of the population would lose more income from these spending cuts. The lowest 20 percent would essentially lose more income than the top 80 percent. And he says the tax cuts—the top 20 percent will gain more from those tax cuts than the entire bottom 80 percent.

Let me frame it a little differently. The priorities here are what is at odds. It is the disagreement; it is not the goal. All of us think we ought to balance the budget. The question is how? My hometown has about 400 people. Let us assume we had a town meeting in my hometown in North Dakota and said, "All of you take chairs." So we sat them all down. We sat them down.

We say, "All right, those in here with the least income, the 20 percent of you with the least income, we would like you to stand up." So 20 percent of the population with the lowest income in my town stands up. And we say, "All right, we've got a deal for you. We have all these spending cuts. You 20 percent with the lowest income in our town, you get 80 percent of the spending cuts. You are going to lose 80 percent of the income from these spending cuts." Then we say, "All right, you sit down."

Now, how about the 20 percent with the highest incomes in my hometown? "Why don't you all stand up?" And so the 20 percent with the highest incomes in my hometown stand up, and we say, "We've got a deal for you. We're going to give you 80 percent. You 20 percent with the highest incomes, we're going to give you 80 percent of the tax cut."

Does anybody think there is any reasonable standard of fairness by which you could suggest that makes sense; the bottom 20 percent of the income earners take 80 percent of the spending cuts and the top 20 percent of the income earners take 80 percent of the tax breaks? Well, that is what the Contract With America gives us.

We come to a debate about priorities. It is a worthy debate to have. Some say, "Let's build star wars. Let's buy B-2 bombers. Let's have more F-15's and F-16's than the Pentagon ordered and, by the way, even though we can afford all that, let's kick 55,000 kids off Head Start. Let's decide not to provide the kind of resources necessary to help low-income people stay warm in the winter. Let's decide we have low-income veterans with disabilities that are not going to get all they should get. Let's decide to make it harder for middle-income families to send their kids to college."

Those are enormous differences in priorities. The debate is about priorities, not the goal, and the priorities are important. We do not come to this point by accident, the point of a shutdown.

Last April, Speaker GINGRICH started to boast about this. On April 3, he vowed "to create a titanic legislative standoff with President Clinton by adding vetoed bills to must-pass legislation increasing the national debt ceiling."

I ask for 1 additional minute.

The PRESIDING OFFICER. The Senator's time has expired.

Mrs. MURRAY. I yield 1 minute.

Mr. DORGAN. He boasted that the President "will veto a number of things, and we'll then put them all on the debt ceiling. And then he'll decide how big a crisis he wants."

Speaker GINGRICH says: "I don't care what the price is. I don't care if we have no executive offices and no bonds for 30 days—not this time."

Mr. HARKIN. Will the Senator yield?

Mr. DORGAN. I will be happy to yield.

Mr. HARKIN. What was the date of those remarks?

Mr. DORGAN. Some were April. The last one was September 22.

Mr. HARKIN. The early one you quoted was April?

Mr. DORGAN. April 3.

Mr. HARKIN. So this is not a recent thing Speaker GINGRICH said.

Mr. DORGAN. No. The point of all this is, this is not a train wreck that ought to surprise everybody. This is the engineer of a locomotive who predicted in April he is going to cause a train wreck, boasted about it. I do not think anybody ought to take great credit for shutting down the Federal Government, all because the priorities are to say we would like to give the poorest people in town all the spending cuts and the richest people in town all the tax breaks.

Mr. HARKIN. If the Senator will yield, the Senator has made a very important point here. This is something that has been planned for some months.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mrs. MURRAY. I yield my colleague from North Dakota 3 additional minutes.

Mr. HARKIN. I think the Senator from North Dakota is making a very important point. I think a lot of people are confused who think this has happened over the last couple of days and it just sort of happened because things did not work out right.

If I understand what the Senator from North Dakota is saying, and reading the quotes of Speaker GINGRICH as long ago as April, this has sort of been a plan to create this kind of train wreck, and the Senator quoted Speaker GINGRICH saying this back in April.

I think the American people ought to understand that this is not something that just happened; that because the Speaker and his allies have not been able to get their work done in time—I will ask the Senator, is it not true that we did not filibuster, we did not stop these bills from going through?

Mr. DORGAN. The Senator from Iowa is correct. In fact, only three appropriations bills have been signed by the President because he has not gotten the rest of them. The work was not done on time. In fact, the reconciliation bill is due on June 15. It is now 5 months later. It is scheduled to come to the floor later this week, but it is 5 months late.

Mr. HARKIN. If the Senator will yield further. Watching and observing the flow of legislation through here during the spring and summer and how it was slowed down, we did not filibuster. Things just did not happen. Like in the Agriculture Committee, we could not get our ag bill through. We still do not have an ag bill this late in the year. Now it occurs to me perhaps this was a design all along to create this impasse; to create an impasse so that we would have the kind of train wreck that we are looking at here with the shutting down of the Government. Just too many of these things fit together. It indicates to me that this has been part of an overall plan for some time.

Mr. DORGAN. If I might say, this is not a search for villains, it is a search for solutions. This country has vexing problems, and we have to address the problems, but we do not solve problems by deciding to create train wrecks.

I will say again, Speaker GINGRICH on November 8 said "he would force the Government to miss interest and principal payments for the first time ever to force Democrat Clinton's administration to agree to his" deficit reduction plan. That is November 8, Investor's Business Daily. The point is, this is not an accident.

In the Chaplain's prayer this morning at the start of the Senate session, he talked about the need for people to come together and to reason together. That is the basis of 200 years of democratic Government.

We must find a compromise. We have people of vastly different views in a representative democracy. How do you resolve those? Over 200 years, you resolve them by coming together and reasoning and reaching a reasonable compromise.

The American people have a good sense of what is fair, a good sense of what a good compromise ought to be. What the American people have said clearly in the last couple of months is they are worried about the extremes here. People who never cared much about Medicare now pretend they want to save it. They do not want to save it.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mrs. MURRAY. Madam President, I yield 5 minutes to my colleague from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, I thank the Senator from Washington, and I join my colleagues in regretting that it has been the decision of the majority leader not to permit those of us who want to be able to speak to the Senate and to talk with our colleagues about the current crisis that is affecting so many families, not only here in Washington but all across this Nation with all of the uncertainty it brings, to try to at least address that issue and to try and find some common ground in terms of how to avoid this current situation.

I am grateful to the Senator from Washington for letting me speak briefly on the issue of where we are at this time and what we must look at.

Madam President, the fundamental issue that divides the Democrats and Republicans is how to balance the budget. Only a few moments ago, the President of the United States, in an excellent address, restated his strong commitment to a balanced budget and challenged our Republican friends to work with him to try and achieve that in a way that is going to be fair and where the issues of equity are going to be addressed.

It is reckless and wrong for the Republicans to effectively shut down the Federal Government because they cannot get their way in balancing the budget. The Democrats categorically reject the Republican priorities that balance the budget on the backs of senior citizens, students, working families, and the environment.

I, too, was a candidate in 1994. When I traveled around Massachusetts, my Republican opponents were not saying we are treating our elderly too well; we think that their copays and deductibles and premiums ought to go up; we think that we ought to tighten the belt on those who have contributed so much to making this a great country, who worked their way through the Great Depression and fought in the wars, that was never mentioned by my Republican opponent.

We have to tighten the belt on education. Under this proposal, they are cutting 40 percent of all the education programs—all the education programs—$36 billion in cuts over the next 7 years under the Republican opposition, and about $30 billion in higher education. I did not travel around Massachusetts and hear we are doing too much in the education of handicapped children, or we are doing too much in terms of feeding children, or we are doing too much in taking down the dollar sign for the schools and colleges.

We do not want signs on the schools and colleges of Massachusetts saying: "Wealthy only need apply."

In the course of that campaign, I did not hear Republicans use the argument that working families of this country that are making up to $28,000, $29,000 and have several children and are able to have the EITC, have too much disposable income. We always hear on the floor of the U.S. Senate, "Well, let's give the money back to the individuals who spend it. They can make a better judgment about how to spend their money than the Federal Government."

That seems to be a good enough rule for the wealthy individuals in this country but not for the working families, those that are making up to $30,000 a year. This Republican budget is saying that they are going to have their taxes increased. No one was talking about that in 1994 and no one was talking about putting additional kinds of pressures on the needy, particularly the children. The belt is going to be tightened on the children of this country perhaps more severely than anyone else.

No one was talking about our air was too clean, our water was too pure, that what we have to do is make way to limit the kinds of regulations and protections on legislation that, by and large, were signed by Republican Presidents and worked through this Congress in bipartisan ways.

No one was talking about those particular issues in 1994, but I can tell you something, they will be talking about it in 1996, because those are the issues that are being addressed. And on each and every one of those issues, the Republican budget flunks every responsible test. The current Republican strategy is a serious mistake. If they want to enact priorities like this, they are going to have to elect a Republican President in 1996, and that is not going to happen.

In sum, the current shutdown of the Federal Government is taking place, just as Speaker GINGRICH has been planning and boasting about all year. My colleague from Massachusetts and my colleague from North Dakota have made that case here this afternoon. The shutdown is entirely unnecessary. We are at this point because the Republicans, who control the Congress, have passed only 4 of the 13 annual bills necessary to appropriate the funds to keep the Federal Government open for the coming year—only 4 of the 13 annual bills. They have failed to meet their responsibilities in this whole appropriations process.

Those bills should have been passed by October 1, 6 weeks ago. We are 6 weeks into the new fiscal year, and the Republicans in Congress have not done their job.

The Government shutdown is part of a long-term strategy by the Speaker

and the radical Republicans in Congress to force President Clinton to approve their extreme measures to destroy Medicare. Let it wither on the vine, as GINGRICH said, cut education, limit the health and safety protections that have been built up over 30 years.

The Democratic plan is based on genuine American values and priorities. It is a plan to balance the budget fairly, not at the expense of families and the environment, and it deserves to be passed by the Congress.

Mrs. MURRAY. How much time is left on both sides?

The PRESIDING OFFICER. The Senator has 29 minutes, 45 seconds, and the Senator from Alaska has 27 minutes, 51 seconds.

Mrs. MURRAY. Does the Senator from Alaska wish to take some time?

Mr. MURKOWSKI. I would like to continue to hold my time because several Senators are coming. So I will defer to the Democratic side.

Mrs. MURRAY. Madam President, I yield 5 minutes to the Senator from Iowa.

Mr. HARKIN. I thank the Senator. To follow up on my colloquy with the Senator from North Dakota, let me just state that today the Republican leadership has put our country into an artificial crisis—an artificial crisis—which is a very cynical act, and I think a very shameful act.

Let us make no mistake about what is going on. The Republican leadership is holding a gun to the head of the President and the whole Government, saying that if they are not able to get their way by cutting Medicare, by putting an additional $130-a-year burden on our seniors, on their part B premiums, they are going to shut the Government down.

Let me repeat that. The Republican leadership is saying that unless you let us put an additional tax on seniors of $130 per senior, per year for Medicare part B, we are going to shut the Government down.

I do not know what they could possibly be thinking about. The American people have said, very loudly and clearly, that they do not want to cut Medicare. Our elderly are saying, look, we have enough bills to pay, and now you want us to pay more? It is $132 a year—what a ransom; holding the elderly ransom to get their way, and shutting down the Government.

Madam President, 50 percent of the elderly in the State of Iowa have an annual income of less than $12,000 a year. Eighty percent of the elderly have an income of less than $25,000 a year. Now they are being told they have to pay an additional $130 a year for Medicare part B premiums. That is the rider that is on the continuing resolution.

The President of the United States has said, "You take that off and we will negotiate." He is right. That is nonnegotiable, especially on a continuing resolution. If the Republicans want to put it on legislation and pass it, as they try to do through the reconciliation process, that is fine. But to use a short-term resolution to keep the Government operating is really a cynical and a shameful act.

It also really amazes me that Republicans are willing to go after the seniors to raise the money for Medicare before they go after waste, fraud and abuse. This Senator offered an amendment on the reconciliation bill that would have saved billions of dollars by cutting out waste, fraud, and abuse. It would have provided, for the first time, competitive bidding for durable medical equipment and medical supplies in Medicare.

Madam President, I had one of my staff people go to several drugstores in Iowa to get the price of a bandage. The average price, retail, was 17 cents. The same bandage cost the Veterans' Administration 4 cents. That same bandage costs Medicare 86 cents. Why Medicare 86 cents, and the Veterans' Administration 4 cents for the same bandage? Because the Veterans' Administration uses competitive bidding; Medicare does not.

My amendment was simply to do what I thought most of my fellow Senators on the other side of the aisle speak so loudly about—"free enterprise, capitalism, competitive bidding, that is the way to go." Yet, every single Republican voted against my amendment to provide for competitive bidding. I do not know why because we have it in the Veterans Administration, and it works well. But, for some reason, we cannot apply it to Medicare.

My amendment would have provided for better computers and software to catch more fraud. But, no, we could not do that. But we can tell the seniors to pay $130 more a month. But, no, we cannot have competitive bidding, you see.

Why is this so important, Madam President? Last year, I asked the GAO to do an investigation on medical supplies, and here is what they found. They took a sample of high dollar claims that Medicare had paid, and they went behind the bills to get an itemized statement. This is going to shock you. I have stated it many times on the floor, so maybe you know the figures already. GAO found that 89 percent of the claims should have been totally or partially denied; 61 percent of the dollars spent by Medicare should never have been spent; 61 percent paid out wasted.

What does that amount to? Well, last year, Medicare was billed $6.8 billion for medical supplies—$6.8 billion. If you take 61 percent and say it should have been paid out, you are talking about $4 billion a year. Just take 50 percent and you are talking about $3 billion a year. But, no, no, we cannot go after that, you see. There are a lot of big, powerful medical supply companies in this country making a lot of money on that. We cannot go after that. But we can go after the seniors in my State who make $10,000 a year.

So what the Republicans are doing, I think, is a very shameful act in trying to force onto the continuing resolution the $130 more.

Last, Madam President, here is another quote. The Senator from North Dakota read some quotes. Here is a quote by Representative KASICH:

> I do not see the Government shutdown as a negative; I see it as a positive, if things get righted.

Congressman CHRISTENSEN said:

> If we have to temporarily shut down the Government to get people's attention to show that we are going to balance the budget, then so be it.

What are we talking about? Madam President, 800,000—I am told—Government workers went home today because the Government shut down. Who are these people? Madam President, they are people like you and me. These are mothers and fathers. These are people with children. These are people that have illnesses at home. These are people that have mortgages to pay and car payments to pay, maybe have one or two kids in college that are trying to get through college.

These are not some kind of people that are not part of our American family of workers. Yet somehow we are being told they are worthless—send them home, we do not care.

What a hard-hearted, cruel approach to take, that somehow these Government workers who are outstanding upright taxpaying God-fearing Americans who do their job for the American people, that somehow they are not worth anything and they can go home.

It is cruel and it is heartless. I think the American people understand that. That is why I hope that we can reason together, get the Medicare off the table, have a short-term CR. We can get together.

I add one thing. I happen to sit on the Agriculture Committee. I picked up the paper this morning and I found out the chairman of the Senate Agriculture Committee has announced that the conferees have reached an agreement on an agriculture bill, and this Senator has never even been invited to one meeting. What does that say for trying to work together?

The PRESIDING OFFICER. The time of the Senator has expired.

Mrs. MURRAY. Madam President, how much time is remaining?

The PRESIDING OFFICER. The Senator has 22 minutes.

Mr. MURKOWSKI. Is anyone seeking recognition? How much time would the Senator from North Carolina require?

Mr. FAIRCLOTH. I request 10 minutes.

Mr. MURKOWSKI. I yield 10 minutes to the Senator from North Carolina.

BALANCED BUDGET LACKS PRESIDENTIAL COMMITMENT

Mr. FAIRCLOTH. Just a few minutes ago the President spoke to the Nation in a press conference. I watched his speech and was amazed at the sincerity, that he appears to really believe what he was saying. Certainly what he has been doing does not match what he was saying.

Madam President, last night the Federal Government ran out of money and thousands of Federal workers were sent home. The question on everyone's mind is, why will Bill Clinton not agree to a balanced budget? Why will Bill Clinton not agree to a balanced budget?

He has flipped and flopped so many times on the budget that it is hard to know where he stands on the issue. It should be perfectly clear that the blame for this shutdown can be traced directly to the White House and not anywhere else, and to the President's new imagemakers at the House. They are determined that he appear strong, regardless of the consequences to the Nation.

As a candidate for the Presidency, Bill Clinton promised to balance a budget in 5 years. However, once in office, he flipped on the campaign promise. In fact, Bill Clinton has never submitted to Congress a plan for balancing the budget. The first budget which he submitted this year never reached balance, and he knew it when he submitted it.

After consulting with pollsters and realizing that Congress was serious about reaching a balanced budget in 7 years, Bill Clinton flipped again and submitted a second budget which he claimed would balance the budget in 10 years. However, that was not true and he knew it when it was submitted.

For all the flipping and flopping, Bill Clinton is not making any headway on the budget. In fact, in this very body, not a single Member of the Senate—Democrat or Republican—voted for his budget—not one. Realizing the American people knew that he was not serious about a 10-year budget plan, he flipped again and accepted a congressional timeframe of 7 years.

We are now hours away from having a conference report on a balanced budget. Congressional leaders have invited the President to begin working with us. For 26 hours last week he was on the same plane with Speaker NEWT GINGRICH and Majority Leader DOLE. A captive audience—no negotiation. Madam President, 26 hours of prime time and he did not use it.

Last Friday he told Congress to remain in session as he got into a Government limousine and rode off to the golf course. No negotiation.

The fact of the matter is that Bill Clinton just is not serious about balancing the budget. However, he is very serious about improving his image. His campaign advisers tell him a balanced budget is popular with America's voters and therefore he is trying desperately to get on board. So he gives press conferences and issues press releases proclaiming his support for a balanced budget. But there simply is not any commitment or substance to back up what he is saying.

Bill Clinton pretends that he vetoed a temporary spending measure because he wanted to protect Medicare. Just as the President has no credibility on the budget, he has no credibility on Medicare. His own Medicare trustees informed him earlier this year that Medicare bankruptcy is imminent. Bill Clinton's response was to do nothing.

The Republican continuing resolution maintains secure Medicare premium percentage that recipients pay. It maintains the current premium, that Medicare premium percentage, that recipients pay. It says that we need to hold off on decreasing premiums until we implement a comprehensive plan to save Medicare. It does not cut the premium. It does not raise the premium 1 percentage. It simply keeps it the same. Very simply, no change.

Dick Morris, the President's new top adviser, calls the President's plan triangulation. In Washington language, this is supposed to mean that Bill Clinton is a moderate. In North Carolina we speak more directly. This triangle of Bill Clinton's consist of no leadership, no principle, and no negotiation. That is the triangulation.

Medicare is going broke. The Government is trillions of dollars in debt. The Government is shutting down and the President is concerned about triangulation. Deficits and the national debt are a tax on future generations. That has been said many times in this Chamber but the fact that it has been repeated does not lessen its truth or its value or its impact upon the American people.

In 1975 the debt ceiling was $595 billion. Today, it is right at $5 trillion. Every child born today faces $187,000 interest bill on the debt incurred by past Congresses.

The issue before the country is a balanced budget. That is what the bill is about. That is what we are talking about. The current stalemate will not end until Bill Clinton stops being a candidate for President and starts being President. He needs to work with the Congress for the good of this country.

I end this short speech where it began, with the simple question: Why will Bill Clinton not agree to a real balanced budget as he pledged to do when he was running for President? When he was running for President he pledged to the voters and the people of this country a balanced budget within 5 years. Why will he not come forth and agree to a balanced budget now in 7 years?

I yield the floor.

Mrs. MURRAY. Madam President, I yield 5 minutes to the Senator from Arkansas.

THE GOVERNMENT SHUTDOWN

Mr. BUMPERS. Madam President, I thank the Senator for yielding. People across America are looking at this Government shutdown and saying, what on Earth are those people thinking? What is this all about? And why is it necessary to furlough 800,000 workers?

The Baltimore Sun said today that people are no longer mad as hell. They are scared to death. I can tell you there are people around here who are getting anxious. Why are we doing this? I have been in the Senate 21 years. This is the most bizarre time I have ever witnessed. I assumed, just as in the past, that reasonable heads would prevail, the thing would be worked out last night, everybody would come to work today, and we would get on with our legitimate business. But that has not happened.

One group of people say, "Why doesn't the President sign that bill?" What is wrong with that? And other people say, "I am with the President. I hope he will hang tough." That is where I come down. It is not that big a deal in some ways. But it is essentially an intrusion on the President's authority. It is an intrusion on our turf, too, to attach something like regulatory reform to the debt extension bill. Not our version of regulatory reform, the House version, which could not see the light of day in the U.S. Senate. It would never pass the U.S. Senate. And where is it? On the debt ceiling bill. Why on Earth do we put regulatory reform and habeas corpus reform on the debt ceiling?

The debt ceiling is designed to provide the full faith and credit of the United States to people who buy our bonds. Twenty-five percent of our national debt, Madam President, is owned by the Western Europeans and the Japanese, and they do not think this is fun and games. I heard a young Congressman on the "Jim Lehrer Show" say last night that this is "where the rubber hits the road. This is fun." It is a lot of things, but fun is not one of them.

What if the Japanese and Western Europeans decide to start pulling out of American securities, our bonds and our T bills. Where are we going to pick up 25 percent, or over $1 trillion of new investment? Are we going to get it from the American people? We do not have that kind of savings in this country. So what happens? Interest rates start skyrocketing. What happens then? It costs us billions and billions to finance the national debt at a time when we say our whole raison d'etre is to balance the budget.

What else? To provide for a $245 billion tax cut. Do you want to balance the budget in 7 years? I do not know

whether it should be 7 years or 8 years or some other period, nor does anybody in America. But I can tell you one thing. A $245 billion tax cut is not consistent with balancing the budget. Any tax cut—any tax cut—should be postponed until the budget is balanced. And who gets it? You know the rest of that story.

The $500 per child tax credit would not be for everybody; not for the people who make less than $30,000 a year with two or three children. They get no part of the child tax credit. Instead, they get a cut in the earned income tax credit. That is a tax increase. Some 49.5 percent of the people in this country get nothing but a tax increase out of this budget bill. But if you happen to be wealthy and have three or four kids, you get $500 for each one.

So this morning I read where the Republicans are trying to make this $500 per child credit retroactive to the year just gone by. They cannot pay for the full $500 per child for 1995, but they want to come up with $125 per child. Of course, the 1995 tax returns have already been printed, and there is no place for $125 credit on the return. So guess what? It will be payable with a green check from the U.S. Treasury next October 1, 30 days before the election. How cynical can you get to take $125 for all these children out of the Treasury 30 days before the election? Talk about buying an election. It is one of the most hypocritical things I have ever read in my life.

Colleagues, why did you run for this office? Do you have any values? Do you care about the fact that children are not going to be educated? Do you care about the fact that my State is going to lose 40 percent of its Medicaid funds? We will not have a Medicaid program. Do you care about elderly people? Seventy-five percent of the people over 65 live on less than $25,000 a year. So what do you do? You savage them to pay for a tax cut for the wealthy.

I am sorry I do not have more time. I thank the Senator for yielding.

Mrs. MURRAY. Madam President, I yield 5 minutes to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island has 5 minutes.

A PLEA FOR CIVILITY

Mr. PELL. Mr. President, like most of my colleagues, I am deeply distressed and, indeed, saddened that the legislative and executive branches of our Federal Government have reached an impasse over the future funding of Federal activity, as embodied in the continuing resolution for the current fiscal year and in the temporary debt limit extension bill, with the debate over the long-term budget reconciliation bill still to come.

While it is not surprising that we should arrive at this point—considering the differences in philosophy which are at stake—it does seem to me that deadlock could have been avoided, and still can be, if only more respect can be granted to the traditional norms of behavior that are the underpinning of our democratic system.

Comity and civility, transcending differences of party and ideology, have always been crucial elements in making government an effective and constructive instrument of public will. In times such as these, when the pendulum of history seems to be reversing its swing and when there is so much fundamental disagreement about the role of government, it is all the more essential that we preserve the spirit of civil discourse.

Last year, before retiring from the Senate to become president of the University of Oklahoma, David Boren sent a letter to his colleagues lamenting the fact that "we have become so partisan and so personal in our attacks upon each other that we can no longer effectively work together in the national interest." It was a thoughtful warning that has meaning far beyond the U.S. Senate.

The fact is that the democratic process depends on respectful disagreement. As soon as we confuse civil debate with reckless disparagement, we have crippled the process. A breakdown of civility reinforces extremism and discourages the hard process of negotiating across party lines to reach a broad-based consensus.

The Founding Fathers who prescribed the ground rules for debate in Congress certainly had all these considerations in mind. We address each other in the third person with what seems like elaborate courtesy. The purpose, of course, is to remind us constantly that whatever the depth of our disagreements, we are all common instruments of the democratic process. That process is not well served by spin doctors and sound bytes. Nor is it well served by blustering assertions of no compromise.

This certainly should be kept in mind with respect to the current dispute over the continuing resolution. This legislation is necessitated by the failure of this Congress to enact appropriation bills in a timely fashion, and President Clinton has every right to insist that a temporary continuation of spending authority come to him unencumbered by an extraneous policy matter. Whatever the level of future Medicare premiums is to be, it should be determined by reasoned debate and not be set by the forced process of a take-it-or-leave-it add-on to a continuing resolution.

Similarly, with respect to the debt limit extension, no amount of partisan one-upmanship is worth the cost of bringing the credit rating of the U.S. Government to the brink of world-wide doubt and disrepute. The way to curb future borrowing is through reduction of deficits, which we are all committed to accomplishing. But in the meantime, the United States must honor its commitments, and it seems to me highly irresponsible to attach any conditions to an extension that would limit the Government's ability to do so.

It does seem to me, Mr. President, that there are the makings of negotiated agreement on these issues, and on the larger issues that face us in the reconciliation bill, if only we can return to the basic ground-rules of civil discourse and reasoned deliberation. President Clinton for his part has long since indicated his commitment to the goal of a balanced budget. So the differences between the two sides are differences of degree—quantitative questions of how many dollars will be cut over what span of years—which certainly are susceptible to compromise.

Edmund Burke, the eloquent British statesman whose 18th century comments are so often relevant to democratic government today, once said that "All government is founded on compromise and barter." Those words have meaning for us all today, including those who feel they have a mandate for radical change.

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Madam President, I yield 5 minutes to the Senator from Wisconsin.

The PRESIDING OFFICER. The Senator from Wisconsin has 5 minutes.

A REALISTIC BUDGET PLAN

Mr. FEINGOLD. Madam President, I thank the Chair and I thank the Senator from Washington.

I join my colleagues from both sides of the aisle in deploring the circumstances that have brought us to this situation where the Federal Government is basically shut down because of the failure of the Congress and the White House to reach agreements over the Nation's fiscal needs.

Each side of this abysmal impasse has a somewhat different perspective on where the fault lies. Ultimately, neither side can win that debate because the American public sees this kind of problem as a failure of both sides. This kind of gamesmanship simply serves to undermine public confidence in public officials, and that does not benefit the Nation either in the long term or the short term.

Shutting down the Federal Government and jeopardizing the credit of the United States by allowing us to move to the brink of a default in our obligations is irresponsible.

According to OMB and GAO, shutting down the Federal Government will cost the Federal Treasury millions and millions of dollars. At a time when we are working to bring down the Federal deficit, we can certainly not afford that. There is no need for this shutdown to have occurred.

I must say there is no justification for trying to use emergency legislation

to continue Government functions as a vehicle for extraneous policy issues, issues like weakening environmental protection laws, undermining the writ of habeas corpus, or ramming through increases in Medicare premiums.

I note today some of the leadership on the other side is saying, well, this is really about a 7-year balanced budget. But the fact is the reason we are here now is not the 7-year balanced budget issue; it is inclusion of these extraneous matters that have nothing to do with balancing the budget.

Congress ought to get serious and pass a clean continuing resolution and debt ceiling extension so that we can move on with the pressing business of reaching agreement on long-term deficit reduction legislation and actually achieve a balanced budget. I think the President is correct that these negotiations should take place without the threat of budget blackmail hanging over the negotiating table. We ought to be able to reach the agreements needed without this needless disruption of Government services and the undermining of public confidence.

Let me also focus for a moment on what I mean by the threat of budget blackmail hanging over the negotiating table.

At the heart of this impasse is an effort driven primarily by the House backers of the Republican contract to force through a budget reconciliation bill that is predicated in large part on delivering what the Speaker of the House has called the crown jewel of the Republican Contract With America, and that crown jewel is this massive tax cut.

In other words, it is not just an issue of whether we should balance the budget in 7 years or earlier, with which I do agree. It is a goal on the part of those pushing that Contract With America that we balance the budget but also find enough money in there to provide a $245 billion tax cut, particularly for those in the upper income brackets. So there is no legitimacy to the claim that the dispute today is only about whether we do this in 7 years. It is about doing it in 7 years and letting these cuts occur to human service programs and safety net programs and delivering a significant tax cut to upper income folks in this society. That is what is really at stake here today.

The deep cuts in Medicare and Medicaid and education and environmental protection programs and other vital domestic programs are driven by the need to provide offsets for the $245 billion tax cut which the Republican leadership seems absolutely determined to protect.

I have opposed this tax cut from the beginning. It is bad economic policy, bad public policy, and bad judgment by the political leadership in Congress.

There is a simple solution to this crisis. Drop the $245 billion tax cut. Use it to cut back on some of the significant cuts in Medicare and Medicaid and other programs and still balance the budget by the year 2002.

That is the true answer to this dilemma, and I believe, if both parties are serious about this matter at this point, we would realize that that is the crux of the issue. A $245 billion tax cut skewed toward those in upper income brackets is not the same as saying we have to balance the budget in 7 years. That is the problem. That is what is holding this up, and that is what would solve the problem.

Madam President, I will conclude by simply saying that I hope we can get a clean resolution and stop this shutdown at this point.

I yield the floor.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. How much time is remaining?

The PRESIDING OFFICER. The Senator from Alaska has 20 minutes and 9 seconds, and the Senator from Washington has 6 minutes and 11 seconds.

Mr. MURKOWSKI. I thank the Chair. I am going to yield myself a few moments because I think it is appropriate to recognize that we have been talking about S. 395, which is the pending business before the body. That is the bill that passed including sale of the Alaska Power Authority, moving some of our excess oil off the west coast.

Instead, we have been hearing the spin doctors of the Senate, spin doctors criticizing the Republican plan to balance the budget. They suggest that we are putting this on the backs of the seniors, the working families, the children, reducing our educational commitments. Come on. We are trying to save a program, save a system.

To suggest that the Republicans have no compassion in this area is absolutely ludicrous. What are we doing on Medicare? We are responding to the Democratic alarm that Medicare is going to be broke by the year 2002. So what we are doing is not cutting it. We are reducing the rate of growth from 10 to 6 percent.

Is that irresponsible? I suggest it is responsible. Shut down Government? That is not our objective. Our objective is to balance the budget. This is not a continuing resolution. This is a commitment, a commitment to balance the budget, the 1995 balanced budget amendment. That is the issue before this body, and that is the issue down at the White House, to balance the budget.

Why do we need to balance the budget? Because we have a $4.9 trillion accumulated debt. And the American people have said that that is enough.

What are we spending for interest on the debt? What is the interest cost of that? About 14 percent of our total Federal budget. Canada is nearly at 20 percent. What happens when you have to spend 14 percent of your budget on interest on a $4.9 trillion accumulated debt? That means less money for our social responsibilities, less money for our seniors, less money for education.

You have not heard one Democratic Member of this body say how you are going to balance the budget. They simply criticize our plan. You have to cut. You have to cut Government or you have to increase revenues.

There is no magic to it. We have heard the Democrats say that the Medicare Program would be broke by the year 2002, and they are right. We are doing something about it. They are criticizing us for what we are doing about it, but they do not say what they would do about it. We have heard today that, yes, they want to balance the budget. The President said 10 years. Now he says maybe 9 years. One Senator in the Chamber today said 7 years. But that Senator did not say how we were going to do it.

The reason Government is shut down is because the President of the United States will not agree on a plan to balance the budget. He will not come before this body or the House or the leadership and tell us what his plan is to balance the budget.

Madam President, this is important. This is the most important thing we could be doing because we are talking about the survival of our Government, the survival of our fiscal system. Make no mistake about it, Madam President, this is historic. This is a historic attempt to turn around Government so that we can survive under our Democratic system as we know it today, because, Madam President, this is the first time in 35 years, since 1969, that we have imparted on a path to balance the budget. The last budget balance we had was back in 1969. It has been 35 years. We have accumulated $4.9 trillion in accumulated debt. That is the legacy we are passing on.

So it is historic, Madam President, you bet. And we propose a commitment and a plan and a responsible roadmap to get it done. We have a pledge to the American people to do it. The American people expect the Republican-controlled Congress to get the job done and stay the course. And this is indeed a very historic moment, Madam President.

I am going to give some time to my colleague from the State of Louisiana. How much time might he like?

Mr. JOHNSTON. Four minutes.

Mr. MURKOWSKI. Four or five minutes.

I ask the Chair, how much time do I have?

The PRESIDING OFFICER (Mr. THOMPSON). The Senator has 14 minutes 7 seconds.

Mr. MURKOWSKI. I yield 5 minutes.

Mr. JOHNSTON. I thank my colleague.

Mr. President, I congratulate my colleagues on this side of the aisle for using this opportunity to debate this question of a shutdown of the Government which, in my view, is unnecessary. In my view, this debate really is not about a balanced budget in 7 years; the question is whether you want a deep tax cut which costs a great deal of money and, in the process, socks it to the seniors through the Medicare trust fund.

But, Mr. President, as strongly as I believe that our colleagues on this side of the aisle are making the correct statement, correct arguments, to which I subscribe and to which I heartily agree, I just want to put in context what the measure is that we are debating just so we do not lose sight of the fact that this is the conference report on the Alaskan North Slope oil and to tell my colleagues what is involved.

Initially, Mr. President, we required that Alaskan North Slope oil destined for the gulf coast go all the way, by tanker, to the Panama Canal where it was offloaded, pipelined across the isthmus and then reloaded and then transported to the gulf coast. Why did we do that? Because of seamen's jobs, because of the Jones Act which required that American seamen pilot those ships.

Of course, it was economically not feasible to do that. It did not make economic sense except in the context of American seamen and the Jones Act. And the reason that the law so said that all those years really had nothing to do with energy security; it had to do with American seamen's jobs. It has taken all this time, all these years, to get it worked out for American seamen and the Jones Act to make our grand compromise on this question of seamen's jobs.

That now having been done, virtually all sides support this legislation in this conference report. There is, of course, some opposition. I think when it originally came up, the conference report passed by a vote of 74 to 20 something. The deport of royalty part of this legislation was part of that conference report at that time or part of the Senate bill at that time, which got 74 votes. The deport of royalty came up again and passed by 71 to 28.

The administration supports this legislation. It is economically efficient, saves the country money, is good for the economy of America. And for those reasons, there is virtually no opposition. I simply say that, Mr. President, not because there has been any argument here today to speak of on this conference report, but just so that my colleagues will know that this conference report has nothing to do with the balanced budget or tax cuts for the rich or any of those grand and wonderful subjects. This has to do only with the Alaskan North Slope oil and whether it can be exported in the most efficient way. And it also has to do with deport of royalty. Both parts of that have been overwhelmingly approved here on the floor of the Senate. The deport of royalty was approved here twice, and the Alaskan North Slope was approved by a margin of 74 to 25.

So, I simply say that, Mr. President, so that my colleagues will know that the conference report ought to be approved however you feel about tax cuts for the rich, Medicare cuts and all the rest of the subjects that are so much on everyone's mind. I yield the floor, Mr. President.

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Thank you, Mr. President.

Mr. President, the events in the past few days are disheartening. Congress passed two bills that should provide stopgap measures for the Government to operate, both the debt extension and the continuing resolution. These bills are necessary to buy time to work out differences that we have on the budget. But both were loaded down with political baggage, and the President has been forced to veto both.

Now here, amazingly, today we are talking about exporting Alaskan oil. The Government is shut down, the budget is in crisis, and we are debating a major giveaway to foreign oil companies at the expense of Washington State refinery workers.

Mr. President, it does not have to be this way. We have a job to do. We passed a budget resolution months ago. We passed a budget reconciliation 3 weeks ago. And we literally have been sitting here since then. We have a responsibility to problem solve, to work out our differences and send a package to the President. Yet here we are drawing lines in the sand and wasting time. I think everyone looks bad if we do not keep the budget process moving.

Mr. President, when I came to Washington in 1993, I was excited, motivated, and ready to make a change. I was ready to make Congress work for average people. I was driven to restore common sense to this institution. And in large part I acted on that impulse by becoming a member of the Budget Committee, which put together the Budget Reconciliation Act of 1993. We all remember the 1993 budget debate. It was intense, but yet it was productive. Not everyone liked it, but we got the job done. We had no debates about continuing resolutions or debt limits. There were no discussions of Government shutdowns and work furloughs. Instead, we simply worked hard and we beat every deadline with room to spare.

I understand the new majority's enthusiasm and in many ways I share their interest in changing the way this place works. And, believe me, I understand how difficult it is to put together a comprehensive budget package.

But, Mr. President, what I do not understand is the new majority's inability to do so. Here we are, November 14, and there is no light at the end of the tunnel. This body passed a budget way back on October 27, but we still have not seen a House-Senate compromise package. More importantly, this Congress still has not passed 8 of its 13 appropriations bills. That astounds me.

Our constituents expect us to pass appropriations by September 30. In fact, we passed the Senate budget plan 3 weeks ago and literally have done nothing since. People do not want to hear about Government shutdowns. And they certainly do not like it when Congress plays political games with their lives. How do we explain the pending Government shutdown without admitting our inability to do what is asked of us? We cannot; it is impossible. We cannot explain this stalemate without telling the public that the last 2 weeks have seen nothing but arguing, posturing, and finger pointing from one end of Pennsylvania Avenue to the other. I do not like to say it, but this behavior reminds me of the preschool classes I used to teach.

Mr. President, we have to be responsible. We should not risk our Nation's creditworthiness and its ability to borrow. We should not shock the bond market, raise long-term interest rates and hurt American investors and consumers. We must understand the ramifications of our actions and our inactions. I urge my colleagues to consider my words. The American people do not care about who wins and who loses in this budget battle, let alone the continuing resolution battle. They simply care about results. They want to feel secure, and they want to know this Congress is up to its job.

Mr. President, our goal should be to restore faith in Government, to demonstrate progress, action, and change. People want to see us working and working hard just like they do. But if the Government shuts down, all they are going to know is the politicians in Washington, DC, dropped the ball again. It is time to put aside the brinkmanship and give people what they want. I hope we can move quickly to enact a reasonable continuing resolution that has no strings attached.

Budget negotiations will come soon enough once we resume work on the budget bill. In the meantime, let us be responsible legislators. Let us live up to our responsibilities and the expectations of our constituents.

As far as the pending legislation is concerned, again I am amazed that we are debating this bill when this Government has come to a standstill. But I want my colleagues to know, I think that this bill is not a good one. It does not favor my constituents or the Nation. It gives away precious oil resources when our own country is 50 percent dependent on foreign oil. It

threatens the healthy water of Puget Sound with unsafe, single-hull oil tankers. And most importantly, if this body actually takes a step to opening ANWR to drilling, it is possible that that oil also will be exported. This makes no sense at all to me, Mr. President, and I urge my colleagues to vote no on the conference report.

Mr. MURKOWSKI. Mr. President, I inquire how much time is remaining on both sides.

The PRESIDING OFFICER. The Senator from Alaska has 10 minutes, 25 seconds, and the other side has 38 seconds.

Mr. MURKOWSKI. Mr. President, this has been an extraordinary debate. We started out debating the Alaska Power Authority moving excess oil from the west coast of the United States and deep-water royalty relief under S. 395. A good part of the conversation has involved a spin on the balanced budget amendment and the continuing resolution.

I think that has been identified by both sides relative to the merits. But, again, I remind my colleagues that the reason the Government is shut down today is because the President and the White House cannot come to grips with a Republican plan for a balanced budget, and it is just that simple.

I have listened intently to my good friend from the State of Washington relative to her concerns about the Alaska oil export portion in title II. I can assure you that, indeed, we do not contemplate a giveaway of American oil. We are talking about selling that portion of oil that is excess to the west coast and, in so doing, that will stimulate jobs in California and stimulate jobs in my State of Alaska. As the Senators from Washington know, anything that is good for Alaska is good for the State of Washington, because most of our supplies go through their State.

Furthermore, to suggest that somehow this is going to be detrimental to Puget Sound, I remind those who are somewhat familiar that we are not talking about oil being exported from the State of Washington. What we are talking about ultimately is the State of Washington having to depend more on imported oil coming into that State if, indeed, it cannot rely on a continuing supply of oil from Alaska.

But in concluding remarks, I wish to reflect for a moment on the great relationship which we have had over the years with the State of Washington, her citizens and the congressional delegation. Since the very first days of our statehood upon entering the Union, we in Alaska have had vibrant economic, cultural, and close political ties to Washington. I guess that began some three decades ago. Perhaps Senator STEVENS, the senior Senator, could comment a bit more precisely on the history, but our two congressional delegations have worked together.

We have created new economic opportunities for citizens of both our States. Indeed, we look back with fondness to the efforts of Scoop and Maggie, as they were fondly known, to nurture the development of both our States economically. We have accomplished much since statehood, in large part because our delegations have worked together to promote common interests.

We have differences of opinion, as evidenced by this, but as a result of our State's geographic location, we always depended heavily on two-way commerce with the State of Washington. Ships carrying the produce and consumer goods of Washington State regularly enter our ports. In return, we continue to share our great mineral wealth, including much of the crude oil that fuels Washington State's transportation system and supports her economy, and we want to do that in the future.

In fact, development of our natural resources have been of immense benefit to Washington State. Between 1980 and 1991, North Slope oil production generated approximately $1.35 billion in revenues for the State of Washington. Only my State, California, Texas, and Pennsylvania generated greater revenues in providing supplies needed to sustain oil production on the North Slope.

So we look forward to the future. We see vast economic benefits through development of our State's bountiful resources. Opening the Coastal Plain of ANWR to prudent, environmentally sound oil production, for example, would create up to 12,000 new jobs in the State of Washington, ensure the continuity of her refineries, and, as a consequence, we feel we can do it safely.

So, this is, indeed, an important relationship. I have worked hard, along with Senator STEVENS and others, in the conference to ensure that Senator MURRAY's safety and environmental concerns would be addressed. When some of our House colleagues suggested deleting section 206 in its entirety, Congressman YOUNG, from Alaska, and I insisted that efforts be undertaken to find a meaningful compromise. Although I understand my colleague wishes the original language could have been maintained, I believe we did develop a sound alternative.

Let me tell you what that is, because under title IV of the conference report, we have mandated that the Coast Guard examine the most cost-effective methods of using existing towing vessel resources to respond to any vessel in distress. We adopted this alternative because in part we believe that, on the best information available and evidence, that the marine environment of Puget Sound is adequately protected under existing response plan requirements mandated by the Oil Pollution Act of 1990 and other statutory provisions.

OPA is applicable to major oil ports. Puget Sound is one. It requires double-hull tankers over a period of time, inspections, higher liability, response plan and escort vessels and mandates that the Coast Guard be given the discretion relative to escort vessels.

We believe the Coast Guard's existing authority to prevent and respond to oilspills, as well as to impose vessel operating requirements, is fully sufficient to address the needs of all Pacific Northwest waterways. It is an obligation of the Coast Guard to address that.

Nonetheless, in recognition of the interest among the citizens of Washington State in a so-called tug-of-opportunity system and given our strong desire to ensure that cost-effective measures are adopted to enhance the safety in these waters, the committee of conference included title IV.

With respect to Senator MURRAY's general concerns about the impact of ANS exports on her State, let me offer a few thoughts. We firmly believe, as the weight of the testimony before my committee demonstrated, that the Pacific Northwest will continue to be the most natural market for ANS crude.

Given its geographic proximity and relatively low cost of transporting crude to refiners in Puget Sound, there is no sound economic reason why any oil now coming to Washington would be exported. In fact, the largest independent refiner in the area has a long-term supply contract with the largest North Slope producer. Moreover, some of the owners of the largest refineries in Washington State, in fact, support this legislation. There is, thus, no reason to fear oil shortages or higher prices.

Nor, might I add, is there any basis for the concern expressed that enactment of the legislation will lead to a sudden influx of substandard or environmentally unsound foreign-flag tankers in the waters of Puget Sound. Under OPA 1990, all tankers—American flag and foreign flag—are subjected to the same rigorous safety standards by the U.S. Coast Guard. Environmentally safe foreign-flag tankers today deliver imports to refineries in Puget Sound, as a matter of fact. Finally, along with the American-flag tankers, with some of the best safety records in the world, these tankers will continue to deliver the crude that helps fuel the State's economy.

We have carefully considered all the potential negative implications of the ANS export.

We have given the President all the authority he needs to ensure the exports do not pose negative environmental risks for anybody in the Pacific Northwest. Having done so, we want to share the benefits of export. Like Washington State, which for so long

has thrived because of free trade—you can imagine what would happen if the State of Washington was precluded by this body from, say, exporting their apples. We feel that way about our oil, Mr. President. We in Alaska want the chance to sell our most precious resource into the world markets. We in the Alaska delegation have fought so hard for so long to maintain free and open trade opportunities for others, and we now ask that our colleagues help us end the discrimination that has kept our most valuable resource from being freely traded in a competitive market. It has been unfair to the State of Alaska. I thank Senator STEVENS, Representative YOUNG, Senator BENNETT JOHNSTON, and other members of the Energy Committee, who worked so hard to bring this legislation together, S. 395, covering the sale of the Alaska Power Authority, and the export of excess oil from the west coast of the United States in U.S.-flag vessels with U.S. crews. This means more U.S. ships and more jobs.

Finally, on the benefits of deep water royalty, I had the pleasure of working with Senator BENNETT JOHNSTON to bring together, with my colleagues in the House, this legislation before us. I believe the time has about expired. The yeas and nays have been ordered. I do not know if there is further time.

I yield the remainder of my time.

Mrs. MURRAY. I yield back our time.

Mr. MURKOWSKI. I urge my colleagues to support the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from New Jersey [Mr. BRADLEY] is absent because of illness in the family.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 69, nays 29, as follows:

[Rollcall Vote No. 574 Leg.]

YEAS—69

Abraham	Domenici	Kennedy
Ashcroft	Dorgan	Kyl
Baucus	Faircloth	Lott
Bennett	Feinstein	Lugar
Bingaman	Ford	Mack
Bond	Frist	McCain
Breaux	Glenn	McConnell
Brown	Gramm	Murkowski
Bryan	Grams	Nickles
Burns	Grassley	Nunn
Campbell	Gregg	Pell
Chafee	Hatch	Pressler
Coats	Heflin	Robb
Cochran	Helms	Roth
Cohen	Hollings	Santorum
Conrad	Hutchison	Shelby
Coverdell	Inhofe	Simpson
Craig	Inouye	Smith
D'Amato	Jeffords	Snowe
Daschle	Johnston	Specter
DeWine	Kassebaum	Stevens
Dole	Kempthorne	Thomas
		Thompson
		Thurmond
		Warner

NAYS—29

Akaka	Harkin	Moseley-Braun
Biden	Hatfield	Moynihan
Boxer	Kerrey	Murray
Bumpers	Kerry	Pryor
Byrd	Kohl	Reid
Dodd	Lautenberg	Rockefeller
Exon	Leahy	Sarbanes
Feingold	Levin	Simon
Gorton	Lieberman	Wellstone
Graham	Mikulski	

NOT VOTING—1

Bradley

So the conference report was agreed to.

Mr. LOTT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LOTT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The minority leader.

COST OF GOVERNMENT SHUTDOWN

Mr. DASCHLE. Mr. President, 800,000 Federal workers were furloughed without pay today as a result of our inability to resolve our differences on the continuing resolution. It could have been avoided. It is as unnecessary as it is unfortunate.

Morale among Federal employees is at one of the lowest points ever. They face great uncertainty, while many are being told they are not essential. It is sad but avoidable. It represents not only a cost to families working for the Federal Government but a huge cost to Government itself. It may cost the Federal Government as much as $150 million a day, costing taxpayers as well.

While it may have been avoidable, it was also predictable, given statements by the Speaker of the House throughout the year. It was on April 3 when the Speaker pledged to "create a titanic legislative standoff with President Clinton by adding vetoed bills to must-pass legislation."

It was on November 8 that the Investors Business Daily reported that the Speaker would force the Government to miss interest and principal payments for the first time ever to force the administration to agree to his 7-year deficit reduction.

While failure to pass a continuing resolution costs a great deal, failure to pass a debt limit is costing even more. Officials at Standard & Poor's recently noted, "The willingness of American officials to talk about the possibility of default has already done lasting harm to the United States international image as a country willing to pay back what it borrows." Standard & Poor's President Leo O'Neill argued, "Even if the issue is resolved in the 11th hour, the 59th minute, in some respects the damage has already been done."

Mr. President, we can resolve these matters now. In fact, we must do so. Let the negotiations continue. Let us resolve our differences. If the Medicare premium increase is taken off the resolution and addressed in the overall context of reform, there is no reason we cannot find agreement on a balanced budget by a date certain.

That will take some time. We are not going to do it today; we are not going to do it tomorrow; but we are going to do it. In the meantime, we ought to agree to a clean continuing resolution for several more days to reduce the real harm to Federal employees, to reduce the harm to the U.S. taxpayer, to allow us to do our real work and resolve our differences on reconciliation and the budget.

MAKING FURTHER CONTINUING APPROPRIATIONS, 1996

Mr. DASCHLE. Mr. President, I send a bill to the desk providing for an extension until December 6 of the continuing resolution which expired last night, and I ask that the Senate proceed to its immediate consideration; that the bill be read a third time and passed, and that the motion to reconsider be laid on the table.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Mr. President, I respectfully object.

The PRESIDING OFFICER. Objection is heard.

MAKING FURTHER CONTINUING APPROPRIATIONS, 1996

Mr. DASCHLE. Mr. President, I send a bill to the desk providing for an extension until November 17 of the continuing resolution, and I ask that the Senate proceed to its immediate consideration; that the bill be read a third time and passed, and that the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Mr. President, I respectfully object.

The PRESIDING OFFICER. Objection is heard.

Mr. DOLE. Mr. President, I thank my colleague from South Dakota.

BUDGET NEGOTIATIONS

Mr. DOLE. Mr. President, as we speak, they are meeting now in S-207. The President's Chief of Staff, as I understand; the Secretary of the Treasury; and the OMB Director, Alice Rivlin, are meeting with Republicans and Democrats, members of the Budget Committee, in an effort to see if there can be some resolution.

I am not an advocate of Government shutdowns. I have been here when they have been shut down when we had Republican Presidents in the White House and a Democratic Congress and the Democrats were insisting on certain things, and the Government shut down. So this is not without precedent. But I have never thought it was the best way to do business, and I hope it can be resolved very quickly.

I hope that while they are trying to negotiate, hopefully, some agreement, that we would not engage in debate on the Senate floor that might drive us apart. I do not have any quarrel with what the distinguished Democratic leader has said. I do not share every view he has expressed. And, again, I would say that when the President talks about Medicare, I hope that the people understand we are talking about part B; we are talking about that part of Medicare where the persons out there working every day making $15,000 $20,000, $30,000 a year are putting money into the general revenues to pay 68.5 percent of someone's part B premium, whether they are worth $50,000, $100,000, $1 million or $1 billion. If the President is trying to protect those people, then I fail to understand why in this case.

All we want to do is just freeze that until we have a negotiated settlement, because sooner or later we are going to have to address Medicare in order to save it, protect it and strengthen it. That is what it was about, and that issue will not go away.

But I think, as I watched the President today very carefully, he shifted his stance today. Yesterday it was Medicare, Medicare and Medicaid. Today it was balance the budget, balance the budget, balance the budget.

I would again say, if the President wants to balance the budget, I am prepared to call up the motion to reconsider the constitutional amendment for a balanced budget. I just need one vote. One of those Senators, one of the six who voted "no" who voted "yes" previously, could change their vote at this moment and send a message across America that we want a balanced budget. And I call upon the President to get the six of his colleagues together and see if he cannot persuade one or two to vote for a constitutional amendment for a balanced budget. That, I think, would let the American people know that this is a bipartisan effort and that we do search for a balanced budget.

Failing that, I think the only recourse we have on this side, and one we are certainly going to pursue, is to balance the budget by the year 2002, balance the budget by the year 2002. Eighty-three percent of the American people want to balance the budget. You cannot balance the budget by adding new programs. We are going to spend more, even with the balanced budget by the year 2002, spend more for Medicare, more for Medicaid, and more for all these programs.

But I happen to believe that we are on the right track. We are doing the heavy lifting now. We are taking the hits on this side of the aisle. We know it is easy—we read the numbers— it is easy to say, "Let's keep hammering those Republicans." But sooner or later the President must recognize that he is the President, he has to provide leadership, he has to make tough choices. The tough choices are not to say, "I'm not going to tolerate any tinkering with this program or that program or that program." That may be the political easy choice, but it is not going to solve our problem.

Unless we balance the budget, we are not being fair to children, children who are 1 year old or 2 years old or 5 years old, who have to look at the future, where they are going to be when they are 20 years of age or 25 years of age. I really believe that it is in our mutual interest to try to work this out. We are talking about an 18-day CR. It is not the end of the world. I hope we can find some resolution.

I am also sympathetic with reference to extension of the debt ceiling. I have seen that over the years used as a vehicle for riders. I remember managing a debt ceiling when I was chairman of the Finance Committee many years ago. We had foreign policy amendments offered and adopted by my colleagues on the other side. We had all kinds—I think we ended up with 19 amendments on the debt ceiling that we had to take to conference with the Ways and Means Committee. And most of it was, of course, completely outside the jurisdiction of the Ways and Means Committee.

So, I do not want anybody to misunderstand this has never happened when we had Republicans in the White House and a Democratic Congress. It has happened. And it probably will happen in the future. Maybe it should not happen. Maybe we ought to do something to prevent it from happening, but we have not done that yet.

I think on that basis, since they are, right within 20 yards of here, trying to reach some agreement, I hope that we will be permitted to stand in recess subject to the call of the Chair. And if we cannot reach some agreement—well, if we hear no agreement can be reached, then we will have to decide what to do for the rest of the evening. But if an agreement can be reached, I hope the House would take it up and send it over here tonight and pass it, and then do precisely what the Democratic leader wishes to do, and that would be to end the shutdown and get people back to work.

Mr. DASCHLE. Would the distinguished majority leader yield?

Mr. DOLE. Yes.

The PRESIDING OFFICER. The distinguished minority leader is recognized.

Mr. DASCHLE. Let me say that I am disappointed that we could not get agreement on this resolution. I think the colloquy we have just had, Mr. President, demonstrates, regardless of what may have happened in the past, why it is so important to have a clean continuing resolution so that we can negotiate a balanced budget, so that we can negotiate whatever it is we may do with regard to Medicare.

We recognize that Medicare is going to have to be reformed. But to single out Medicare and tell seniors that they are the ones who are going to have to be the first to sacrifice before we come to any other conclusion does not make a lot of sense to most Democrats, and that is why we object to having it in the continuing resolution. To say that somehow we cannot resolve these matters one by one in an overall negotiation is to admit failure before we have begun. We are not prepared to do that.

That is why having a continuing resolution that is clean, as we call it, is so important, so that we can get the business of negotiation underway and do it in a much more comprehensive and meaningful way. Sooner or later we are going to have to come to that conclusion. As we deliberate, 800,000 Federal employees continue to wonder what will happen to them next. Taxpayers pay $150 million a day, according to estimates, that is unnecessary. The creditworthiness of the United States is being debated. So we are acquiring additional costs. We are facing additional uncertainty, simply because we have no continuing resolution today.

That can be avoided, Mr. President. We want a balanced budget. We want a date certain by which the budget is balanced. We can negotiate that. We can come to some conclusion on all of that. But we have to deal with first things first. And the continuing resolution is the issue that we have to face if we are going to resolve the short-term crisis for so many Federal employees and the taxpayers.

I have no reservations at all about the continued negotiations that are going on right now. I hope that the majority leader might be willing to allow

us to stay in morning business so that we might discuss these and other matters. I know that there are people on our side of the aisle who would like very much to have the opportunity to debate and discuss some of these issues, and, for that reason, Mr. President, I would have to object to going into recess at this time.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The distinguished majority leader is recognized.

Mr. DOLE. Mr. President, as the Senator knows, we had a meeting last night at the White House. We all agreed when we left there, at least I thought we had, that it had been a good meeting, some progress was made, and we had not reached an agreement. And I, along with the Speaker, went out and dutifully reported that to the press. Then I later heard we were getting dumped on about Medicare. Then I watched "Nightline," and we were getting dumped on about something else.

Then the President this morning, right after negotiations ended, was saying it was all the Republicans' fault. It makes it rather difficult, to be very frank about it. I know people want to get up and speak and hammer away for another 2 hours. That will not happen. We will have a quorum call. I was trying to save from keeping the staff here. But if that is the desire of the other side, we will have a quorum call, a very slow quorum call, that may take hours.

But my view is this: I have made the same speech that the Democratic leader made when we had Republican Presidents in the White House. I never prevailed, but I made the same speech, I made the same request. I asked unanimous consent that it be extended. Never got it; but I tried. So I am going to commend the Democratic leader for doing what he should do. And if he finds out a way to do it, then I missed something when I was trying to do the same thing.

But the bottom line is that, if we cannot work it out—and this is a confrontation between a Republican Congress and a Democratic White House, and it has been reversed many times. We have stood on the floor while things were going back and forth. In fact, we have had Medicare proposals on CR's before.

But I guess if the President wants to protect the rich, those who only pay 31.5 percent of their premiums even though they are millionaires, that is his prerogative. If he wants to sock somebody to pay it who is making $25,000, that is his prerogative. That is his prerogative. We are trying to make Medicare fair. I think once the American people understand he is talking about part B, part B, which is not means tested, and we just keep shoveling money out of general revenues, taking somebody's money out there making $25,000 or $30,000 and paying 68.5 percent of the premium for somebody who might be well off, it does not make any sense to me.

We ought to means test part B premiums. I think everybody agrees. Just use the word "Medicare," cut Medicare. Do not tell them that you are cutting, because they are going to find out you are not cutting anything.

So I just suggest if the President wants to balance the budget, boy, he is right on track. He said balance the budget in 5 years when he was running. Since then, he has said balance it in 10, 9, 8, or none of the above. So take your pick. He is for 5 years when he is running; he is for 10 years when he is thinking about running for reelection; and he has been for 9 years, for 8 years, for 7 years, or for never.

We are going to find out. The President said he wanted to balance the budget about 10 times in a press conference. We ought to give him that opportunity. We ought to send him a CR, and it ought to say in the CR we will balance the budget in 7 years—7 years—the year 2002, using updated CBO numbers which he asked us to use in 1993, as I recall, when he addressed the joint session of Congress, and then send that to the Congress. Then he can have the CR, and he can also tell the American people he is serious about a balanced budget amendment.

But until that time, I do not know how we are going to resolve it, unless they can figure out something in the other room, because you have a question whether you use the CBO numbers, OMB numbers, whether it is going to be 7 years, 8 years, 9 years, 10 years.

Most Americans do not understand why we are waiting 7 years. They think we ought to do it in a year, 2 years, or 3 years. We believe 7 is the right number. In fact, we will have on the floor, hopefully on Friday, a balanced budget called the reconciliation package. We call it the Balanced Budget Act of 1995, which does balance the budget in 7 years. He will have a clean CR in it. He will have a clean debt ceiling in it. It will all go to the President of the United States, and he can get everything he talked about this past week: He can get a clean debt extension; he can get a clean CR; and he can get a balanced budget; and he only has to sign once. One time—not three times, but one time—and he gets the whole package.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BROWN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. In my capacity as a Senator from the State of Colorado, I object. The clerk will continue to call the roll.

The assistant legislative clerk continued to call the roll.

Mrs. BOXER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. GORTON. I object.

The PRESIDING OFFICER. Objection is heard. The clerk will continue to call the roll.

The assistant legislative clerk continued to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. FAIRCLOTH). The chair, in his capacity as a Senator from North Carolina, objects and the clerk will continue to call the roll.

The legislative clerk continued with the call of the roll.

Mr. REID. Mr. President, I ask unanimous consent that the quorum call be rescinded.

Mr. HELMS. I must object.

The PRESIDING OFFICER. The Senator from North Carolina objects and the clerk will continue to call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KYL). Without objection, it is so ordered.

MEASURE READ THE FIRST TIME—S. 1410

Mr. DOLE. Mr. President, I understand that S. 1410, introduced earlier by Senator DASCHLE, is at the desk.

The PRESIDING OFFICER. The Senator is correct.

Mr. DOLE. I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The legislative clerk read as follows:

A bill (S. 1410) making further continuing appropriations, 1996.

Mr. DOLE. Mr. President, I now ask for its second reading, and I object.

The PRESIDING OFFICER. Objection is heard.

MEASURE READ THE FIRST TIME—S. 1411

Mr. DOLE. Mr. President, I understand that S. 1411, introduced today by Senator DASCHLE, is at the desk.

The PRESIDING OFFICER. The Senator is correct.

Mr. DOLE. I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The legislative clerk read as follows:

A bill (S. 1411) making further continuing appropriations, 1996.

Mr. DOLE. Mr. President, I now ask for its second reading, and I object.

The PRESIDING OFFICER. Objection is heard.

MESSAGES FROM THE HOUSE

At 12:03 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 657. An act to extend the deadline under the Federal Power Act applicable to the construction of three hydroelectric projects in the State of Arkansas.

H.R. 680. An act to extend the time for construction of certain FERC licensed hydro projects.

H.R. 924. An act to prohibit the Secretary of Agriculture from transferring any national forest system lands in the Angeles National Forest in California out of Federal ownership for use as a solid waste landfill.

H.R. 1011. An act to extend the deadline under the Federal Power Act applicable to the construction of a hydroelectric project in the State of Ohio.

H.R. 1051. An act to provide for the extension of certain hydroelectric projects located in the State of West Virginia.

H.R. 1290. An act to reinstate the permit for, and extend the deadline under the Federal Power Act applicable to the construction of, a hydroelectric project in Oregon, and for other purposes.

H.R. 1335. An act to provide for the extension of a hydroelectric project located in the State of West Virginia.

H.R. 1366. An act to authorize the extension of time limitation for the FERC-issued hydroelectric license for the Mount Hope Waterpower Project.

H.R. 2204. An act to extend and reauthorize the Defense Production Act of 1950, and for other purposes.

H.R. 2527. An act to amend the Federal Election Campaign Act of 1971 to improve the electoral process by permitting electronic filing and preservation of Federal Election Commission reports, and for other purposes.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R. 924. An act to prohibit the Secretary of Agriculture from transferring any national forest system lands in the Angeles National Forest in California out of Federal ownership for use as a solid waste landfill; to the Committee on Energy and Natural Resources.

H.R. 2527. An act to amend the Federal Election Campaign Act of 1971 to improve the electoral process by permitting electronic filing and preservation of Federal Election Commission reports, and for other purposes; to the Committee on Rules and Administration.

MEASURES PLACED ON THE CALENDAR

The following bills were read the first and second times by unanimous consent and placed on the calendar:

H.R. 657. An act to extend the deadline under the Federal Power Act applicable to the construction of three hydroelectric projects in the State of Arkansas.

H.R. 680. An act to extend the time for construction of certain FERC licensed hydro projects.

H.R. 1011. An act to extend the deadline under the Federal Power Act applicable to the construction of a hydroelectric project in the State of Ohio.

H.R. 1051. An act to provide for the extension of certain hydroelectric projects located in the State of West Virginia.

H.R. 1290. An act to reinstate the permit for, and extend the deadline under the Federal Power Act applicable to the construction of, a hydroelectric project in Oregon, and for other purposes.

H.R. 1335. An act to provide for the extension of a hydroelectric project located in the State of West Virginia.

H.R. 1366. An act to authorize the extension of time limitation for the FERC-issued hydroelectric license for the Mount Hope Waterpower Project.

H.R. 2204. An act to extend and reauthorize the Defense Production Act of 1950, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DASCHLE:

S. 1410. A bill making further continuing appropriations for fiscal year 1996; read the first time.

S. 1411. A bill making further continuing appropriations for fiscal year 1996; read the first time.

ADDITIONAL COSPONSORS

S. 660

At the request of Mr. BOND, his name was added as a cosponsor of S. 660, a bill to amend title 10, United States Code, to provide for transportation by the Department of Defense of certain children requiring specialized medical services in the United States.

S. 837

At the request of Mr. WARNER, the names of the Senator from California [Mrs. FEINSTEIN] and the Senator from Georgia [Mr. COVERDELL] were added as cosponsors of S. 837, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 250th anniversary of the birth of James Madison.

S. 912

At the request of Mr. KOHL, the names of the Senator from Texas [Mrs. HUTCHISON] and the Senator from Oregon [Mr. HATFIELD] were added as cosponsors of S. 912, a bill to amend the Internal Revenue Code of 1986 with respect to the eligibility of veterans for mortgage revenue bond financing, and for other purposes.

S. 978

At the request of Mrs. HUTCHISON, the names of the Senator from Mississippi [Mr. LOTT], the Senator from Washington [Mr. GORTON], the Senator from Iowa [Mr. HARKIN], and the Senator from Florida [Mr. MACK] were added as cosponsors of S. 978, a bill to facilitate contributions to charitable organizations by codifying certain exemptions from the Federal securities laws, to clarify the inapplicability of antitrust laws to charitable gift annuities, and for other purposes.

S. 1028

At the request of Mrs. KASSEBAUM, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 1028, a bill to provide increased access to health care benefits, to provide increased portability of health care benefits, to provide increased security of health care benefits, to increase the purchasing power of individuals and small employers, and for other purposes.

S. 1228

At the request of Mr. D'AMATO, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 1228, a bill to impose sanctions on foreign persons exporting petroleum products, natural gas, or related technology to Iran.

S. 1233

At the request of Ms. MIKULSKI, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 1233, a bill to assure equitable coverage and treatment of emergency services under health plans.

S. 1271

At the request of Mr. CRAIG, the name of the Senator from Wyoming [Mr. THOMAS] was added as a cosponsor of S. 1271, a bill to amend the Nuclear Waste Policy Act of 1982.

S. 1316

At the request of Mr. KEMPTHORNE, the names of the Senator from Michigan [Mr. ABRAHAM], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Indiana [Mr. LUGAR], the Senator from Nevada [Mr. BRYAN], the Senator from Pennsylvania [Mr. SANTORUM], the Senator from Arkansas [Mr. PRYOR], and the Senator from Delaware [Mr. ROTH] were added as cosponsors of S. 1316, a bill to reauthorize and amend title XIV of the Public Health Service Act (commonly known as the "Safe Drinking Water Act"), and for other purposes.

S. 1329

At the request of Mr. DOLE, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 1329, a bill to amend title 38, United States Code, to provide for educational assistance to veterans, and for other purposes.

S. 1346

At the request of Mr. ABRAHAM, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 1346, a bill to require the periodic review of Federal regulations.

SENATE RESOLUTION 146

At the request of Mr. JOHNSTON, the names of the Senator from North Dakota [Mr. CONRAD] and the Senator from Alaska [Mr. STEVENS] were added

as cosponsors of Senate Resolution 146, a resolution designating the week beginning November 19, 1995, and the week beginning on November 24, 1996, as "National Family Week," and for other purposes.

ADDITIONAL STATEMENTS

TRIBUTE TO PRIME MINISTER YITZHAK RABIN

• Mrs. FEINSTEIN. Mr. President, I rise today in deep sorrow to pay a tribute to Israeli Prime Minister Yitzhak Rabin, who was assassinated in Tel Aviv 10 days ago.

It is difficult to imagine the State of Israel without Yitzhak Rabin. His last years as Prime Minister were so momentous that it is easy to forget that Yitzhak Rabin was not just present, but played a central role, in virtually every major event in Israel's brief, but dramatic, history.

For many Israelis, Yitzhak Rabin was a father figure—a constant presence throughout their lives, and a source of strength. The profound love, admiration, and respect that his compatriots felt for him was made clear by the tremendous, spontaneous outpouring of grief upon his sudden death: Candlelight vigils cropped up all across the country; men and women stood crying in the streets in shock and disbelief; and 1 million Israelis—20 percent of the population—filed past his coffin in a 24-hour period to pay their last respects.

For Israelis, Yitzhak Rabin had simply always been there.

Born in 1922 in Jerusalem to recent immigrants to Palestine, the young Yitzhak Rabin was part of the generation that built the foundation of the Jewish state. He studied in an agricultural school, with the expectation of working the land with his bare hands.

But Rabin felt a sense of duty to the cause of building Israel, and he put his own ambitions aside to fight for its birth. He joined the Palmach, the forerunner of the Israel defense forces, to fight for Israel's establishment. A fine soldier, he was quickly elevated to command-level positions, and he led the battalion that secured the crucial Jerusalem-Tel Aviv road during Israel's War of Independence in 1948.

After Israel's founding, Rabin rose through the ranks of the Israel defense forces, finally being named Chief of Staff. To Israel's good fortune, he held that position in June of 1967, when he led Israel to a stunning victory in the Six-Day War over three Arab armies threatening the Jewish State. He was one of the first Israelis to walk the streets of the reunited city of Jerusalem, and the pictures of him arriving at the Western Wall of the Temple are to this day among the most moving images in Israel's history.

In the aftermath of this great victory, he retired from the military and became Israel's Ambassador to the United States. He sought this post, he explained, because he felt that Israel's future could best be secured by a strong partnership with the United States. More than any other individual in either country, Yitzhak Rabin envisioned the deep friendship that now exists between the United States and Israel, and worked to make it a reality. It is fitting that in his final years as Prime Minister, he enjoyed a relationship with an American President that surpassed perhaps what even he had imagined possible.

In 1974, in the aftermath of the Yom Kippur War that brought down the government of Golda Meir, Yitzhak Rabin became Prime Minister of Israel. During his tenure in office, he forged an early path in Middle East peacemaking by negotiating disengagement agreements with both Egypt and Syria. Following the Labor party's defeat to Likud in 1977, Prime Minister Menachem Begin and Egyptian President Anwar Sadat built on the successful disengagement negotiations to reach a full peace treaty.

In 1984, Yitzhak Rabin returned to the Cabinet as Israel's Defense Minister. In the first year, he helped to arrange the withdrawal of the Israeli Army from most of Lebanon, following a costly and painful invasion. In 1987 and 1988, he was confronted by the Palestinian uprising, or intifada, and the daily battles between Israeli soldiers and Palestinian youths.

Finally, in 1992, Yitzhak Rabin returned victorious to the Prime Ministership. He quickly recognized the opportunity to achieve a breakthrough in the stalled negotiations between Israel and its neighbors. The results included the historic agreements between Israel and the Palestinians, the peace treaty with Jordan, and many unforgettable images, such as the famous handshake with Yasser Arafat on the White House lawn, and the appearance with King Hussein of Jordan at a joint session of Congress.

The common thread through all these various experiences was an unshakable commitment to the security and well-being of the State of Israel. At every stage of his life—from young soldier fighting for his nation's survival, to confident commander of a strong army, to diplomat reaching out to broader ties with the world, and finally to statesman leading his nation to make peace with old foes—he was motivated by a desire to build a better, more secure, more peaceful life for his people.

Yitzhak Rabin was a man of great integrity. He spoke plainly and made no pretense about his overriding concern: the security of the State of Israel and its people. But, blessed with strength of character and a keen intellect, he was able to adjust his understanding of what Israel's security required according to changing conditions.

In 1948 and 1967, for example, he knew that Israel's survival required an all-out military effort. In later years he understood the need to maintain Israel's world-class military and the imperative of a strong alliance with the United States.

For many years after the Six-Day War, he had been an advocate of Israel retaining all of the West Bank and Gaza. But as the intifada went on, the destructive effects of the continuation of Israeli control over a hostile, embittered population of nearly 2 million Palestinians became clearer to him.

Over time, and not without difficulty, he came to the understanding that Israel's long-term survival as a Jewish state would be jeopardized by the continued domination of another people. He was not naive. He recognized that there were risks involved with reaching out to old enemies. But his pragmatic understanding of Israel's own needs led to the historic agreement between Israel and the Palestinians.

In his final speech to the Israeli people, at the peace rally where he was cut down, Yitzhak Rabin explained how he had come to reassess Israel's situation. He said:

> I was a military man for 27 years. I fought so long as there was no chance for peace. I believe that there is now a chance for peace, a great chance. We must take advantage of it for the sake of those standing here and for those who are not here—and they are many.
>
> I say this to you as one who was a military man, someone who is today Minister of Defense and sees the pain of the families of the Israel Defense Forces soldiers. For them, for our children, in my case for our grandchildren, I want this government to exhaust every opening, every possibility to promote and achieve a comprehensive peace.

Yitzhak Rabin was a pragmatist, not a starry-eyed idealist. But through his pragmatism, he reached a visionary conclusion. This man, who cared so deeply for every Israeli soldier who fell in battle, for every victim of terror, knew that when an opportunity for peace presented itself, he must seize it. A pragmatic conclusion to be sure, but also a morally-centered one.

I was privileged to attend Yitzhak Rabin's funeral last week in Jerusalem, the city of his birth. He is buried among Israel's fallen heroes on Mount Herzl, and there could be no more appropriate place. He was a patriot and hero for Israel as a soldier and a leader, in wars of survival and in the struggle for peace.

The funeral was a powerful testimony to his achievements. Yitzhak Rabin, the military hero, was saluted by weeping soldiers, and buried with full military honors. Yitzhak Rabin, the peacemaker, was honored by the entire world. Dozens of heads of state and foreign dignitaries, from every corner of the globe, came to pay their respects. There could be no greater evidence of the incredible progress made

by Yitzhak Rabin toward peace and ending Israel's isolation.

Most inspiring of all was the presence of leaders from seven Arab countries—Jordan, Egypt, Morocco, Tunisia, Qatar, Oman, and Mauritania—and the Palestinian Authority. Such a thing could not have happened even 3 years ago. The peace that Yitzhak Rabin was striving to build was brought to life by the presence of President Mubarak of Egypt, on his first visit to Israel, and by Jordan's King Hussein, who called Rabin "my brother."

It now falls to Shimon Peres, Israel's acting Prime Minister, to continue the work of his partner, Yitzhak Rabin. Israel is fortunate to have such a wise and capable leader ready to step in to the void created by this tragedy. Shimon Peres has served Israel with distinction over many years as Prime Minister, Foreign Minister, Defense Minister, and many other posts.

Shimon Peres is in many ways the architect of the Israeli-Palestinian agreements, and his commitment to achieving a comprehensive peace that protects Israel's security is unquestioned. If there is any consolation in this time of grief, it is that Yitzhak Rabin's partner, Shimon Peres, who shared Rabin's vision, will be able to carry that vision forward.

As the tributes to Yitzhak Rabin continue to flow forth from around the world, we must rededicate ourselves to supporting Israel in its pursuit of peace. It is a sad irony that at the moment of Yitzhak Rabin's death, Congress had allowed the Middle East Peace Facilitation Act—which Rabin considered essential to the success of his peace policies—to lapse.

While this problem was rectified following the funeral, we know that Congress will have many future opportunities to express support for the peace process. When we fail to do so, we undermine Israel's peace efforts and dishonor Yitzhak Rabin's legacy.

Let us commit to one another and to the memory of Yitzhak Rabin, that we will place support for Israel's peace efforts above partisan or political disputes. Bringing peace to Israel and the Middle East—which was Rabin's life's work—deserves to be such a priority. If we fail to do this, all our words and tributes in praise of Yitzhak Rabin will ring hollow.

Let us also commit ourselves to condemning violence and the incendiary rhetoric of extremists, wherever we find it. The painful lesson of Rabin's death is that violent words can indeed have violent consequences. Tragically, "Death to Rabin" was not just a slogan. It is up to all of us to isolate those who use such words.

Israel and the world have lived 10 days without Yitzhak Rabin, and we are far poorer for his loss. While the pain does not fade easily, his memory can be a source of comfort. This past Sunday night, at the conclusion of the 7-day mourning period, tens of thousands of Israelis returned to the site of his assassination—renamed Yitzhak Rabin Square—and sang songs of peace in his honor.

For Israel, for the Jewish people, and for all who loved and respected Yitzhak Rabin, may his memory be a blessing. In death as in life, may he give hope and strength to his people.•

RECOGNITION OF MINNESOTA TEACHER OF THE YEAR

• Mr. GRAMS. Mr. President, I would like to take this opportunity to recognize an outstanding Minnesotan who has been chosen as Minnesota's "Teacher of the Year."

A resident of Owatonna, MN, Donald Johnson has been teaching for more than 27 years. This year he was selected as teacher of the year for his significant contributions to education.

Described by his principal at Owatonna Senior High School as a teacher who "lights up the classroom," Mr. Johnson specializes in history with a focus on American, European, art, and religious history.

Known for his quick wit and sense of humor, Mr. Johnson never shrinks from a challenge and never settles for the old way of teaching. He is always looking for new and innovative curriculum to challenge himself and bring out the best in his students.

Teachers like Donald Johnson represent the key to America's future. As our children face the challenges of the 21st century, it is dedicated educators like Mr. Johnson who accept the challenge of turning the young people of today into the leaders of tomorrow.

Mr. President, I hope that you and the rest of our Senate colleagues will join me in congratulating one of America's outstanding educators.•

TRIBUTE TO LT. GEN. WILLIAM M. KEYS

• Mr. LEAHY. Mr. President, I rise to pay tribute to a great American, Lt. Gen. William M. Keys, who recently retired from the U.S. Marine Corps. General Keys was awarded the Distinguished Service Medal in recognition of his exceptional service during the last few years of his long career. From the jungles of Vietnam to the sands of Kuwait, General Keys answered the call to duty, and today, on behalf of all Senators, I pause to thank him.

Mr. President, I ask unanimous consent that the full text of his award citation be printed in the RECORD.

The text of the citation follows:

CITATION TO ACCOMPANY THE AWARD OF THE DEFENSE DISTINGUISHED SERVICE MEDAL TO WILLIAM M. KEYS

Lieutenant General William M. Keys, United States Marine Corps, distinguished himself by exceptionally distinguished service as Commander, United States Marine Forces, Atlantic, from June 1991 to July 1994. General Keys displayed dynamic leadership, doctrinal and operational boldness, and dogged determination in aggressively pursuing initiatives that enhanced the Force's ability to successfully prevail on the joint battlefield. He significantly improved the Commanders-in-Chiefs ability to best utilize the operational capabilities of all the forces available. With the establishment of the United States Atlantic Command (USACOM) as the joint force integrator for CONUS-based forces, General Keys' leadership was crucial in shaping and defining many joint warfare concepts, including the standardized development of the Joint Air Force Component Commander (JFACC) concept within USACOM and United States Pacific Command. As Joint Task Force Commander for Ocean Venture 92, he built upon improved communications capabilities and better joint tactics, techniques, and procedures within the JFACC/JTCB. He also played a key role in the development of joint training concepts and exercise schedules currently emerging from USACOM. The distinctive accomplishments of General Keys culminate a distinguished career in the service of his country and reflect great credit upon himself, the United States Marine Corps, and the Department of Defense.•

LIECHTENSTEIN-BASED LOTTERY ROLLS OUT ON INTERNET

• Mr. LUGAR. Mr. President, I ask that the following article be printed in the RECORD.

The article follows:

[From Reuters News Service, Oct. 3, 1995]

LIECHTENSTEIN-BASED LOTTERY ROLLS OUT ON INTERNET

LONDON.—A new international lottery, licensed by the government of the tiny European principality of Liechtenstein, was launched via the Internet Tuesday.

InterLotto will give the world's 50 million Internet users the opportunity every week to win a jackpot of at least $1 million by dialling up a new World Wide Web page on the Internet computer network.

"It is the first government-licensed lottery on the Internet," David Vanrenen, chairman of the International Lottery in Liechtenstein Foundation, told a news conference.

The launch in London, headquarters of the computer services firm Micro Media Services Ltd, which provides the hardware and technology for InterLotto, came on the heels of controversy over Britain's National Lottery.

The opposition Labor Party Monday criticized the National Lottery for making profits and there have been jibes that the lottery funds elitist causes.

InterLotto officials said players could nominate charities to receive awards. At least five percent of InterLotto revenues will go to charity initially with 65 percent going in prize money and the rest going toward paying costs.

"Every time you book a ticket, you enter a nomination for a charity," Vanrenen said.

The foundation, authorized and controlled by the Liechtenstein government, is operating InterLotto.

Liechtenstein, a tax-free country of 30,000 residents wedged between Switzerland and Austria, will not receive any money from the lottery which is non-profit-making.

The government will select charities to receive donations. Ticket purchasers will then

vote to decide which of the selected groups receive funds. Organizers hope to sell one million tickets a week by the end of the year.

The British National Lottery donates 28 percent of its revenues to good causes and charities. Like most other government-run lotteries in Europe, the British lottery pays out 50 percent of revenues in prize money.•

BUDGET RECONCILIATION VOTES

• Mr. ABRAHAM. Mr. President, during consideration of the Budget Reconciliation Act of 1995, the Senate conducted a remarkable number of rollcall votes, including a record 39 votes on Friday, October 27. I want to take some time now to discuss several of the more critical votes about which I was unable to comment at the time.

First of all, Mr. President, I generally voted against motions to waive the Budget Act for amendments that resulted in higher deficits and amendments to strike budget savings in the bill because they would have moved us away from the goal of balancing the budget by the year 2002. These amendments included the Jeffords amendment on two-part dairy, the Specter amendment to strike all of the savings derived from the Medicare disproportionate share payments, and the Moynihan amendment to strike the indirect medical payments provisions. Aside from the respective merits of each amendment, their adoption would have resulted in a deficit in the year 2002, taking the reconciliation package out of balance and causing us to miss our primary goal in this budget process—enactment of a balanced budget.

Second, I voted against amendments to roll back the $245 billion in tax relief for middle-class families and small businesses. As I have noted previously, as a consequence of the $900 billion in savings generated from our budget over 7 years, the Congressional Budget Office estimates that an economic dividend will accrue to the Federal Government. In my mind, this tiny surplus belongs to the taxpayers who make all the other Government programs possible, and for that reason, I opposed all amendments to reduce the size of the tax cut. These amendments included the Rockefeller motion to reduce the savings from Medicare to $89 billion and to offset this reduction by reducing the tax cuts by a like amount; the Bumpers amendment to delay the tax cut for 7 years; the Dorgan-Harkin-Kennedy amendment to limit the capital gains tax reduction; the Lautenberg amendment to prohibit high-income people from benefiting from the lower taxes; the Baucus amendment to strip out the tax cuts in order to avoid any reductions in spending that might impact rural America; the Simon-Conrad substitute amendment to strike the tax cuts and entitlement reforms; and the Byrd amendment to strike the tax cuts altogether.

As I have said previously, I fully support providing American families and businesses with this modest tax cut. The Republican budget projects that the Federal Government will spend about $12 trillion over the next 7 years. The tax cut included in this bill would return to the taxpayers just a fraction of that amount. This is certainly reasonable, especially considering the primary beneficiaries of these tax cuts are low- and middle-income families—families that have seen their Federal tax burden rise dramatically over the past 40 years.

Mr. President, let me comment on the Rockefeller motion in particular. The effort to tie the tax cuts included in the budget reconciliation bill with the necessary reforms made to Medicare is disingenuous. With or without tax cuts, the Medicare trustees have stated in no uncertain terms that the Medicare trust fund will go insolvent in 2002. The Senate reconciliation bill makes the fundamental reforms necessary to keep Medicare solvent and it lays the foundation for long-term reform of the Medicare system. These reforms have nothing to do with any tax cuts included in the bill and everything to do with preserving Medicare for future generations.

Mr. President, there were a few amendments offered that pertained to the treatment of low-income families. I opposed Senator BRADLEY'S motion to increase spending for the earned income tax credit by raising unspecified taxes. While the basic premise and goals of the earned income tax credit are sound, it is apparent that the program is in need of reform. As was stated clearly during the debate, the EITC has suffered in recent years from fraud and abuse. According to the Governmental Accounting Office, the EITC has an error and fraud rate of between 30 and 40 percent. Aside from cheating the taxpayers, this problem is also cheating deserving families from receiving payments for which they are eligible.

Under this budget, spending on the EITC Program will continue to increase, from $19.8 billion this year to $22.8 billion in 2002. As a result, the maximum credit available to low-income families with two children will increase from $3,110 this year to $3,888 in the year 2002. Contrary to what was argued during debate, EITC payments don't go down under this legislation, they go up.

Another amendment worth commenting upon was the Breaux amendment to make the $500 per child family tax credit refundable against employee-paid payroll taxes by limiting the tax credit to children under 16 years of age and phasing it out to families with incomes between $60,000 and $75,000. As I noted at the time, I support making the $500 family tax credit refundable against employee-paid payroll taxes. Nevertheless, I opposed this amendment because it would unfairly exclude many middle-class families who also need this relief. In my State of Michigan, there are many families where both the husband and the wife work. It's not hard to imagine a family where the husband is an auto worker, the wife is a teacher, and their combined incomes are well above the arbitrary cutoff established by the Breaux amendment. Furthermore, there are many families with children aged 16 or 17 who will also lose out under the Breaux amendment. I should point out that teenagers are just as expensive as younger children—if not more; I don't need to remind anyone just how much college costs these days, or car insurance for that matter. Parents of children aged 16 and 17 are struggling to make ends meet too, and they need the tax relief the Breaux amendment would take from them. It is my hope that FICA refundability will be raised during conference and that a solution will be adopted to provide tax relief to as many American families as possible.

Another group of amendments related to Medicare, Medicaid, and other health related matters. Senator GRAHAM of Florida offered a motion to recommit the reconciliation bill to the Finance Committee in an effort to reinstate the Federal entitlement and reduce the level of savings from the Medicaid program proposed in the Republican bill. This was, in essence, a killer amendment. As with the Rockefeller Medicare motion to recommit, the Graham amendment struck at the core of our efforts to balance the Federal budget by the year 2002.

Republicans believe it is time to end the Washington knows best mentality that dominates our budget policies and programs. Under our budget, we want to give the States more control over the Medicaid Program in exchange for an overall reduction in the growth rate of the program. The States have proven that they can deliver government services more efficiently and at less cost if they are given the freedom to do so. The Republican bill does that by placing fewer strings on the funds it provides to the States while focusing its resources on those workers on the frontlines—providing direct assistance to the needy.

There were separate amendments offered by Senators CHAFEE and DODD related to Medicaid eligibility issues. I voted to maintain the Medicaid eligibility criteria already included in the reconciliation bill by the Finance Committee. The Chafee and Dodd amendments would have mandated to the States to cover certain classes of individuals under the State-run Medicaid Program. Again, this runs counter to our effort to provide States with more flexibility—not less.

A similar amendment was offered by Senator PRYOR. His amendment would

have extended existing Medicaid standards with regard to nursing home facilities. At the time of the vote, it was my understanding that the Senate leadership would offer a subsequent amendment addressing the concerns raised by the Senator from Arkansas. This amendment was offered and accepted, and it ensures that Federal nursing home standards remain the minimum protection level afforded to nursing home residents. Under this amendment, States may receive a waiver from Federal requirements, but only if the Secretary of Health and Human Services determines that the State's regulations are as tough—or tougher—than Federal regulations. With the understanding that this amendment would be offered, I voted against the Pryor amendment.

Mr. President, another amendment worthy of note was the Kassebaum amendment to restore funding to the school loan program. I had an opportunity to address these issues first as a member of the Senate Labor Committee. At that time, we were confronted with the need to meet our reconciliation instructions by reducing the cost of the school loan program. While the committee met its instruction by choosing the most acceptable of undesirable alternatives, several of my colleagues and I promised to work to reduce the impact these cuts would have on students and their parents. The result of this effort was the Kassebaum amendment to strike provisions eliminating the 6-month grace period for student, imposing a loan fee on institutions, and increasing the interest rate on PLUS loans. This amendment effectively shielded college students from increased out-of-pocket costs, and I was pleased to see it adopted.

Senator BIDEN offered President Clinton's education tax credit proposal as an amendment to the bill. I voted against it because the reconciliation bill already includes a student loan tax credit of up to $500 for middle-class families. Our plan also provides considerable additional relief to those families struggling to find enough resources in their limited family budget to cover the rising costs of college.

Senator BAUCUS offered an amendment to strike the ANWAR provisions of the bill. I support responsible, environmentally controlled efforts to explore and develop certain wilderness areas and, for that reason, I voted to table this amendment.

It is important to note that, on this issue, the State of Alaska and its citizens have spoken out. The Eskimos and Alaska's elected representatives recognize the potential benefits of development and support exploration of the region. The Inupiat Eskimos are the historic residents of Alaska's North Slope; they are subsistence hunters who live off the land. Proceeds from oil production means good schools, medical services, and a better standard of living for them and their children.

Furthermore, responsible development of these oilfields is in Alaska's and the Nation's best interest. Alaska's current production facility at Prudhoe Bay, which provides more than 20 percent of domestic oil, is in decline. The State's revenues from oil are projected to fall from more than $2 billion today to $700 million in 2010. This could cause a grave fiscal crisis for Alaska. By contrast, if a commercial field is discovered projected Federal revenues could approach $40 billion.

Finally, it should be noted that the Eskimos, who are dependent on the Caribou, fish, and other wildlife, believe that opening the refuge is compatible with their lifestyle and crucial to their survival.

For these reasons, I support the exploration of the coastal plain. I believe exploration can be done in a manner that protects the environment and also provides needed economic development.

A final tax matter which was addressed during debate was the Specter amendment supporting replacing the current Tax Code with a flat tax. As an extraneous matter, this amendment was subject to a point of order. I voted to sustain this point of order, but I want to emphasize that this vote should not be interpreted as opposition to the idea of the flat tax—but rather opposition to including it on this vehicle at this time. I agree with Senator SPECTER that our current Tax Code is too complex and inefficient and needs to be replaced, and I support investigating the benefits of all of the proposed reforms that have been put forward, including a flat tax.•

WOMEN OF DISTINCTION—1995

• Mr. INOUYE. Mr. President, I rise to pay a tribute to three individuals who were named the 1995 Women of Distinction by the Girl Scout Council of Hawaii. These women, Gladys Ainoa Brandt, Carole Kai Onouye, Gretchen R. Neal, as well as Sibyl Nyborg Heide, the Girl Scout Council of Hawaii's 1995 Living Treasure, have impressive records of service to the community that more than justify this great honor. They are outstanding role models for young women in the State of Hawaii.

Gladys Ainoa Brandt, an outstanding educator and community volunteer, has committed herself to improving the quality of education in Hawaii. Ms. Brandt held a wide range of positions in the field of education, from classroom teaching to chairwoman of the University of Hawaii Board of Regents. She has exemplified the very best in public education.

Carole Kai Onouye, an inspirational champion of Hawaii's charities, devotes herself to improving the quality of life in Hawaii. Ms. Onouye serves on the boards of the Variety School, the Girl Scout Council of Hawaii, the Great Aloha Run, and Hawaii Maritime Center, and the USO Golf Tournament.

Gretchen R. Neal is a dedicated health care provider. Ms. Neal, whose goal from childhood was to be a nurse, was the first female to enter the Health Services Administration masters program at the University of Hawaii at Manoa. She has been actively involved with the Girl Scouts throughout her life.

Sibyl Nyborg Heide is an important benefactor in the local community. She, too, has been actively involved with the Girl Scouts throughout her life.

For all that they do for the community, and especially for young women, these four women deserve our respect and admiration.•

IMMIGRATION REFORM

• Mr. ABRAHAM. Mr. President, I would like to bring to the attention of my Senate colleagues an important article prepared by Stuart Anderson and Steve Moore of the Cato Institute entitled "GOP Breaches of Contract." This piece explains why the immigration reform bill moving through the House violates the core principles of more freedom and less government that form the basis of the GOP's Contract With America. I would also like to highlight a recent statement signed by several business leaders on the need to maintain America's historic commitment to legal immigration. As we begin debate on immigration legislation here in the Senate, I would urge my colleagues to consider this information carefully. I ask that these materials be printed in the RECORD.

The material follows:

[From the Washington Times, Nov. 6, 1995]

GOP BREACHES OF 'CONTRACT'?

(By Stuart Anderson and Stephen Moore)

The "Contract With America" was not simply a list of 10 bills to be voted upon, but rather it represented the governing philosophy of the Republican Party. Unfortunately, the immigration bill recently voted out of the House Judiciary Committee, with unanimous Republican support, violates the four key precepts of the "Contract with America."

(1) Family values. The Contract states: "The American family is at the very heart of our society. It is through the family that we learn values like responsibility, morality, commitment, and faith." The House immigration bill, H.R. 2202, strikes at the heart of family unification by preventing brothers, sisters and nearly all adult children from joining their families here in the United States.

A guarantee to admit 25,000 eligible parents annually (half the current yearly total) was included in the bill, but only after an outside analysis confirmed that no parents could have immigrated if the bill had passed without amendment. But the bill contains a new obstacle for parents—only those who

purchase nursing home and Medicare-comparable health insurance will be allowed to immigrate. That leaves only spouses and minor children, who could immigrate only if their sponsors meet new income requirements.

(2) Fiscal responsibility. "Controlling spending is the primary means to controlling the deficit," states the Contract, yet the House immigration bill carries several big ticket items. First, up to $80 million would be needed to return fees paid by petitioners whose siblings or adult children have received permission to immigrate but who will be cut off the waiting list if the bill passes in its present form. Second, estimates by the Cato Institute, the Immigration and Naturalization Service, and the Social Security Administration reveal that hundreds of millions of dollars would eventually be needed to pay new and current federal bureaucrats to staff, maintain and clean up the proposed computer verification system. The system is designed to check the legal status of new private and public sector hires via telephone or modem. Third, the federal government will assume the potentially quite large liability for compensating any individual who loses a job or wages from being wrongfully denied employment due to an error under the new employment verification system.

(3) Rolling back government regulations. The Contract notes, "To free Americans from bureaucratic red tape, we will require every new regulation to stand a new test: Does it provide benefits worth the cost? To help our cities and states, we will ban unfunded mandates." The bill's various new mandates on cities, counties and states, including requiring such entities to verify new hires through a federal computer system, violate the intent of the recently passed Unfunded Mandates Reform Act, which requires that new mandates be paid for.

According to the Justice Department report on the nine-company pilot project that the bill's new computer system is based upon, compliance cost for companies using the system has averaged $5,000 annually. During the Judiciary Committee markup, Republicans defeated an amendment to stop the computer system if a GAO study found the new program cost small businesses more than $5,000 a year to implement. However, even this figure understates the true cost to businesses, since the pilot project allowed companies to check the legal status of only self-identified immigrants, while the House bill requires companies to check citizens as well. As for the cost-benefit analysis for new regulations recommended in the Contract, any benefit from this new system is only hypothetical, since there is no evidence this new mandate on businesses will reduce illegal immigration.

(4) Individual liberty. The Contract criticized the "Clinton Congress" when it argued, "Big Brother is alive and well through myriad government programs." In committee, Ohio Republican Rep. Steve Chabot attempted to delete the computer system from the bill, calling it 1-800-BIG BROTHER, but his effort lost on a 17-15 vote. He promises to fight the measure on the House floor.

Advocates of individual liberty should at least question any program that would centralize data on all Americans in a place where future social engineers can wreak havoc on the citizenry. Senate legislation attempts to ensure that only Americans and legal residents are listed in the computer system by requiring that everyone be fingerprinted or provide other biometric data (such as a retina scan) to "personalize" birth certificates by age 16. The House bill moves in that direction by mandating a study of "counterfeit-resistant" birth certificates. Moreover, at least one computer system supporter in the House has said the system will not work without some type of national ID card.

Supporters of smaller government and family values will find that the House immigration bill violates the spirit, indeed the essence, of the Contract. It also contradicts Majority Leader Dick Armey's vision of a freedom revolution and Speaker Newt Gingrich's desire to create a "Conservative Opportunity Society." The immigration bill's provisions against families, the mandates on businesses, cities and states, and the specter of creating yet another uncontrollable government program should give pause to reformers. These measures would represent business as usual, not the Republican Revolution promised by the "Contract With America."

[From the Alexis de Tocqueville Institution, Arlington, VA]

BUSINESS: IMMIGRATION HELPS NOT HURTS

We are concerned that legislation on immigration before the Congress will significantly damage U.S. economic growth, jobs, and competitiveness. It seems to proceed from the assumption that immigration is a mild ill which can only be tolerated to a degree. Yet far from being a drain on U.S. society or the economy, immigrants are a vital engine.

Immigrants generally pay more to the U.S. government in taxes than they use in services, as a number of studies have shown. In fact, a sudden drop in immigration levels would sharply reduce Social Security revenues.

Immigrants play a key role in product and technological development, the cutting edge of U.S. industrial growth. Many of our fastest-growing firms, and largest exporters, employ a significant share of immigrants in research and overseas marketing. Most of them cannot be replaced, and their loss would mean the loss of thousands of other jobs for Americans. Each year, many immigrants, some of them at our firms, obtain patents for products and processes that generate jobs, growth, indeed entire industries.

Immigrants own a significant share of small businesses. These small businesses are the engine of jobs growth in the U.S.: As a number of studies have shown, a large number of new jobs are generated by the smallest U.S. firms. Often these small operations become the driving force by which whole communities and cities are revived: Cuban renewal of Jersey City; the Vietnamese corridor of Arlington, Virginia; prosperous Asian communities throughout California.

On balance, a survey of Nobel economists released by the Alexis de Tocqueville Institution showed near-unanimous agreement immigration is a major economic plus.

Of course, we believe measures to increase the costs and complexity of hiring immigrants, and to reduce ceilings on such hirings, and other measures pose a special threat to American competitiveness. But we recognize that restrictions on family re-unification, refugees, and other categories not labeled as economic are vitally important as well. Workers have husbands, wives and children. Many present employers came to this country not as major business executives, but as victims of persecution, famine or civil war. If these categories, or general immigration levels, are reduced, economic immigration will suffer, too.

U.S. immigration policy could certainly be improved, and illegal immigration brought under more reasonable control (without national databases and i.d. cards). But the core of any reform should involve extension and refinement of present immigration levels, not tighter restrictions. And it should be based on the understanding that high levels of immigration are no liability; they are part of America's strength.

John Whitehead, former co-chairman, Goldman Sachs, former deputy secretary of state

George Soros, president, Soros Fund Management

Kenneth Tomlinson, editor-in-chief, Reader's Digest, former Director, Voice of America

Richard Gilder, Gilder, Gagnon and Howe

Lewis Eisenberg, co-chairman, Granite Capital International Group

Cliff Sobel, CEO, Bon Art International

Ed Zschau, International Business Machines

Donna Fitzpatrick, president and CEO, Radiance Services Company

Dr. J. Robert Beyster, chairman and CEO, Science Applications International Corporation

Lawrence Hunter, president, Business Leadership Council

Barton M. Biggs, chairman, Morgan Stanley

Jerry Junkins, chairman, President and CEO, Texas Instruments

T.J. Rodgers, president and CEO, Cypress Semiconductor

Felix Rohatyn, managing director, Lazard Freres & Co.

Mortimer Zuckerman, chairman and editor-in-chief, U.S. News and World Report

Lee Iacococca

Thomas Weisel, chairman, Montgomery Securities•

ORDERS FOR WEDNESDAY, NOVEMBER 15, 1995

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 12 noon, Wednesday, November 15; that following the prayer, the Journal of the proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I ask further that tomorrow, from 12 to 12:30, there be a period for morning business, with a 5-minute time limitation.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DOLE. Mr. President, we hope to turn to S. 908 tomorrow, the State Department reorganization bill, under a 4-hour time limitation. It is also possible that the Senate may consider a continuing resolution or debt limit extension, if received from the House. The Senate may also turn to any available appropriations conference reports.

I hope that we can go to S. 908. Certainly, it has been controversial, and it has been discussed and discussed. I think now we have some agreement between the Senator from North Carolina, Senator HELMS, and the Senator from Massachusetts, Senator KERRY. If we can complete that, it might free up some of the nominations and also some of the conferees that I understand are being held because this has not been disposed of. We can check on that tomorrow.

I also indicate that, as far as this Senator knows—we have checked on the House side—there will not be a reason to stay in this evening. So there will not be a CR coming to us from the House. There was an offer made by Senator DOMENICI and Congressman KASICH to members from the White House representing the President earlier today. I am not certain if that offer has been rejected.

In any event, we will be back tomorrow. It is my hope that we will continue to work, as we have today and yesterday and through the evening and past midnight last night, to come to some agreement and pass a continuing resolution, which will avoid any longer shutdown of the Government.

I believe much of what transpired, of course, will be up to the President of the United States. If he is prepared to sign on to a 7-year balanced budget, then we can do business very quickly.

As I said earlier, in a brief 5-minute appearance at the White House, I think the President used the term "balanced budget" at least five, six, seven, eight times, about how strong he was for it, and that he wanted a balanced budget. Well, if he wants a balanced budget, then I see no reason he cannot accept our proposal, which would eliminate the Medicare provision and keep some of the spending restraints and also add balanced budget language.

I hope the President would look at it carefully. He has indicated in the past, in 1992, he was for a 5-year balanced budget; since then, for 10 years, 9 years, 8 years, or 7 years, or maybe none of the above, but he has indicated flexibility.

If he is serious about a balanced budget amendment or getting a balanced budget by the year 2002, I see no reason we cannot only pass a continuing resolution, but the debt ceiling extension very quickly.

ADJOURNMENT

Mr. DOLE. If there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order until 12 noon, Wednesday, November 15, 1995.

Thereupon, the Senate, at 7:37 p.m., adjourned until Wednesday, November 15, 1995, at 12 noon.

HOUSE OF REPRESENTATIVES—*Tuesday, November 14, 1995*

The House met at 9 a.m. and was called to order by the Speaker pro tempore [Ms. PRYCE].

DESIGNATION OF THE SPEAKER PRO TEMPORE

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

WASHINGTON, DC,
November 14, 1995.

I hereby designate the Honorable DEBORAH PRYCE 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 May 12, 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 not to exceed 25 minutes, and each Member except the majority and minority leader limited to not to exceed 5 minutes, but in no event shall debate continue beyond 9:50 a.m.

The Chair recognizes the gentleman from Minnesota [Mr. GUTKNECHT] for 5 minutes.

END TO BUSINESS AS USUAL

Mr. GUTKNECHT. Madam Speaker, Winston Churchill once observed that sometimes doing our best is not enough. Sometimes we have to do what is required.

A little over 1 year ago the voters of this Nation went to the polls, and I think they sent a very unmistakable message to this Capitol and to the people who were elected to serve them.

I think the message was clear: They wanted an end to business as usual; they wanted to put the Federal Government on a diet; they wanted to lift the burden of senseless regulation; they wanted to allow families to keep and spend more of their earnings. Finally, and perhaps most important, they wanted us, for the first time in more than two decades, to balance the Federal budget.

Madam Speaker, from the very first day, this Congress, this House, and indeed this majority, has done its best to keep its faith with the American people. We have done what is required.

We accomplished much in the very first day. We made the Congress live by the same rules as everybody else. We downsized the staff. We have made enormous attempts to open up the process so that the committee meetings are open to the public. We eliminated the process whereby committee chairmen could have all of the votes lined up and no one even showed up for committee meetings. We have opened up this process and changed the way this Congress does business from the very first day.

We have marshaled through smoke screens of the defenders of the status quo, and during the flak from the media elites and the firestorm of special interests. We have been subjected to half truths, distortions, and indeed, bald-faced lies.

For example, we are being accused today of cutting Medicare, of cutting school lunch, of eliminating student loans, when the other folks who say this know that these are not true. As a matter of fact, when one talks about Medicare, we are increasing Medicare by over 45 percent over the next 7 years. The average Medicare recipient will go from $4,800 this year to $6,700 in only 7 years.

As a matter of fact, recently a poll came back and when Americans were informed that we are actually talking about increasing Medicare from $4,800 per recipient to $6,700 per recipient, 63 percent of the people, when informed of that, said that we are raising Medicare too much. School lunch, and some will recall we had this debate earlier this year, was being cut, but in fact, the truth is school lunch programs will increase, nutrition programs will increase by over 35 percent over the next 7 years.

I wonder how many of our college students actually know that the total appropriations for school loans will increase by 47 percent over the next 7 years.

We are also being accused of doing all of these very mean-spirited things in order to pay for a tax cut for the rich. Again, anyone who has studied the issue more than 10 minutes knows that this is simply not true. As a matter of fact, our $500-per-child tax credit for families will go to benefit mostly families earning under $75,000 a year. As a matter of fact, 74 percent of the benefits of that tax credit program will go to benefit those earning less than $75,000 a year.

More important, when they talk about tax cuts for the rich, frequently what they are really talking about is an increase of cutting the capital gains tax rate. But the truth of the matter is, even there, and particularly people back in the Midwest know this, that 44 percent of the people who get stuck paying a capital gains tax are rich for 1 day, the day they sell their farm, the day they sell their business, or the day they sell an investment which they have been holding and paying taxes on, in many cases for a long period of time.

Madam Speaker, 3 years ago our President campaigned promising to downsize the Federal Government, to end welfare as we know it, to reform and save the Medicare system. He promised tax cuts for the middle class, and he promised to balance the budget within 5 years. He has not kept his promises. What is worse than that, and particularly on behalf of many of my freshmen colleagues, he is keeping us from keeping our promises.

It is unfortunate that this impasse has been reached and that nonessential Federal employees are being sent home, but it would be a tragedy of historic proportions if we were to back down now on our commitment to keep the promises that we made and to keep the promises that he made.

Madam Speaker, we must not turn back now. I think the American people are counting on us to keep our promises, to do what we said, to change the way Government does business and to make the Government live within its means.

CONGRATULATIONS TO PRESIDENT CLINTON FOR VETOING CR

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from New Jersey [Mr. PALLONE] is recognized during morning business for 4 minutes.

Mr. PALLONE. Madam Speaker, I learned this morning that the President had exercised his veto to prevent an increase in Medicare premiums for our Nation's elderly by vetoing the continuing resolution early this morning. Again, Madam Speaker, I want to congratulate the President on doing that, because if he were to allow the Medicare premiums to rise, it would be the beginning of this whole process that the Republican leadership is trying to impose on the American people where Medicare premiums and costs rise, the program is cut back, and Medicare ceases to be the effective health care program for the elderly that it has been in the past.

I think also it was significant because last night there was a private

meeting where Republicans heard the details of the much-awaited budget compromise bill. I was appointed by the Democrats as a conferee on the budget reconciliation. As has been the case with all budget matters this year, as well as with the Medicare issue, the Republicans meet in secret and do not have meetings with the Democrats and the Republicans together to try to resolve their differences on the budget.

Madam Speaker, it has characterized the Medicare debate from the very beginning, when there were not hearings, when we were asked to vote on bills in committee within 24 hours or even the very morning when the bills were sent to us, and there was no serious debate, there was no effort to have a hearing; and now, in dealing with the budget and hammering out a bill that will come to the floor probably today or tomorrow or Thursday, once again, the Republican leadership has excluded the Democrats.

Why do they do that? Well, they do it because they do not want the public to know what is happening with Medicare and Medicaid. They know what they are doing is taking money from Medicare and from Medicaid in order to pay for tax cuts, primarily for wealthy Americans and large corporations, and they know that if there are actual meetings or conferences with the Democrats on some of these issues, that we will hammer the point home, that they need to eliminate some of these cuts in Medicare, that they need to eliminate these increased premiums in Medicare if they want to have a budget, and if they want to balance the budget over 7 years in a way that does not hurt seniors, that does not hurt the average American.

Unfortunately, that is not what is happening, and once again, we are faced with the reality that today the Government is partially shut down because the Republicans want to make an issue over Medicare.

Madam Speaker, I want to read this quote again which I carry around with me from Speaker GINGRICH where he says, "Now, we didn't get rid of Medicare in round one because we don't think that is politically smart and we don't think that that is the right way to go through a transition, but we believe it is going to wither on the vine because we think people are voluntarily going to leave it."

That is what this is all about, and it is to the credit of President Clinton that he does not allow us to go down that slippery slope and that he vetoed these increases in the Medicare premiums, because if he allows that to happen, if he allowed those premiums to go upon January 1, it would be the beginning of this Republican effort to cut Medicare in order to pay for tax cuts for the wealthy and the beginning of the end for the Medicare Program.

PRESIDENT AND CONGRESS AT AN IMPASSE

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Georgia [Mr. NORWOOD] is recognized during morning business for 5 minutes.

Mr. NORWOOD. Madam Speaker, today the Federal Government will shut down, and later this week, the Federal Government will reach its debt limit. Congress has passed bills to continue spending and to raise the debt limit, but the President has vetoed them. So here we are at an impasse.

Madam Speaker, I am not at all happy it has come to this. I am concerned for the people who will be inconvenienced by the Government shutdown. I am very concerned that some Americans may lose faith in the way we do business here in Washington. I sincerely wish it had not come to this.

But, Madam Speaker, we have no choice. The Federal Government is $4.9 trillion in debt. It is immoral for us to continue to borrow from the future of our children. We must take the steps necessary to balance the budget. We Republicans have laid out a plan to reach a balanced budget by the year 2002. We have done so by cutting spending. We have done so while cutting taxes, not raising them. We have done so while making the hard choices necessary to save Medicare from bankruptcy. We have done so with no help whatsoever from the liberal Democrats in Congress or the President.

Yet here we are Madam Speaker, out of money and at the limit of our debt. Why has the President vetoed both of our efforts to avoid this crisis? I have been listening to his remarks with great interest.

The President said he vetoed the debt limit extension because he did not want to be constrained by our budget priorities. For those of you who do not understand political gobbledygook that means the President does not want to balance the budget in 7 years using CBO scoring.

The President vetoed the continuing resolution because he does not want to raise Medicare part B premiums; he wants to see them lowered. Perhaps the President has forgotten his trustees report. Medicare is going bankrupt. Lowering part B premiums does not make Medicare more solvent. Arguing over Medicare premiums is simply political posturing; it has nothing to do with governing. If you really want to save Medicare, you have to be prepared to make hard choices. The President is apparently not ready.

Madam Speaker, I have heard the network newscast constantly refer to this budget crisis as some form of game. Nothing could be further from the truth. We are fighting to save the future of this country. This is no game. We Republicans simply refuse to proceed any further with politics as usual. We will not continue the mindless spending and borrowing that is bankrupting our children's future and destroying any hope they have of achieving the American Dream. We will not vote to extend the debt limit or continue the spending of the Federal Government with a commitment from the President to balance the budget.

Madam Speaker as of today, we have no such commitment from the President. He continues to play politics with Medicare while the system goes bankrupt. He refuses to accept CBO scoring, even though CBO scoring was good enough for him when the Democrats controlled Congress. He refuses to discuss specific cuts he will consider, instead he just snipes at Congress for being to harsh on education and the environment. What is it we are doing that he refuses to accept? Is the President against risk-assessment to make regulations more reasonable? Is the President against habeas corpus reforms that will halt the endless death row appeals? It is time for the President to quit campaigning and start governing.

Madam Speaker, I take no joy in seeing the Government closed down today. But this is a step we must take if we are to reach a balanced budget and save our children's future.

□ 0915

CALLING THE CRISIS FOR WHAT IT IS

The SPEAKER pro tempore (Ms. PRYCE). Under the Speaker's announced policy of May 12, 1995, the gentlewoman from Colorado [Mrs. SCHROEDER] is recognized during morning business for 4 minutes.

Mrs. SCHROEDER. Madam Speaker, this is indeed I think a very dark day. The institution is basically dysfunctional today and we ought to call it for what it is. This great Nation is being held hostage by some extremists who came to this institution and have not been able to get their way through the normal process that served this Republic for over 200 years, and so we are now seeing the equivalent of 2-year-old tantrums that we see out on the playground. No one should be surprised as to where we are. The Speaker made it very clear from day one where he was going.

If we look at these quotes, in April he said, "The President will veto a number of things, and we'll put them all on the debt ceiling and then he'll decide how big a crisis he wants."

Oh, they could not wait for the crisis.

Then again in September he said, "I don't care what the price is. I don't care if we have no executive offices and I don't care if there are no bonds for 30 days, not at this time."

He has been very clear what his strategy was, create a crisis for this

great, great Republic like it has never seen before. Oh, will that not be historic?

Let us not look at politicians' words. Let us look at what the Standard & Poor's people say. They do not think a lot of this crisis. They do not think that this is real funny. They do not appreciate our tantrum. Look what they said in the New York Times this weekend.

They warn Government of the threat of default. If they lower the Nation's credit rating, we are going to see an increase in interest rates, which our children are going to pay forever and ever and they are also going to see interest rates increased on the average American, the average American businessowner, the average American mortgageowner and so forth.

So, Americans, you are paying a very high price for this political theater, for this 2-year-old temper tantrum, because people do not want to play by the rules that Jefferson and everyone else thought was fine for over 200 years.

We continue to see other things. We see them saying that it is perfectly all right that we cut loose on the safety net that has been there for America's children and for people who are relying on Medicare. We see them having their favorite comedian come and talk, about, "Oh, this is great, my mother will be on dog food, the poor will starve, but we'll get them new can openers."

Is that not wonderful? I do not really think that is too funny. I do not think that is funny at all. It is not the America I knew. The America I knew said every child has a right to a college education, we all should have a clean environment and breathe fresh air, we all ought to be respectful of the elderly and we should not take great joy if we can squeeze some more money out of them or find some way for them to be a little more miserable. I do not think anybody wants to see us jeopardize the full faith and credit of this Government.

I was shocked when I heard last night this other side was offered a 1-day, clean continuing resolution to avoid this crisis and turned it down. Not even 1 day. Not even 1 day would they give it.

This is outrageous, and we really ought to call it for what it is. Do not be surprised. Just get on the phones and tell people you do not like people playing these kind of political games with the full faith and credit of this great Nation.

RESOLVING THE IMPASSE

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from New Mexico [Mr. SCHIFF] is recognized during morning business for 4 minutes.

Mr. SCHIFF. Madam Speaker, we are now at the impasse and I would like to review how I believe we got here and how I believe we can get out of it.

I think that this impasse is due in part to both sides, Republicans and the administration, wanting to get some short-term advantages in the polls over the other. I think that the congressional leadership has put measures into these budget resolutions concerning the death penalty, concerning regulatory reform, because we know that these are popular with the American people. However, these are not issues which should be mixed at this time with the budget issue. We should stay focused on the budget goals.

I recommend that those issues dealing with the death penalty, regulatory reform, anything that is not budget, be taken off the table and addressed at another time. At the same time, the administration made its biggest argument that it was vetoing the bills to protect Medicare. The details of the Medicare provision, I respectfully suggest, were not of great interest to the administration. Their pollster simply told them if the President is seen fighting for Medicare, the President will go up in the polls at least on a short-term basis.

What is that fight about? Right now the Government, that is, the taxpayers, pay 68.5 percent of part B premiums of Medicare. On January 1, the law is scheduled to raise that to 75 percent of the payment coming out of the Treasury. The administration knows full well that we do not know where the money is going to come from out of the Treasury to pay that increased percentage and that the Republican congressional proposal is to freeze the percentage, not to raise the percentage on senior citizens but just to freeze it where it is. Nevertheless, they are fighting to save Medicare and they think that helps them in the polls.

What, therefore, is the solution? I think that what is called a clean bill is not a solution. A clean bill means a spending authorization with no conditions attached, a borrowing authorization with no conditions attached. That is how we got into this mess. We have had business as usual for 25 years, where there was no restriction on borrow, borrow, borrow, and spend, spend, spend, and that is why we have a national debt of almost $5 trillion.

I respectfully suggest that the solution is to offer the President a continuing resolution today with one condition and that is, we agree on the common goal of reaching a balanced budget in 7 years using Congressional Budget Office figures. We would take all of the details off the table at this time. I thought Senator DOMENICI made a good suggestion with respect to a Medicare compromise. But, if necessary, I would take all that off the table for the moment and concentrate on the goal, and to say that to keep the Government operating, the President must agree with the Congress that we will balance the budget in 7 years and use the common numbers provided by the Congressional Budget Office to match our comparative budgets.

Both of these provisions the President has previously agreed to. During the campaign, the President said the budget could be balanced in 5 years. So presumably the President would have no objection to balancing the budget in 7 years. Second of all, the President lectured Congress 2½ years ago, telling us that the Congressional Budget Office had consistently the best figures for budget analysis. So the President has previously agreed to these provisions.

It seems to me, Madam Speaker, that if the Congress passes a continuing resolution to keep the Government going, break the impasse, allow Federal employees to do their jobs, with only the condition that we agree to a balanced budget in 7 years with the same method of getting there and that all the details can be discussed and if necessary argued out in another forum, we will know for certain whether the President of the United States really wants to balance the budget or was using Medicare as a screen for not doing so.

A WAY OUT OF THE QUANDARY

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Michigan [Mr. LEVIN] is recognized during morning business for 3 minutes.

Mr. LEVIN. Madam Speaker, this is indeed an unhappy day, and I think to get out of this quandary it might be useful to note how the Government got to this point.

I heard the majority leader say this morning that the President has not engaged, he has not negotiated, and the opposite is really true. The Republicans have been negotiating with themselves. They forgot that they needed to negotiate with Democrats, including the President. Why this failure on their part? In part I think it is the arrogance of power. They have been engaged in a power play. Also, the radical right that controls this House thinks it is always right. They are know-it-alls who sometimes have sounded like know-nothings. We see in recent days the Speaker, who is the father of this all, now kind of blaming his children that he cannot control them.

An example is welfare reform. I saw this morning in the National Journal Congress Daily this headline, "Welfare Bill Conferees Set To Unveil Compromise Today."

Compromise? This is a compromise by Republican conferees meeting with themselves, among themselves, shutting out Democrats, including the President. Congressional Republicans continue to function as if Congress is a

partisan fiefdom. It is now 47 days since House conferees were appointed on the welfare reform bill and in those 47 days there has been no serious effort by the Republicans at bipartisan negotiations. They have been going it alone.

I want welfare reform, I have been working on it for years since the mid-1980's. Democratic conferees have expressed our interest in working with the Republican majority and in a letter we sent on Friday laid out critical areas that should be addressed. But regrettably instead of negotiating a bipartisan bill, the Republicans have been busy producing a bill that moves in the wrong direction in critical areas such as the level of funding by the States in child care. It is now clear that the bill they are producing is unacceptable to the President. On Sunday the Chief of Staff Leon Panetta said the President is prepared to veto this legislation.

I say there is a way out. True bipartisanship. The Republicans have to end their arrogance of power. Medicare, they want to stuff into the bill a proposal that would move this country on the path toward doubling the premium on Medicare in the next 7 years.

I say to the Republicans: Look. You have decided you control this House and the Senate and to go it alone. You have sent this country into a perilous course. You must pull back.

LET US BALANCE THE BUDGET NOW

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Ohio [Mr. CHABOT] is recognized during morning business for 4 minutes.

□ 0930

Mr. CHABOT. Madam Speaker, my hometown newspaper, the Cincinnati Enquirer, I think got it just right this morning in their editorial. I would like to read from that editorial here at this time.

To hear the overwrought, over rated White House experts tell it a "train wreck" between the president and Congress will shut down the federal government and end life as we know it.

Wrong. It would only interrupt life as *they* have come to know it—by temporarily slowing the juggernaut that increases spending with no regard to the future.

To the real world, a backward crank on the federal spending spigot would have a welcome effect: It could wake up Washington with a dash of cold war in the non-stop shower of taxpayer revenues.

By the time this is printed this month's "crisis of the century" in Washington may already be averted. But if today marks the disaster that the White House has predicted so long and loudly Americans should react accordingly by taking their cue from the president. Go golfing.

That's right. After he refused to negotiate and castigated Congress for not working overtime to give him another blank check, President Clinton laced up his spikes and left to play a round of golf. Some crisis.

Can this be the same president whose foaming mouthpiece, Leon Panetta had the appalling bad taste to compare Congress to "terrorists" who "put a gun to the president's head"—this, in the aftermath of the assassination of Israel's prime minister?

Yes. Because no matter what happens to government, politics goes on as usual.

The game plan by Republican leaders Bob Dole and Newt Gingrich is to box in the president by delivering a plan to balance the federal budget and wipe out chronic deficit spending in seven years as promised in the Republican Contract With America.

But Clinton, who once profusely promised to balance the budget in *five* years has balked, threatening a veto unless they restore enough of *his* spending to prolong the deficit pain for nine years.

So Republicans stapled the lid shut on the box around Clinton. They offered a temporary credit line to restrain spending but avoid a shut down until December 1 by continuing Government borrowing.

At first, Clinton refused to discuss it and would not even take phone calls from Gingrich and Dole. Then he agreed to negotiate if Republicans would scrub the key element of their plan, Medicare reform. Republicans said no way.

Both sides are playing politics, but at least Congress is trying to accomplish what the majority of voters demanded in 1994, a balanced budget. If that goal is finally achieved, short term pain is justified for long term gain.

Stop the swelling of a $5 trillion debt that will be hung on the necks of future generations. Besides, the pain is not that bad. Even the worst-case train wreck is more of a bad fender-bender. Essential Government services continue, and despite the White House attempt to blame Congress, it is the President's constitutional duty to negotiate a budget with lawmakers. If Clinton refuses to negotiate, voters should remember that he alone decided to risk spreading flu through financial markets rather than balance the budget 2 years sooner than his own cobbled budget would have achieved.

In this overhyped showdown, this much is clear: For the first time Congress has a plan to balance the budget, and the President is trying to kill it.

That is from my hometown newspaper, the Cincinnati Inquirer, just this morning.

Madam Speaker, the Washington Post, on its front page this morning, also has it exactly right. I will quote from that. "For all the vitriol, all the finger pointing, all the carefully staged photogenic events, the real issue is the Republicans' plan to balance the budget in 2002."

Let us balance the budget now.

INTRODUCTION OF THE NO BUDGET, NO PAY ACT

The SPEAKER pro tempore (Ms. PRYCE). Under the Speaker's announced policy of May 12, 1995, the gentleman from Illinois [Mr. DURBIN] is recognized during morning business for 3 minutes.

Mr. DURBIN. Madam Speaker, America deserves better. Our Government is shut down. We are now in a governmental paralysis here in Washington.

And why? It is a politically created crisis. It is not a crisis that came because of the force of nature. It is something that was created by the force of politicians.

The Gingrich-led Congress has brought to us in the last year a record of mismanagement. They brought the Contract With America to the floor, 31 bills, and they published them in the TV Guide. Three of the thirty-one were signed into law, and we wasted 100 days that could have been spent on making certain that Congress did its work, and then, of course, the Gingrich-led Congress failed to meet its responsibilities.

They were required under law to produce 13 appropriations bills for the President's signature by October 1. How many were presented? Three. Three of thirteen. If they had done their job and presented the bills, we would not be in this crisis today.

Let me add, too, that during this year, with the Gingrich-led Congress, we have seen special interests swarming through the Halls of Capitol Hill. They have been pushing for amendments, outrageous amendments.

Let me give an example of some. First, to cut education. The banking interests came in and forced a change which will increase the costs of student loans by $10 billion. Kids from working families trying to get an education, trying to make it, will face more debt because the Gingrich-led Republicans have bowed to the banking interests.

Then, of course, there is the environmental agenda of the Gingrich Congress. Amazing. Amazing that in one bill, in 28 pages, they wanted to repeal 14 different environmental protection laws, including the right of the Federal Government to monitor arsenic in drinking water. "Did he say arsenic in drinking water?" Yes, that was one of the bills that they wanted to repeal.

Think about that for a second, the extremism of the Gingrich-led environmental agenda.

But one of the worst, of course, is their proposal to increase Medicare premiums on seniors by 25 percent. They want to cut Medicare to balance the budget.

We all know that changes must be made in Medicare so it will be preserved and strong for years to come. But the Gingrich Republicans have just gone too far. It has been unfortunately, under the Gingrich leadership, a time of crises and chaos.

But no surprise. Listen to the Speaker on the Sunday morning talk shows, and I quote him, "I will cooperate, but I will never compromise." Those are not the words of a person who sits down at a negotiating table looking for a solution. That is the kind of growling and grousing and political rhetoric that most people are sick and tired of.

I have a proposal to change this and end this crisis immediately. It is called

no budget, no pay. We are sending 800,000 Federal workers home today without pay. But guess what, Members of Congress still get their paycheck. So I introduced a bill on September 22 that said if Members of Congress do not keep Government running, default on the national debt, then, frankly, they do not get their paychecks. If we turned off the TV cameras and stopped the congressional paychecks, I predict this crisis would be over in 15 minutes.

AMERICA DESERVES BETTER

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Texas [Mr. DOGGETT] is recognized during morning business for 3 minutes.

Mr. DOGGETT. Madam Speaker, you know, to understand the crisis we are going through here in Washington today, you really only need to understand three words, NEWT GINGRICH and Medicare.

You see, from the beginning it has been NEWT's way or no way with reference to the way this Government would operate. NEWT GINGRICH made it very clear in the spring of this year, and he repeated it this summer, he repeated it again this summer, that he wanted this crisis. It was not something he was trying to avoid doing. He wanted to demonstrate to America and to the world that he was king of the mountain and that everybody had to salute him because he was the fount of all knowledge about the problems of the world.

The key part of NEWT'S way or no way as far as this particular budget crisis is, of course, the one item that they chose to put on the continuing resolution that they sent over for the courageous veto President Clinton exercised, and that is Medicare. He wanted to send the seniors, he wanted to send the people with disabilities around this country a happy New Year's present in the form of a Medicare premium increase. It is the one irrelevant provision they chose to tack on a continuing resolution which, of course, would never have been necessary to send to the President at all if they had simply had the willingness to do their job and pass the appropriations bills rather then messing around with all of this agenda of the radical right which has tied them up. It has not been President Clinton that caused them to get only 2 of 13 appropriations bills to his desk by September 30. It has not been the Democratic minority in the House or the Senate. They could not agree amongst themselves as to how crazy they would be with reference to passing what the chairman of the House Committee on Appropriations called payback time to the radical right and holding up the business that should have been occurring in getting these appropriations bills there.

No, cutting Medicare, raising the cost to the ordinary person relying on Medicare and NEWT GINGRICH explained the situation that we face today.

I have been very interested this morning to listen to my Republican colleagues as they responded to this crisis because they have told the people of America two things:

The first one is, "You know, we Republicans are not really as mean as you Democrats say we have been. We are just a little bit mean. I mean, we do not want to totally foul all the water supply of America. We just want to let it be a little bit more dirty than it is today."

On the environment, "We just think the environment ought to be a little more dirty than it is today."

"And we do not believe you should cut off the opportunity of students to go to school, they can pay just at little bit more, just another thousand dollars. It is not as bad as what NEWT GINGRICH and his group proposed in the fall to hike the price by $5,000 to get a college education. We think raising it $1,000 on middle-class families who are struggling to get a young person through high school so they can go to college, we think just a little bit more pain is okay."

And to our seniors, "Just a little bit more pain is okay."

Well, I think that America deserves better treatment than that. It is getting through NEWT GINGRICH, and we certainly do not need the kind of Medicare cuts he proposed.

GET THIS GOVERNMENT BACK TO WORK

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from West Virginia [Mr. WISE] is recognized during morning business for 3 minutes.

Mr. WISE. Madam Speaker, I rise today; the sun has come up over the United States again, and yes, the Government continues, although in a truncated fashion.

In West Virginia, over 17,000 Federal employees face furlough, many of whom will be furloughed or are furloughed today. Many of these Federal employees live in my district, in the Second Congressional District.

We also in our own office, we furloughed half of the congressional employees that work for the Second District. The offices in Charleston and Martinsburg have been reduced to one person answering telephones for emergency services only. The mobile office which visits a different county every day during the month, of course, is not operating. So the congressional office, as well, is complying with this.

I think this is a very, sad state of affairs, Madam Speaker. The only cautious or the good news, I guess, is despite the fact we have so many Federal employees in West Virginia furloughed, so many services cut back, our own congressional services significantly cut back, the only good news is negotiations are taking place.

I predict that something could take place in the next 12 hours. If it does not, then I fear that this standoff is going to last for a long time.

What is really at issue, Madam Speaker? What is at issue is whether the President signs simple legislation that says the Government can continue for 3 more weeks or however long while the Republicans and Democrats, the White House, negotiate, and that simple legislation is about two pages long. I hold this up. It is proportionate in scale. However, what the President was sent was about this big in size. So this is what is needed to keep the Government functioning; this is what the President was sent. He was sent a lot of riders, special interest provisions, budget provisions that ought to be negotiated, a whole lot of strings attached.

This keeps the Federal Government operating. This is what the President was sent. And so what ought to be done is obviously send a single legislation that is necessary.

Unfortunately, had I voted for the continuing resolution or had the President signed it in this form, he would have been signing a Medicare increase, 25 percent, for 300,000 West Virginia senior citizens, costing West Virginia taxpayers even more, because they would have also been supplementing the 40,000 low-income seniors that cannot even afford that monthly premium increase of roughly $7 a month. He would have been signing other significant changes as well.

What he would have been doing is signing the very budget agreement in many ways that has yet to be negotiated. I have not agreed with the President in every instance, but in this case I happen to think he is correct. When some say he is not doing his job, it is the Congress that has not sent him 11 of the 13 appropriation bills that are necessary for the Government to function. Eleven of their 13 still have not gone to the President 6 weeks after they were due.

We heard a lot of talk about the budget. The House and the Senate only last night finished the budget, well over 6 weeks late. There was nothing for him to sign; but send him the simple continuing resolution and get this Government back to work.

CONGRESS NEEDS LEADERSHIP

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentlewoman from North Carolina [Mrs. CLAYTON] is recognized during morning business for 3 minutes.

Mrs. CLAYTON. Madam Speaker, what this Government needs and what

this Congress needs is leadership, leadership that will not play political games or brinksmanship. What we need in a time of crisis is vigorous leadership that understands the needs of the people are more important than their political game.

What we need are rational people, moderate people who will find opportunity to compromise. Is it rational to expect that the Government will have a clean continuing resolution? I think it is. It is, because really the arguments that we are making on the continuing resolution are arguments we should make on the budget reconciliation. That work has not been done.

Why stretch this argument for the American people? Already the American people have said things that are in the budget reconciliation should not be there.

Why are we giving the American people this anguish, this turmoil, when we need not do it? Why do we not step up to the bar and say there is a right way to do this, there is a right way to govern?

I challenge the Speaker to find that vigorous verbosity that he has in explaining all of the nuances of democracy, to find it by simple leadership, the leadership that says we will govern without respect to party, we will govern without respect to politics, we will govern without respect to who wins.

Actually the American people would not care who wins, who blinks first, when this is all over. But they will blame us if indeed senior citizens have to pay a larger premium. They will blame us if students no longer have opportunities to go to school. They will blame you if opportunities for the environment retrogress, if we have that opportunity and fail to do that.

These are the attributes of leadership and crisis, not to blame each other but to find how we have common good, common issues that bring us together, that is the leadership that we need in a time of crisis.

□ 0945

STOP THIS FISCAL INSANITY

The SPEAKER pro tempore (Ms. PRYCE). Under a previous order of the House, the gentleman from Colorado [Mr. MCINNIS] is recognized for 4 minutes.

Mr. MCINNIS. Madam Speaker, I think that it is very important that we put today's events and the events over the last several years in its proper perspective.

A lot of people in our Chambers think that the crisis started at midnight last night. That crisis did not start at midnight last night. This crisis has been going on for years and years and years. The old bad habits in Washington, DC, have forced this country into a position of fiscal insanity.

We heard some of the previous speakers talk about extremes. You want to hear about extremes? Compare this: Right now your Government in this country is spending $30 million an hour more than it brings in, $30 million an hour.

I ask the American people, how many of you out there in America can overspend your budget in the same proportion that the Federal Government has been allowed for year after year after year after year to overspend its budget? When are we finally going to stand up to this fiscal insanity, when are we going to finally get the courage to stand up and say you cannot continue to run a government like you are running this Government in Washington, DC?

If you think the people out there in America are confident about Washington, ask them if they think for their taxpayer dollar they are getting a bang for their dollar, a bang for their buck? I think you are going to find the answer is no.

Ask the American people what it is like to spend the first 2 hours and 45 minutes of every workday of their working career just to pay taxes? In other words, when they go into work at 8 o'clock in the morning, it is not until a quarter to 11 or so before they finally get to put some money in their own pocket.

Ask the American person what it is like to owe more money to the Federal Government as a result of this Federal deficit than most families owe on their home mortgage. Ask the American family what it is like to pay more in taxes than they pay for transportation, for housing, for clothing, and for recreation combined.

Madam Speaker, we have got to do something about this fiscal insanity. Now, sure, everybody said my gosh, the sun is not going to come up today after the Government shuts down. I venture to say in comparison to the fiscal crisis we have got, it is going to be classified as an inconvenience.

I hear some of my colleagues up here telling you about Medicare. It is the Democrats' position to drop the premiums. Folks, this is a fund that is in fiscal trouble. It is going bankrupt. Even Clinton's advisors, even the President's advisors, said this fund will be bankrupt if we do not do some fiscal management on it. You cannot lower the premiums right now.

By the way, if you lower the premiums, it does not lower the cost. The cost stays the same. Who makes up the difference? All the rest of the taxpayers in this country.

Folks, we have to stand up to the line and accept the responsibility, just like every constituent we have got out there accepts their personal responsibility with their personal checkbook, with their personal family, every month. That is what this is about. It is not about the Medicare issue. That is a diversion. It is not about whether or not to use the trust funds out of Social Security. That is a diversion.

The question is, will this country get to a balanced budget? Will this country operate fiscally like every family in America is expected to operate?

Most of the people on this side of the aisle say no, business as usual. Let us continue to run this deficit. But those of us, some of us who have been labeled as extremists, say wait a minute, it is not asking the impossible. It is not unusual to expect the representatives of this Government in Washington, DC, not to accept business as usual, but to demand from the American Government that we operate our budget like the American people operate theirs.

NOW IS THE TIME TO FACE REALITY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas [Ms. JACKSON-LEE] is recognized for 2 minutes.

Ms. JACKSON-LEE. Madam Speaker, I think the real issue this morning and over these past 11 months, starting around the month of February, is that the Republicans really do not get the message.

Madam Speaker, it is interesting that someone would argue what the American families need. I think basically the American families do very well in helping to create what they need, a roof over their heads, transportation, food for their children, and support for their elderly citizens. And anything that hinders that opportunity is absolutely wrong policy.

Basically, September was the month when we should have passed all of the appropriation bills, which would have caused this Government to continue to operate. But now I have to tell the Federal employees who took their day off on Saturday and joined me with my congressional office in a local grocery store and worked on their holiday, those from Social Security, IRS, and the Veterans Administration, that they do not matter; the services that they provide to veterans and the senior citizens and people who need and have concerns about Internal Revenue Service issues, that they do not count.

I think what we should recognize is that we have been negotiating. In fact, the Democratic leader said just last night, let us pass a 24-hour continuing resolution so that we can keep the doors of this Government open. It was rejected by the Republican leadership.

Now is the time to face reality. The reality is that we do have the opportunity to create a budget that reflects and respects senior citizens, the environment, education of our children, key issues that move this country toward the 21st century, not misdirected ideas and policies that undermine what this country should stand for.

The Republicans again do not get it. Democrats are prepared to engage in a bipartisan discussion of keeping this Government going, balancing the budget. But do not scare the American people with false exaggeration regarding the deficit. We know the deficit has come down. We also know the American people know the difference between credit and the need to pay as you go which is their Government's responsibility.

Madam Speaker, I just ask, let us come to the table of reconciliation, pass a clean continuing resolution, keep the Government open, and make sure that the American people in this battle win, and not continue to foster confusion upon our constituents.

RECESS

The SPEAKER pro tempore. Under a previous order of the House of May 12, 1995, morning hour debate may not continue beyond 9:50 a.m. Accordingly, pursuant to clause 12 of rule I, the House will stand in recess until 10 a.m.

Accordingly (at 9 o'clock and 50 minutes a.m.), the House stood in recess until 10 a.m.

□ 1000

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mrs. MYRICK) at 10 a.m.

PRAYER

Rev. Dr. David Burr, pastor emeritus, First Presbyterian Church, Winston-Salem, NC, offered the following prayer:

O merciful God, in this season of thanksgiving, we humble ourselves before You and give thanks. Thanksgiving for this blessed land; thanksgiving for this special place and these chosen leaders; thanksgiving for the freedom to debate and represent the people; thanksgiving for our homes and families; thanksgiving for Your eternal presence.

As we give thanks O God, we acknowledge that we are prone to all the weaknesses of human character.

We are selfish, and often think our ways are always the best ways.

Therefore, we ask for wisdom and guidance; we ask for courage that we may be faithful; we ask for patience that we may be fair; we ask for health that we may complete the task before us.

And, O gracious God, we pray for peace, peace in the world, peace in our Nation, and peace in our hearts.

With thanksgiving. Amen.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentlewoman from Ohio [Ms. PRYCE] come forward and lead the House in the Pledge of Allegiance?

Ms. PRYCE 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.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate insists upon its amendment to the bill (H.R. 2491), "An Act to provide for reconciliation pursuant to section 105 of the concurrent resolution in the budget for fiscal year 1996," disagreed to by the House, agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appointed the following Members to be the conferees on the part of the Senate, with instructions:

From the Committee on the Budget for the consideration of all titles: Mr. DOMENICI, Mr. GRASSLEY, and Mr. EXON.

From the Committee on Agriculture, Nutrition, and Forestry for the consideration of title I: Mr. LUGAR, Mr. DOLE, Mr. HELMS (for consideration of section 1113 and subtitle D), Mr. COCHRAN (except for consideration of sections 1106, 1108, 1113, and subtitle D), Mr. CRAIG (for consideration of sections 1106 and 1108), Mr. LEAHY, and Mr. PRYOR.

From the Committee on Armed Services for the consideration of title II: Mr. THURMOND, Mr. MCCAIN, and Mr. BINGAMAN.

From the Committee on Banking, Housing, and Urban Affairs for the consideration of title III: Mr. D'AMATO, Mr. GRAMM, and Mr. SARBANES.

From the Committee on Commerce, Science, and Transportation for the consideration of title IV: Mr. PRESSLER, Mr. STEVENS, Mr. MCCAIN, Mr. HOLLINGS, and Mr. INOUYE.

From the Committee on Energy and Natural Resources for the consideration of title V: Mr. MURKOWSKI, Mr. HATFIELD, Mr. NICKLES, Mr. CRAIG, Mr. JOHNSTON, Mr. BUMPERS, and Mr. FORD.

From the Committee on Environment and Public Works for the consideration of title VI: Mr. CHAFEE, Mr. WARNER, Mr. SMITH, Mr. BAUCUS, and Mr. REID.

From the Committee on Finance for the consideration of title VII and title XII: Mr. ROTH, Mr. DOLE, and Mr. MOYNIHAN.

From the Committee on Governmental Affairs for the consideration of title VIII (and for consideration of the title of the House bill relating solely to abolishing the Department of Commerce): Mr. STEVENS, Mr. COHEN, Mr. THOMPSON, Mr. GLENN, and Mr. PRYOR.

From the Committee on the Judiciary for the consideration of title IX: Mr. HATCH, Mr. GRASSLEY, and Mr. BIDEN.

From the Committee on Labor and Human Resources for the consideration of title X: Mrs. KASSEBAUM, Mr. JEFFORDS, Mr. COATS, Mr. FRIST, Mr. KENNEDY, Mr. PELL, and Mr. SIMON (for ERISA and other matters).

From the Committee on Veteran Affairs for the consideration of title XI: Mr. SIMPSON, Mr. MURKOWSKI, and Mr. ROCKEFELLER.

The message also announced that pursuant to Public Law 103-322, the Chair, on behalf of the Democratic leader, announces the appointment of Gilbert L. Gallegos, of New Mexico, to the National Commission to Support Law Enforcement.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will recognize fifteen 1-minutes on each side.

WELCOME TO DR. DAVID BURR

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

Mr. BURR. Madam Speaker, as is tradition in the House, I have the honor this morning of introducing our guest Chaplain. Dr. David Burr attended Princeton Theological Seminary after serving in World War II as a frogman in our Navy.

He has served Presbyterian churches in Charlottesville, VA; Norfolk, VA, and retired in a church in Winston-Salem, NC, during his 43 years in the ministry.

David Burr served as the chairman of the Southern Presbyterian Church and on the board of trustees at Davidson University.

Today is indeed a special one for me, because our guest Chaplain watched me take my first step, was there on my first day of school, and served as my roll model in life. David Burr is indeed my father, but he is also my best friend. I am honored today, Dad, to welcome you to the U.S. House of Representatives.

THE PRESIDENT SHOULD STAND FAST

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

Mr. PALLONE. Madam Speaker, I spoke earlier about the fact that I was

very pleased that President Clinton last night vetoed the continuing resolution because it avoided a major increase in Medicare premiums for the Nation's elderly.

However, this is not only an issue with regard to Medicare and health care concerns for the elderly. It is also important that the President stand fast because the budget that we will probably be considering within the next couple of days also makes major cuts in education, particularly with regard to student loans for young people. It is also important because of the appropriations bills and the less money that the Republican leadership intends to spend on the environment.

In my district, the environment is the same as the economy. We need a quality environment in order to improve our lives and in order to make it possible for future generations to enjoy a quality environment.

The fact of the matter is, by vetoing the legislation last night, the President is sending the message that he wants to protect seniors and their health care, he wants to protect education programs, and understands the importance of education, and also understands the importance of a quality environment.

CONGRESS' SPENDING SPREE A BURDEN TO OUR CHILDREN

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

Ms. DUNN of Washington. Madam Speaker, the introduction by the gentleman from North Carolina [Mr. BURR] of his father a moment ago was a great change from the rhetoric we have heard during the last few years.

Madam Speaker, I want to take a moment to address my colleagues from my perspective as a mother. First, I know what it is like to raise two little boys into grown men and I know what it is like to dream about their futures.

Unfortunately, the burden this Congress has put on these children for the last few decades has been a spending spree that has undermined their futures. Past Congresses have burdened each child born this year with a bill of $187,000, just to pay interest through their lifetime on the national debt. That is why we must move aggressively toward a balanced budget.

As a mother I am concerned that we do the right things to preserve and protect Medicare for my sons, not to mention my parents. That is why we must take the steps necessary to save Medicare from going into certain bankruptcy.

Madam Speaker, as the front page of the Washington Post says today, the real fight is over balancing the budget. I am committed to it, we are committed to it. It is the right thing to do.

ANGST IN OUR INSTITUTION

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

Mr. PETERSON of Florida. Madam Speaker, these are trying times in the House of Representatives and in the Senate and in the Nation; very partisan times.

Today I, along with my colleague from Florida, Mr. JOHNSTON, were going to enter a privileged resolution dealing with the Committee on Standards of Official Conduct of this House, which is the police station of ethics for this institution.

Madam Speaker, for over 14 months they have had complaints involving the Speaker of this House and have not reported back to their employer, the House of Representatives. However, because of the angst that exists within this institution today, we are not going to pursue the privileged resolution.

We will encourage the Committee on Standards of Official Conduct to continue their work. We would like very much for them to report to us, but we will withhold until a more quiet time in this institution.

PRESIDENT IS AGAINST BALANCING THE BUDGET

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

Mr. SAM JOHNSON of Texas. Madam Speaker, yesterday the President decided he had two reasons why he vetoed the debt limit bill. Let us look at what he said. He said the bill tied the hands of the Treasury Secretary to avoid a default.

Madam Speaker, do we know what that means? We were trying to stop the Secretary from stealing from the Social Security trust fund and now, because the President did not sign that, he can do that.

Second, he stated the bill obligates the President and the Congress to pass a plan which cuts Medicare and education and increases taxes. Well, let me just say to my colleagues, we are trying to save Medicare, increase Medicare spending, reform welfare, and reduce America's tax burden and shrink the size and scope of the Federal Government.

It is obvious what the President really is against is balancing the budget. He wants to spend more money, create more bureaucracies and pile more debt on our kids. It is unfortunate that shutting down the Government is the only way to stop him.

OUR SHIP OF GOVERNMENT IS SINKING

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

Mr. GUTIERREZ. Madam Speaker, we all know the ship of Government is stuck. It has hit a reef and it cannot move.

But do not worry—NEWT GINGRICH and the Republicans have a solution—a simple way to get our ship of Government moving again.

Just throw some people overboard.

Start with the elderly.

Toss some students.

Then abandon America's veterans.

The Republican plan? Cut some Medicare payments, threaten student loans, and lower VA benefits, and we'll get this ship moving again.

Well, thankfully for the millions of Americans who work hard every day and expect a fair deal from their Government, our President has said no.

He believes the ship of Government moves much better when we bring everyone along—the elderly, our children, our veterans.

The Democratic Party believes that we are all better, and stronger—more American—when we solve our problems together, move forward as one people, and leave no one behind.

This Republican posturing about the continuing resolution is no more than a ransom note. Throw some people over—or we'll sink the ship.

Mr. President—stand firm. Do not let the ship sail by abandoning our people.

SOLUTION NEEDED FOR IMPASSE

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

Mr. SCHIFF. Madam Speaker, we need a solution to this impasse. I do not believe that a solution is unrestricted borrowing and spending. That is what we have been doing for the last 25 years. However, I believe part of the solution is taking off the table at this time specifics towards reaching a balanced budget.

I suggest, and I encourage, the Congress of the United States to pass a continuing resolution today that will keep the Government going with only one condition, and that is that the President and the Congress agree on reaching a balanced budget as a common goal. That will mean agreeing to reach a goal through the same method in 7 years using Congressional Budget Office figures.

The President of the United States has previously agreed with both of those conditions. He suggested during his campaign that the budget could be balanced in 5 years. Further, he stood in this Chamber and lectured the Congress on the fact that he thought the Congressional Budget Office had the best and most accurate figures in projecting the government budget. Therefore, we should say that the one condition is a common goal of balancing the budget.

AMERICAN PEOPLE ARE THE LOSERS

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

Mr. GENE GREEN of Texas. Madam Speaker, today the House leadership, and we have heard it already this morning, is in the blame-shifting mode and the only losers are going to be the American people.

The majority of the Republicans say they want to save Social Security, but even under their balanced budget proposal in 7 years, they still borrow over $100 billion from the Social Security trust fund. The Government is shutting down and we are inching closer to defaulting on our debt, and who is to blame for the disaster? The blame rests solely with the Republican majority.

The reason they need a continuing resolution and the debt limit increase is because the Republican majority failed to finish their work. As of today, only 5 appropriations bills out of 13 have been finished, and only 3 sent to the President. Instead of finishing their work, the Republican majority is saying well, Mr. President, you need to increase Medicare premiums and cut education, or we are shutting down the Government.

On September 22, the Washington Post reported Speaker GINGRICH saying, "I don't care what the price is. I don't care if we have no executive offices and no bonds for 30 days, not this time."

Well, the majority should care. The American people should not be made to pay the price for the Republican majority not doing their work.

□ 1015

PRESIDENT'S HEALTH CARE TASK FORCE CALLED POLICY DISASTER

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

Mr. CLINGER. Madam Speaker, in one of his first acts after taking the oath of office, President Clinton announced the formation of the Health Care Task Force. He selected Mrs. Clinton to lead this task force and charged her with developing a legislative proposal to solve our Nation's health care problems.

I was very critical of the secret manner in which this task force operated and also the 500 outsiders who worked on it.

We now know that the task force was an unmitigated policy disaster. What we did not know was how much this rogue operation cost.

Well, now we know and it is not very pretty. The General Accounting Office reported to me last week that President Clinton's failed Health Care Task Force cost the taxpayers nearly $14 million.

Shortly after the task force was established, the administration estimated that the task force would cost less than $100,000.

While the Clinton administration was behind closed doors planning a Government takeover of the health care industry, the taxpayers were picking up the tab.

This is just another example of the Clinton administration not being upfront with the Congress or the American people about the entire scale, scope, and cost of their taxpayer-funded activities.

It is no wonder the Clinton administration cannot balance the budget.

POSTPONEMENT OF PRIVILEGED RESOLUTION IN SPEAKER'S ETHICS CASE

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

Mr. JOHNSTON of Florida. Madam Speaker, the gentleman from Florida [Mr. PETERSON] has preceded me to explain what and why our actions are changed today.

We had planned to offer a privileged resolution today calling on the House Committee on Standards and Official Conduct to report to the full House on the status of their investigation of ethics complaints filed against Speaker GINGRICH as well as their decision with respect to appointing outside counsel in this matter.

In light of the profound problems we face today, it is our decision to hold our resolution until the national crisis has subsided.

But we are no less committed to seeing it through to fruition and we will resume our efforts as soon as possible.

GOVERNMENT SHUTDOWN HURTS ORDINARY AMERICANS

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

Mr. RUSH. Madam Speaker, I rise today in utter amazement. The complete disregard of the interests of the American people by the Republican majority is appalling.

Federal workers, the people who elected us, should not be sacrificed as pawns for the Republican agenda. The Republican majority is hell bent on achieving its ends no matter what the sacrifice is—including the livelihood of those who have chosen to serve this Nation. This is not about balancing the budget—it is about back room deals for special interests.

Seniors, working families, students, and the poor have been silenced during this GOP budget process. If the Republicans are not willing to listen to ordinary Americans, then who do they listen to? Might it be big business and special interests? In case you have not figured it out by now—the shutdown of the U.S. Government is an indication of where the Republican majority's interests lie.

It is quite telling that the Republican majority is willing to give a tax break to the wealthiest Americans, yet they are not willing to avert a Government shutdown that will hurt thousands of working class families.

My colleagues on the other side of the aisle often assert that the people voted for change last November. However, I doubt this was the kind of change they had in mind.

CHANGING THE CULTURE IN WASHINGTON

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

Mr. HAYWORTH. Madam Speaker, I listened with great interest to my good friend from Illinois. He said, "Federal workers, the ones who elected us, do not want to see the Government closed down."

There are a lot of dedicated governmental employees. I do not doubt that for a second. But the fact is there is a special interest at work here. It is the special interest of those who always ask us to tax and spend and take more of your money to run a bigger and bigger and bigger Federal Government.

All the other issues are misdirected. All the other issues are to take you away from the central defining question that we are to decide today or in the days to come. That is, do we want to fundamentally change the culture of tax and spend in Washington?

President Clinton said time and again on the campaign trail, he was for a balanced budget. My good friends on this side of the aisle say time and again, "Well, sure we want to balance the budget, but no."

No ifs, and, or buts. No excuses. It is time to change the culture of tax-and-spend, time to balance the budget, and we intend to do exactly that.

FEDERAL EMPLOYEES TO RECEIVE PAID VACATION

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

Mr. DOGGETT. Well, the Democrats are tax-and-spend and the Republicans can run Government on the cheap because they are not really for all these Government employees.

How, Madam Speaker, do they propose to do it this week? Well, they are going to give 800,000 Federal employees a paid vacation. Yes, that is right. Today and until they resolve this crisis and get back to the reality of America,

they are going to pay 800,000 Federal employees to do absolutely nothing.

That is the kind of good business sense they have brought to this Government, when they could not pass the appropriations bills because of all their squabbles between the far right and the not-so-right in the Republican Party.

Who is going to pay for this nonsense? The American taxpayer. They are not going to save one dime this week. They are going to be paying Federal employees to do absolutely nothing in order to accomplish their radical right agenda to cut Medicare and raise the premiums on every senior, on every person with disabilities come January 1.

It is wrong to ask American taxpayers to pay our Federal employees to do absolutely nothing just to satisfy this agenda of power of NEWT GINGRICH.

BALANCING THE BUDGET

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

Mr. CHABOT. Madam Speaker, the Washington Post was just right this morning when they said the real issue is balancing the budget, and this is the time to decide.

Are we going to continue adding to a $5 trillion debt that smothers the economy and drives up interest rates and imperils our children's future or do we want to exercise some fiscal responsibility, trim the growth in spending and cut taxes?

The choice to me is clear. We cannot continue business as usual. We are going to balance this budget. That is what we were sent here to do.

I still have some hope, perhaps naive, that the President will stop his obstruction and begin to work with us. It was only a month or so ago that the President again conceded that the balance budget goal is necessary and essential. It was only a few weeks ago that he confessed that he had raised taxes too much.

If the President believes his own words have any meaning at all, he ought to work with us to cut taxes and cut spending and, yes, let us balance the budget. Today would be a good time for the President to start to work with us to do just that.

TIME TO REWRITE THE BUDGET

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

Ms. DELAURO. Madam Speaker, we all know that NEWT GINGRICH has a doctorate in history but over the past few days he may have earned a doctorate in revisionist history as well.

The Speaker has tried to blame President Clinton for the Government shutdown but he has been planning this for months.

Just look at what he said in April and in September.

In April: "The President will veto a number of things and we'll then put them all on the debt ceiling and then he'll decide how big a crisis he wants."

In September: "I don't care what the price is. I don't care if we have no executive offices and no bonds for 30 days, not at this time."

"I don't care." That is what Speaker GINGRICH says. Well, the President does care. He cares about our seniors, he cares about our students, and he cares about our environment. That is why he will not accept this budgetary blackmail.

Madam Speaker, I say to the Speaker, if you want the President to sign your budget, do not rewrite history, rewrite your budget.

KEEPING THE BALANCED-BUDGET PROMISE

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

Ms. PRYCE. Madam Speaker, President Clinton has said that he would present a 5-year, a 10-year, an 8-year, and a 7-year balanced budget plan.

Obviously, the President has a problem being committed to one particular course of action. It is really difficult to know where he stands.

Well, the American people do not need this kind of indecision. The national debt stands at $4,985,913,011,032.65. Republicans in Congress are not backing down from the promise we made a few months ago, to balance the budget and give our children a brighter future.

Madam Speaker, when it comes to the budget, the President has offered no leadership, has given us no plan, and has left us no choice.

PUTTING FEDERAL AGENCIES IN THEIR PLACE

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

Mr. TRAFICANT. Madam Speaker, the last I heard we are still a participatory democracy with a Constitution, with rights, and the Constitution is supposed to protect our citizens.

Well, all of America has been up in arms over Waco and Ruby Ridge and all these Federal agencies came before the Congress and testified these were big mistakes, they would never let it happen again.

Ladies and gentlemen, the FBI wants the unusual authority, expanded authority to simultaneously monitor 1 out of 100 calls if you happen to live in a high-crime area.

Beam me up here, Madam Speaker. We have let the IRS, ATF, and FBI get in our kitchen. Now we are going to put them in our bedroom, in our businesses?

What is going on here, Congress? Big brother is one thing. But this is starting to sound like the KGB.

Do your job, Congress. The American people want you to put these agencies in their place.

STOP THE MADNESS

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

Mr. WAMP. Madam Speaker, yesterday the gentlewoman from Colorado [Mrs. SCHROEDER] came to the House floor and declared how mad she was that this could happen, that the President and Congress could not get together and that Federal employees may be furloughed.

Let me tell you what makes me mad. It even makes me sick, that in my lifetime, since 1969, this Government has run up 5 trillion dollars' worth of debt and our children are going to have to pay it. And almost everything they earn is going to go to the Government in the future.

Stop the madness, Mr. President. Balance the budget. That is all we have to do is come together this week for our children and their future.

TIME FOR REPUBLICANS TO DO THEIR WORK

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

Ms. FURSE. Madam Speaker, let me just get one thing clear. This has nothing to do with balancing the budget. The budget that the Republicans are talking about increases Pentagon spending by $63 billion more than they asked for, and gives a $245 billion tax break to the wealthy. That is not balancing the budget.

It is very simple. What this is about is that the Republicans have not been able to get their job done. In the first year they have been in control, instead of playing a PR game, they should have been toiling in the field. This is a crisis because they have not managed to get the appropriations bills sent to the President. The bill sent to the President for the continuing resolution and the debt increase was a Christmas tree. It was hung, hung with all sorts of extremist things, like gutting environmental laws and raising the Medicare premiums. As usual, it seems that the extremists are in control.

This is a time for common sense and fiscal responsibility. It is time for a sensible and responsible budget. It is time the Republicans did their work.

□ 1030

AMERICA IS TIRED OF PLAYING MAKE BELIEVE

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

Mr. HEFLEY. Madam Speaker, first, Bill Clinton as a candidate said he would balance the budget in 5 years. Then he got into office. He said it is not really important to balance the budget. Then he said maybe we can do it in 10 years, then maybe we could do it in 7 years. Only his figures did not balance.

So I guess now he is back to the point where balancing the budget is no longer important again.

Would not it be wonderful to be like Bill Clinton and wake up in a new world every day? When I was a kid, and many of you will remember this, too, by the way, today I will be the cowboy, you be the Indian; tomorrow I will be the Indian, you be the cowboy; maybe we will be policemen, maybe we will be explorers. We called it playing make believe.

Bill Clinton is still playing make believe. Maybe it is fun for him to wake up in a new world every day and decide who he will be. But it is not fun for the rest of America.

Decide, Bill Clinton, who are you? Liberal, conservative, whatever? America is getting tired of playing make believe.

TAKE MEDICARE AND STUDENT LOANS OFF THE TABLE

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

Mr. BROWN of Ohio. Madam Speaker, for months Speaker GINGRICH has threatened to shut down the Government in order to score political points and to give tax breaks to the wealthiest people in this country. The President has vetoed these bills because he is unwilling to increase Medicare premiums 25 percent and because he is unwilling to cut student loans to middle-class families.

It is simply wrong to increase Medicare premiums and to cut student loans so that Speaker GINGRICH can bestow huge tax breaks on the largest corporations and the wealthiest people in this country.

Let us take Medicare and student loans off the table and work together in a bipartisan way to run the Government the way that it should be.

BORROWING FROM OUR CHILDREN'S FUTURE

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

Mr. NORWOOD. As a nation, we are almost $5 trillion in debt. The share of the national debt held by the people of the 10th District of Georgia is $11 billion. The share of the national debt my 2-year-old grandson owes is 19 thousand dollars. I do not care whose fault it is; this mindless borrowing from our children's future must stop.

Mr. Speaker, as the duly elected representative of the people of the 10th District of Georgia, I cannot and will not vote to increase the debt limit of the United States without a clear commitment to balance the budget in 7 years. I cannot and will not vote to continue the spending of the U.S. Government without a clear commitment to balance the budget in 7 years or less. The people of the 10th District of Georgia have my word on it.

DRIVE-BY DEBATE

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

Mrs. SCHROEDER. Madam Speaker, one of the prior speakers said that I came to the floor yesterday and I was very angry about how dysfunctional this House has become, and I am. I am, angry about the tenor of this debate. It is like drive-by debate. People stand up on each side and go blah, blah, blah, and back and forth and back and forth. The American people have every right to deserve more.

Let me tell Members what this is about. This is not about whether or not we have a balanced budget. It is how we have a balanced budget.

The President says we will have a balanced budget by standing for the American values of continuing education, environmental cleanup, helping our seniors. That is what it is.

They have to take money from them because they made pledges to special interests. But forget what I am saying, because I just am engaging in the drive-by debate. Let us say that a picture is worth a thousand words.

Here we have from the Cincinnati Inquirer, not exactly a liberal paper, the Speaker taking food away from the children because their good friends who want a tax cut have not had enough. It says, "I need your pie back. They are still hungry."

UNCLE SAM NEEDS A CREDIT COUNSELOR

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

Mr. EHLERS. Madam Speaker, I ask you to imagine an American family, Mr. and Mrs. Doe, who have accumulated a debt more than three times their annual income and who are spending each year 10 percent more than they receive as income. Within a few years, their credit card companies say, "We have to cancel your credit cards," and their other creditors say, "We want to be paid off." Mr. and Mrs. Doe go to see a credit counselor. They say, "We would like to work this out. We want to achieve a balanced household budget, but we would like to have 10 years to do it, or at least 7 years. What do you think?" The credit counselor is going to say, "That is absurd. You have to do it this year."

Yet we as a nation have a national debt over three times our annual income. Furthermore, Uncle Sam is spending 10 percent more than his annual income each year. What do you think a credit counselor is going to say to Uncle Sam? I think Uncle Sam needs a credit counselor. The counselor is going to say, "You have to balance the Federal budget. You do not have the luxury of the 10 years the President is asking for. You probably do not even have the luxury of 7 years."

Let us balance the Federal budget right away, just as the American family has to do.

PRESIDENT NEEDS OUR COOPERATION

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

Mr. RICHARDSON. Madam Speaker, just think how all of these gunfights at the OK Corral and gridlock play overseas where America has enormous interests. We are the laughingstock of the world.

How can a President of the United States go to Osaka, Japan, to meet with Asian leaders and talk about trade and commerce when he gets no cooperation from his own Congress on keeping the Government open? How can the President of the United States negotiate a peace agreement in Dayton over Bosnia when his own Congress is trying to undermine him even before he concludes a peace treaty?

Mr. Speaker, let us end these games and get serious. We are all going to be losers if we do not resolve this crisis soon.

LET US NEGOTIATE A BALANCED BUDGET

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

Mr. TIAHRT. Madam Speaker, I am proud to be a member of the reform-minded freshman class here in Congress. We came to change the way business is done here in Washington, DC. We want to balance the budget.

But it has been really frustrating. The House has agreed to balance the budget. The Senate has agreed to balance the budget. But the President and

the liberals in Congress are willing to say anything to keep us from balancing the budget, even if it is not true.

We have heard about cuts to education, but yet student loans are increasing. We heard about cuts to Medicare, yet the average recipient is going to get $4,800 this year and $6,700 in 7 years. We heard about cuts to nutrition programs, and yet we are increasing them 4 percent every year, a total of $1 billion over the next 7 years.

The truth is the President and the liberals in Congress do not want to balance the budget, but the American people do. Let us get real, Mr. President. Let us stay home from Japan and negotiate a balanced budget.

STOP PLAYING THE BLAME GAME

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

Mr. LEWIS of Georgia. Madam Speaker, the day you have longed for is here. You have brought the U.S. Government to a halt and the verge of default. I hope you are happy.

And why has it come to this. Why are our national parks closed, why can't senior citizens or veterans apply for Social Security or veteran benefits, why can not people get their passports? Because you have not done your work. You have been so busy pursuing your extremist ideological agenda that you have ignored the business of the people. And now you want to blame the President.

Well, the President is right and the American people agree. The President will not give in to your drastic proposals: Your extremist plans to cut Medicare, destroy our environment, defund education and give tax breaks to the rich while raising taxes on working families.

Stop playing the blame game, Madam Speaker. Stop blackmailing the President. Show some leadership. Send the President a clean bill and he will sign it, and let us get on with the business of governing.

The American people are watching and waiting.

PUTTING OUR FINANCIAL HOUSE IN ORDER

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

Mr. GUTKNECHT. Madam Speaker, in the last several months we were warned repeatedly by the administration that if the train wreck happened, financial markets would collapse. Well, let us look at the facts; Financial markets hit a record high yesterday, and they are up again this morning.

Why? Because Americans are expressing confidence in this Congress. We are serious about controlling entitlements and putting our financial house in order.

It is unfortunate that we have been forced to send 800,000 nonessential Federal employees home. But it would be a tragedy of historic proportions if we backed down now on our commitment to balance this budget.

LET US GET ABOUT THE PEOPLE'S BUSINESS

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

Mr. FRAZER. Madam Speaker, we are elected to represent our constituents before this body. But in my district there is an expression we use. It is called poppy show. It means unnecessary rhetoric and deliberate foolishness.

Today the U.S. Government is about to shut down because my colleagues on the other side of the aisle are set; they are set in forcing the President and the minority Members of this body to accept their ideology of how the Government should be run.

This is not about balanced budgets. We all agree we need a balanced budget, but not on the backs of those who can least defend themselves, such as senior citizens and students.

I support the President and the Members of this body who believe that we cannot cut programs such as Medicare, student loans, and the Clean Air Act; that we should not cut these programs only to fulfill a promise to the wealthy in this country who make over $100,000.

We are in a crisis. We call for leadership, bipartisan leadership, leadership where all parties come together for the good of the American people. Now it is time to act. Let us be responsible and pass the budget. Let us pass the resolution without riders. Let us get about the people's business.

PRESERVING AND PROTECTING MEDICARE

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

Mr. GANSKE. Madam Speaker, the President is shutting down Government because he wants to decrease Medicare premiums.

Madam Speaker, does the President not read his own Medicare report? These are his own appointees who are telling him that Medicare is going bankrupt. Is there any American in this country who pays health care premiums that has not seen an increase in premiums?

Everyone has to contribute something to save this system: Doctors, hospitals and, yes, Madam Speaker, recipients, too.

This plan does not increase deductibles. It does not increase copayments. But it only asks seniors to maintain the current share of their premium. Is that too much?

Madam Speaker, most of the senior citizens that I talk to understand that we must save the system, that they are willing to contribute, and that by doing so we can preserve and protect the system for future Medicare recipients.

PERMISSION FOR SUNDRY COMMITTEES AND THEIR SUBCOMMITTEES TO SIT TODAY DURING 5-MINUTE RULE

Mr. TIAHRT. Madam Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit today while the House is meeting in the Committee of the Whole House under the 5-minute rule.

Committee on Banking and Financial Services, Committee on Commerce, Committee on Government Reform and Oversight, Committee on International Relations, Committee on National Security, and Committee on Resources.

It is my understanding that the minority has been consulted and that there is no objection to these requests.

The SPEAKER pro tempore (Mrs. MYRICK). Is there objection to the request of the gentleman from Kansas?

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Tim Sanders, one of his secretaries.

CORRECTIONS CALENDAR

The SPEAKER pro tempore. This is the day for the call of the Corrections Calendar.

The Clerk will call the first bill on the Corrections Calendar.

REPEALING AN UNNECESSARY MEDICAL DEVICE REPORTING REQUIREMENT

The Clerk called the bill (H.R. 2366), to repeal an unnecessary medical device reporting requirement.

The Clerk read the bill, as follows:

H.R. 2366

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

SECTION 1. REPEAL.

Section 1862 of the Social Security Act (42 U.S.C. 1395y) is amended by striking subsection (h).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida [Mr. BILIRAKIS] will be recognized for 30 minutes, and the gentleman from Ohio [Mr. BROWN] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida [Mr. BILIRAKIS].

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

Madam Speaker, I rise in strong support of H.R. 2366, legislation to repeal the unnecessary regulatory burden of the cardiac pacemaker registry imposed by the Social Security Act.

Section 1862(h) of the Social Security Act requires doctors and hospitals receiving Medicare funds to provide information to the Federal Government upon the implementation, removal, or replacement of pacemaker devices and pacemaker leads. However, in 1990 the Congress amended the Federal Food, Drug and Cosmetics Act to establish comprehensive reporting requirements that make the registry requirement in the Social Security Act duplicative and unnecessary. Removal of this unnecessary reporting requirement will be welcomed by the health care community and by manufacturers as well as by the Federal agencies charged with complying with this requirement.

□ 1045

I want to emphasize that repeal of the requirement will have no impact on the public health, because it is redundant of a newer and more comprehensive requirement.

Madam Speaker, I want to commend my colleagues, the gentlewoman from Nevada [Mrs. VUCANOVICH], a Republican, and the gentleman from California [Mr. WAXMAN], a Democrat, for recognizing the need for this legislation and working for its quick consideration. During these times it is nice to have a little bit of bipartisanship.

I also want to commend the Speaker for instituting the Corrections Calendar. I believe this bill is a perfect example of the type of legislation for which the new Corrections Calendar is intended.

Madam Speaker, I reserve the balance of my time.

Mr. BROWN of Ohio. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, this is the sort of bill that is appropriate for a corrections day calendar.

It truly corrects a legislative oversight, and does nothing more or less.

This bill was introduced by my colleague, Mr. WAXMAN, with Representative VUCANOVICH, in response to concerns of both the administration and the pacemaker industry about duplicative reporting requirements.

When section 1862(h) was added to the Social Security Act about 10 years ago, there was a need to identify and keep track of defective pacemakers. In particular, there was a need to identify circumstances in which a defective pacemaker was surgically implanted in a patient, and then surgically removed, with both procedures being paid for by Medicare.

One of the main reasons for this early pacemaker registry was that there was no good way, in 1984, to track defective implantable medical devices, and no viable way for HCFA to recover costs in those circumstances where a defective product was used. At that time, it made both fiscal and public health sense to require health care providers to report information about pacemakers and pacemaker leads, including information about device defects and costs recovered from manufacturers.

Since enactment of this provision, HCFA has collected the required data and provided the information to FDA, which maintained the pacemaker registry.

However, in 1990, Congress passed the safe medical device amendments, which included broad requirements for medical device tracking and reporting. These more comprehensive provisions superseded the requirements of section 1862(h), but did not repeal those requirements. However, without repeal of section 1862(h), FDA still must maintain a separate pacemaker registry. Further, providers and manufacturers must report essentially the same information to both HCFA and FDA, for two separate registries.

This duplication of effort is not necessary either for budget reasons or for public safety. HCFA does not need the separate registry to assist in recovering costs, and FDA maintains a master registry of all implantable medical devices, which can be used in cases where there are health concerns about particular products.

Both HCFA and FDA have suggested this repeal. I am pleased to support it, and urge my colleagues to do likewise.

Madam Speaker, I yield such time as he may consume to the gentleman from California [Mr. STARK].

Mr. STARK. Madam Speaker, I thank the gentleman for yielding. I would say at the very outset that the gentlewoman from Nevada [Mrs. VUCANOVICH], the gentleman from California [Mr. WAXMAN], and the gentleman from Florida [Mr. BILIRAKIS], are to be congratulated, as well as the gentleman from Ohio [Mr. BROWN], for a bill that fixes a problem that we should have attended to some time ago.

Madam Speaker, today is corrections day, part of a new dawning, part of a revolution here in this Chamber. And I do not disagree with any item that my Republican colleagues have brought to the floor today. But, boy, do we need corrections.

If one wants to talk about errors that need fixing, the Republicans have created or are about to create errors that boggle the mind; errors, I might suggest, that are going to destroy the Medicare system and leave senior citizens without any health care.

So I would just like to talk about errors that the Republicans are ignoring and errors that they are creating. This is a whole game of errors. There are not any hits or any runs. As a matter of fact, there are not any players on the field. I do not notice a Republican member of the Committee on Ways and Means on the floor, and they have jurisdiction over some of this. They did not even bother to come here today.

Now, on corrections day, let us talk about a major error in the making in the Republican plan for Medicare and Medicaid. Last month the Republican majority rammed through their Medicare and Medicaid bills, and, despite repeated calls from Democrats, only one hearing was held. Today we understand why they had to ram those plans through in the dead of night, with secret meetings in the Speaker's office with major lobbyists from the American Medical Association. The number of uninsured Americans will increase 50 percent, from 40 million to 66 million, by the year 2002.

There is an error that the Republicans ought to think about correcting before they even get out of the gate.

Let me say that once again. As a result of the Republican plans to slash Medicare and Medicaid spending by $450 billion over the next 7 years, the number of uninsured Americans will rise by 50 percent; 26 million more Americans will be uninsured.

Now, this is the finding of the Council on Economic Impact of Health Care Reform, a nonpartisan group with membership of leading Republican and Democrat health care experts. There, Madam Speaker, is an error that must be corrected before it is enacted into law. Where are the Republicans? Where are you on corrections day to correct your own heinous mistakes?

Now, a second item, according to press reports, is that in your budget, your Republican budget, you Republicans are planning to extend the health insurance deduction for self-employed to 50 percent. Now, is that not nice? But did you not also mean to include individual employees who buy their own health insurance as well?

It seems to be a significant oversight that we would extend this tax subsidy for health insurance to self-employed lawyers, doctors, CPA's, but not their secretaries and nurses. Could it be that the doctors and the lawyers are all rich Republicans, and the hard working secretaries and nurses who allow them to function are Democrats, and you do not care about low-income people?

So if you are giving away all this money to rich self-employed, why not a little worry about the average working person in the small business who is denied health insurance by their less than munificent boss, who is probably a Republican, and why not extend this to the lower paid workers?

Now, that is not enough. We have got corrections? Boy, have we got corrections. I understand that the Republicans agreed last night to leave the

disabled out of the Medicaid plan. Now, is that not fine? What are you going to do for all the people who are disabled? You are going to kick them out of the Medicaid plan. There is no guarantee that all the disabled people who get Medicaid coverage today will be covered under the Republican plan.

Now, that needs correction. That is heartless. That is cruel. What are you going to do, break up their crutches and give them to the rich for their fireplaces?

Come on. Can you not find, when you are cutting $450 billion out of a budget to pay for tax cuts to the rich, can you not find enough to maintain or require that Governors under these block grants keep disabled people in the Medicaid plan?

That is not enough. You want corrections? You want egregious errors? You want problems that the Republicans are creating that have to be corrected?

Another item in the Medicare is the copayment. Beneficiaries today pay up to 53 percent in copayments when they have an outpatient procedure. These are Medicare beneficiaries who are not supposed to pay those kinds of copayments. Why, a beneficiary could pay, say, $3,000 out-of-pocket for an outpatient procedure. How do you fix it? You give the hospital back the money, but you make the beneficiary keep paying the $3,000.

So much for your fixing Medicare. You are sticking it to the seniors and making them pay these outrageous charges. Should that not be corrected? Where are you? Where are these great correctors of the errors they are creating? They are probably in the back room right now trying to give away more money to the rich, to the doctors, to the hospitals.

Currently, a provision in the law referred to as COBRA was written in 1986. Forty-one million Americans are extending their health care insurance when they become disabled or laid off or have been divorced at no cost to the Federal Government, not a penny to the Federal Government. And today there are 3.5 million people abroad in the land who are about to have their COBRA benefits expire.

And, yo, Republicans voted not to extend that. In the Committee on Ways and Means, every Republican voted not to extend COBRA benefits, at no cost to the Federal Government. Here is a correction that does not cost a penny to anyone. All it takes is a little concern. All you got to do is care about people who have lost their jobs and are losing their health care insurance, and you would not even let them pay for it out of their own pocket.

Talk about heartless, cruel, awful people. The people who would turn their backs on the disabled, on the unemployed, certainly do not deserve to be in here saying they are going to correct errors. They are creating errors faster than we could correct them if we met all week.

In other Medicare and Medicaid plans, Republicans plan to turn nursing home regulations over to States. Now, there is an error in the making that you want to look for. Why, you may not be aware that States do an awful job monitoring the quality of nursing home care. As studies come to light that find when States monitor nursing homes, they find about 5 percent of the nursing homes are in violation. When Federal regulators inspect these nursing homes, they find almost 14 percent in violation.

Should not we have decent nursing home standards, so that we do not handcuff poor, old people to their beds, let them die of bed sores, so we do not give them tranquilizers to make vegetables out of them? Where is your compassion? Why are you destroying Medicare and Medicaid nursing home regulations to the detriment of the seniors? You want an error you are creating? You can fix it right now.

Finally, in your Medicare reform plan you only catch 1 percent of the fraud estimated to take place currently. Now, surely you all want to be tough on crime. I have heard that from your side. You want to build jails. You do not want to have any welfare to prevent people from going to jail, but you are sure going to build jails.

Well, let me tell you, what you are doing allows 1 percent of finding Medicare fraud and reforming it. One percent? Come on, a blind pig could find a pearl rooting in the barnyard faster than you all can find fraud the way you are going about this.

So, Madam Speaker, as we talk about corrections, a corrections day, how about a corrections week, or a corrections month? And for the Republicans, I might suggest a corrections institution, because you are destroying the institutions of this country that the seniors have counted on, that the poor and children have counted on, for over 30 years.

With one ill-thought-out bill, with one ill-thought-out budget reconciliation, you are destroying the health care of the seniors. You are taking away the support system for the disabled. You are cutting back on children's education and school lunches. Surely, that needs correction.

So if you are closing hospitals and pumping up the fees that we pay to doctors, how about dealing with some of the errors that you are creating and that you are doing nothing to correct.

Yes, sir, this is a bill worth voting for, but it is such a piddling splatter on the platter that needs correcting. Would you please think about the people you are harming, the disabled, the senior citizens, the 26 million you are going to add to the uninsured, the children who will be denied medical care, the crippled, halt and lame you are kicking off the rolls? What are you going to do to collect your Speaker's bill that none of you have had any impact in?

There are the corrections that really need correcting. There are the errors the Republicans are creating. There is humanity that is lacking. There is an indifference to the problems of the people in this world. That is what this institution should be doing.

Mr. BILIRAKIS. Madam Speaker, I yield such time as she may consume to the gentlewoman from Nevada [Mrs. VUCANOVICH] to get back to the point here, and that is to the legislation to repeal the unnecessary regulatory burden of the cardiac pacemaker registry imposed by the Social Security Act.

Mrs. VUCANOVICH. Madam Speaker, I thank the gentleman for yielding me time.

Madam Speaker, it is a shame that some Members of this body cannot put aside their disagreements, even when we are trying to do something positive. I do not think this is very constructive and serves only further to enforce the cynicism of the voters. But I would first like to thank the gentleman from Florida [Mr. BILIRAKIS] and the gentleman from Virginia [Mr. BLILEY] and the Committee on Commerce for their hard work to report this bill out of committee so quickly.

□ 1100

For corrections day to fulfill its mandate, we have to be able to act quickly, and the Committee on Commerce has gone the extra mile to see that the process is successful.

The problem of the duplicate heart pacemaker registry was brought to my attention by the gentleman from California [Mr. WAXMAN]. The gentleman and I decided to cosponsor this legislation to eliminate the redundant reporting requirement. I think this might just be the first bill ever cosponsored by both the gentleman from California [Mr. WAXMAN] and myself.

Madam Speaker, the fact that the two of us can agree on the foolishness of this requirement shows how ridiculous it really is, but more importantly, it demonstrates the corrections day has become a truly bipartisan process. Our corrections day advisory group has been working together now for nearly 5 months with little acrimony and a real spirit of cooperation.

I especially want to thank the gentleman from California [Mr. WAXMAN] for his cooperation on this bill and the others we have passed and are working to pass in the coming weeks. I think it is important to point out that we as a group have been able to resolve some regulatory problems by simply proposing to put matters on the corrections calendar. This approach has been bipartisan and has resulted in regulatory relief for thousands of small businesses.

Madam Speaker, I hope before the end of the year to give the House a

comprehensive review of the corrections day process and the good we have been able to accomplish. While we are tied up in the midst of major policy disagreements over the direction of the Federal budget, it is important for our constituents to know that real work is getting done. So much focus it put on what is not working, it is nice to see that our system can work and does work every day.

Mr. BROWN of Ohio. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I am glad we are having this debate today. I think it is important certainly to pass this bill, as we talked about, because I think it is an unnecessary regulation, and that makes sense for every standpoint, from a government standpoint, from industry standpoint for Medicare, for consumers, for Medicare beneficiaries. I am glad we are having this discussion about Medicare and Medicaid because we have had so few chances, Madam Speaker, to talk about this legislation on the floor. We had 1 hour of general debate on the reconciliation bill in the Committee on Ways and Means of the gentleman from California [Mr. STARK], and there was only 1 hour, there was only one hearing on Medicare in that committee, is my understanding, and the committee I am on, the other committee of jurisdiction on Medicare and Medicaid, we had no hearings whatsoever on either of those issues. We simply marked the bill up, generally on party line votes where every Republican in the committee almost on every vote voted with whatever Speaker GINGRICH wanted.

That was disturbing, but it gives us an opportunity today during this corrections day to talk about a couple of issues that are particularly important. One of them is the part B increase in Medicare. People right now, Medicare beneficiaries in this country, are paying $46 a month for part B Medicare. Under the Gingrich plan, this will be increased; we will see a 25-percent increase. That is why the President vetoed these two bills this week, the continuing resolution and the debt ceiling increase, because of increases in Medicare premiums.

POINTS OF ORDER

Mr. BILIRAKIS. Madam Speaker, I rise to a point of order.

The SPEAKER pro tempore (Mrs. MYRICK). The gentleman will state his point of order.

Mr. BILIRAKIS. Madam Speaker, I have sat here and listened to all of this and I have no problem with giving these gentlemen their time to speak on this particular subject, but I would like to get this bill out of here so that we can go on to our business, and if they want to talk in some way, they can go ahead and do so. But it is a point of order.

This harangue that we have had from the other side is certainly not germane to what we are talking about here, and I think it violates the rules of the House.

The SPEAKER pro tempore. The point is sustained. Debate will be confined to the bill under consideration, H.R. 2366.

Mr. BROWN of Ohio. Madam Speaker, we are talking about Medicare, we are talking about that section. I ran for Congress understanding that on the floor of the House you could talk about issues that affected people's lives and issues that affected the particular legislation you are working on.

On this side of the aisle I control my 30 minutes. My friend from Florida can talk about what he wants in his 30 minutes.

The SPEAKER pro tempore. Under the rules, the debate must pertain to the question under debate specifically. The gentleman may proceed on that basis.

Mr. BROWN of Ohio. I will do that, Madam Speaker, and I will continue to talk about how we correct Medicare, because part of this corrections day calendar is to correct one section of Medicare, and I think that the way to correct Medicare certainly is to pass this bill, and we will have a total of 1 hour of debate to do that. But as we move on, the real way to correct Medicare is not to destroy it by increasing people's premiums 25 percent and by making $270 billion in cuts in order to give major tax breaks to the wealthiest people in this country.

Mr. BILIRAKIS. Madam Speaker, with all due respect to my colleague from Ohio, we are talking about the cardiac pacemaker registry here. I do not quite understand this.

I have sat here very patiently. I think I have had the opportunity, I know I have had the opportunity to interrupt previously. I have not done so, but I think the other side is taking advantage of the situation.

The SPEAKER pro tempore. The gentleman from Florida made the point of order that the debate is not relevant.

Does any other Member want to be heard on the point of order?

Mr. STARK. Madam Speaker, I wish to be heard on the point of order.

Madam Speaker, under the point of order could the Speaker define for us what is the topic before us and wherein we may speak within the parameters set by the distinguished Speaker?

The SPEAKER pro tempore. The question under debate is the bill, H.R. 2366.

Mr. STARK. And to what does that pertain, Madam Speaker?

The SPEAKER pro tempore. The title of the bill is to repeal an unnecessary medical device reporting requirement.

Mr. STARK. I see, and the area of jurisdiction is what?

The SPEAKER pro tempore. The bill was referred to the Committees on Commerce and Ways and Means.

Mr. STARK. And the bill pertains to Medicare and Medicaid and health care in general; does it not?

The SPEAKER pro tempore. The subject under debate is the bill.

Mr. STARK. Madam Speaker, I would just ask for clarification.

The SPEAKER pro tempore. The clarification is, this is a bill to repeal an unnecessary medical device reporting requirement.

The point of order is well taken. The gentleman from Ohio [Mr. BROWN] should confine his debate to H.R. 2366.

Mr. BROWN of Ohio. Madam Speaker, when you talk about these pacemaker devices, you are talking about Medicare. You are talking about how you pay for these pacemaker devices, how Medicare pays. If Medicare premiums are increased, does that mean that if the Gingrich plan wants to go over 25 percent double over the next 7 years, does that mean that people will not be able to afford these pacemakers?

I think it is a discussion, frankly, in spite of your misreading of the rules, I think it is a discussion that people in this country want to have, what they are going to pay for Medicare, what is going to be covered by Medicare, what regulations surround Medicare and Medicaid or whether it is the cost of premiums.

That is a discussion that people in this country want to have, Madam Speaker, and it is a discussion that we have been denied in committee and it is a discussion that we ought to have.

Mr. STARK. Madam Speaker, may I be heard on the point of order?

The SPEAKER pro tempore. Members will suspend.

There is no point of order pending at this time.

Mr. STARK. Madam Speaker, I rise to a point of order.

The SPEAKER pro tempore. The gentleman will state it.

Mr. STARK. Madam Speaker, in H.R. 2366 line 3, section 1, it says, repeal section 1862 of the Social Security Act, and it is amended by striking subsection (h). It is my understanding that in amending a section of the Social Security Act, the Member can strike the last word and discuss anything under that Social Security Act, which would be 42 U.S.C. 1395, and if section 1862 of the Social Security Act covers all of these topics, I would like the Speaker to suggest whether or not we may therefore discuss anything in section 1862, which this bill seeks to repeal, or a subsection thereof.

The SPEAKER pro tempore. Is the gentleman asking a parliamentary inquiry?

Mr. STARK. Yes.

The SPEAKER pro tempore. Does the gentleman from Ohio [Mr. BROWN] yield to him for that purpose?

Mr. BROWN of Ohio. Madam Speaker, I yield to the gentleman from California [Mr. STARK] for a parliamentary inquiry.

The SPEAKER pro tempore. As previously stated, the proper debate is on the subject matter of the bill, H.R. 2366, and the Chair will repeat, to repeal an unnecessary medical device reporting requirement.

Mr. BILIRAKIS. Madam Speaker, may I inquire at this time as to how much time remains on each side?

The SPEAKER pro tempore. The gentleman from Florida [Mr. BILIRAKIS] has 26 minutes remaining, and the gentleman from Ohio [Mr. BROWN] has 11 minutes remaining.

Mr. BROWN of Ohio. Madam Speaker, was all of this debate when the gentleman from Florida [Mr. BILIRAKIS] raised his point of order, was that all subtracted from our time?

The SPEAKER pro tempore. No, it was not.

Mr. BROWN of Ohio. Madam Speaker, I yield 2 minutes to the gentleman from Kentucky [Mr. WARD].

Mr. WARD. Madam Speaker, I would ask the gentleman from Florida [Mr. BILIRAKIS], because of the crisis that we are facing right this minute in the Government. Those who are watching these debates understand that we are at this point acting without, we are moving forward in the U.S. Government without, a budget. I would ask the gentleman, would it not be reasonable to ask the gentleman from Florida not to raise a point of order, and if the gentleman from Florida did not raise a point of order, could we not then discuss these serious issues relating to Medicare?

Mr. BILIRAKIS. Madam Speaker, will the gentleman yield?

Mr. WARD. I yield to the gentleman from Florida.

Mr. BILIRAKIS. Madam Speaker, the gentleman from Florida sat here very patiently and respectfully while the gentleman from California went on for something like 15 minutes in spite of the fact that I felt he was out of order at that point in time. We have special orders here, we have many ways in order to get this done.

We have a very simple corrections bill here that everyone has agreed to go forward, and I think we should just go forward with this and have regular order.

Mr. WARD. Madam Speaker, reclaiming my time, I appreciate that the gentleman from Florida [Mr. BILIRAKIS] did allow this debate without a point of order, and I guess what I am asking is, would it not be fair to continue to allow that since we in the minority are not being allowed to continue?

Mr. BILIRAKIS. Madam Speaker, if the gentleman would yield further, I did not make the rules of the House. I would suggest to you that your party, when you controlled this House for 40 years, made these rules of the House in terms of germaneness and sticking to the point.

Mr. BROWN of Ohio. Madam Speaker, reclaiming my time, the fact is that this order was made by the Chair because a Member asked for this, because it is pretty clear that some people in this House do not want to debate Medicare on this House floor, did not want to debate Medicare and have hearings in the Committee on Commerce, did not want to debate Medicaid and Medicare in the Committee on Ways and Means.

We have wasted 15 minutes talking about nothing when we have a Speaker of the House who said, "We don't want to get rid of Medicare in round one because we don't think that is politically smart. We don't think that is the right way to go through a transition."

Mr. BILIRAKIS. Regular order, Madam Speaker. Enough is enough.

The SPEAKER pro tempore. The gentleman will suspend. All Members will suspend.

Does the gentleman from Florida state a point of order?

Mr. BILIRAKIS. Madam Speaker, I ask for regular order at this point in time. The point of order I believe has already been made, Madam Speaker.

The SPEAKER pro tempore. The Chair will take this opportunity to read from clause 1 of rule XIV of the Rules of the House of Representatives.

When any member desires to speak or deliver any matter to the House, he shall rise and respectfully address himself to "Mr. Speaker," and, on being recognized, may address the House from any place on the floor or from the Clerk's desk, and shall confine himself to the question under debate.

With that guidance, the gentleman from Ohio [Mr. BROWN] may proceed.

Mr. BROWN of Ohio. Madam Speaker, H.R. 2366, which we on this side of the aisle support, is about Medicare, and it is about repealing a part of Medicare. That is within the entire structure of the Medicare bill.

When I hear the Speaker of the House on October 24 make a statement about Medicare withering on the vine, it also includes H.R. 2366, a part of the Medicare bill. H.R. 2366 includes section 1862, because the Speaker said, "We don't want to get rid of Medicare," and also section 1862, "We don't want to get rid of it in round one because we don't think that is politically smart, and we don't think that is the right way to go through a transition."

□ 1115

Again the Speaker is talking about this section, 1862, talking about the Social Security Act, talking about Medicare.

The Speaker says, "We don't want to get rid of Medicare in round one because that's not politically smart. We don't think that's the right way to go through a transition. But we believe that Medicare is going to wither on the vine," again talking about section 1862 and talking about the Social Security Act, talking about Medicare. That is very debatable on this floor because that is a serious attempt to dismantle Medicare, Madam Speaker.

POINT OF ORDER

Mr. EHRLICH. Regular order, Madam Speaker.

The SPEAKER pro tempore (Mrs. MYRICK). The gentleman will suspend.

Does the gentleman from Florida have a point of order?

Mr. BILIRAKIS. Madam Speaker, I have the continuing point of order. But the point of order has already been ruled upon and is being violated by the Members on the other side of the aisle. This is ridiculous. Let us stay on point for crying out loud.

The SPEAKER pro tempore. Will the gentleman please restate his point of order.

Mr. BILIRAKIS. My point of order is to the effect that the debate over there has nothing at all to do with the legislation before us, which is to repeal the unnecessary regulatory burden of the cardiac pacemaker registry imposed by the Social Security Act, period. It is limited to that particular point, that subsection.

The SPEAKER pro tempore. The Chair finds that the most recent debate maintains the proper nexus to the bill. The gentleman may proceed.

Mr. BROWN of Ohio. Madam Speaker, it concerns me when we talk about section 1862 and we talk about this bill. Again I applaud the gentlewoman from Nevada [Mrs. VUCANOVICH], the gentleman from Florida [Mr. BILIRAKIS], and the Committee on Commerce chaired by the gentleman from Virginia [Mr. BLILEY] in their support of this legislation.

I would hope that when we talk about Medicare and talk about section 1862 that we do look at the entire Medicare package. That is, are we going to save Medicare? Are we going to follow the words of the Speaker of the House who says that it is politically not smart now to get rid of Medicare, that is why we need the Gingrich plan now, so that we can begin the process of Medicare withering on the vine. That is what concerns me, Madam Speaker, that this entire bill, whether it is section 1862——

POINT OF ORDER

Mr. EHRLICH. Point of order, Madam Speaker.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. EHRLICH. Call for regular order. Nongermane debate again, Madam Speaker.

Mr. BROWN of Ohio. Madam Speaker, I have mentioned section 1862 in almost every sentence of my discussion here.

Mr. EHRLICH. Madam Speaker, the gentleman just quoted the Speaker with respect to the issue of Medicare generally. I believe that directly violates the Chair's ruling.

Mr. BROWN of Ohio. Madam Speaker, it is not my fault that the Speaker was speaking to a bunch of insurance agents who are going to benefit by the

passage of this bill and that he said that he wants Medicare to wither on the vine. I did not write his speech, Madam Speaker.

The SPEAKER pro tempore. The Chair is entertaining the argument on the point of order, sir. Has the gentleman completed?

Mr. BROWN of Ohio. The ruling has been made in support of our position again, Madam Speaker?

Mr. EHRLICH. The point of order has not been ruled upon, is my understanding.

The SPEAKER pro tempore. The Chair is prepared to rule.

Quotations of the Speaker are not out of order, per se, but a nexus needs to be maintained to the subject of the bill.

Mr. BROWN of Ohio. I thank the Speaker.

I will make the nexus again that the Speaker, speaking to an insurance executive group in, I do not know, perhaps in Washington, in October, talking about section 1862 and Medicare as a whole, said, "We don't want to get rid of Medicare"——

POINT OF ORDER

Mr. EHRLICH. Point of order, Madam Speaker.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. EHRLICH. Medicare as a whole is not the proper subject of this debate in the rulings that the Chair has made in the last 10 minutes.

Mr. BROWN of Ohio. Madam Speaker, what is the other party afraid of when I quote the Speaker? I do not understand. Maybe I am missing something, Madam Speaker, if you could clarify your ruling.

The SPEAKER pro tempore. The gentleman will suspend. Will Members please allow complete sentences to be made in the point of debate before interrupting?

The Chair cannot judge an incomplete sentence. The gentleman from Ohio may proceed.

Mr. BROWN of Ohio. I thank the Speaker.

Madam Speaker, a month ago, Speaker GINGRICH speaking about Medicare to a group of insurance executives, most of whom will benefit mightily from the Gingrich Medicare $270 billion in cuts to give tax breaks for the wealthy, said to this group, "Now, we didn't get rid of Medicare in round 1 because we don't think that's politically smart, and we don't think that's the right way to go through a transition. But we believe that Medicare," parenthetically I would add, Madam Speaker, section 1862 which we are debating today and is part of Medicare, "but we believe," Speaker GINGRICH went on to say, "that Medicare is going to wither on the vine."

That is my concern, Madam Speaker, that we need to discuss this bill on the floor because 1862 is part of this bill, and I do not quite understand why people in this body are so afraid of quoting the Speaker of the House.

Mr. EHRLICH. Regular order, Madam Speaker. I believe that was 15 complete sentences. If the purpose of the gentleman is to appeal the ruling of the Chair, I would ask the gentleman to do so. If the purpose of the gentleman is simply to disregard the orders of the Chair, the gentleman should so state.

Mr. BROWN of Ohio. I say to my friend from Maryland, the Speaker asked me——

Mr. EHRLICH. I will suspend, Madam Speaker. It is my understanding now you are deciding on the motion.

The SPEAKER pro tempore. The Chair rules that a subject matter nexus must be maintained in the debate, between the debate and the bill under discussion, and the Chair has ruled such.

Mr. BROWN of Ohio. And I had the nexus, Madam Speaker?

The SPEAKER pro tempore. The most recent debate has maintained that nexus.

Mr. BROWN of Ohio. I thank the Speaker. So I can talk about section 1862 and Medicare?

The SPEAKER pro tempore. As long as the gentleman maintains that subject matter nexus.

Mr. BROWN of Ohio. Madam Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. GENE GREEN] to continue to make the nexus on 1862 and the Speaker wanting Medicare to wither on the vine.

Mr. GENE GREEN of Texas. Madam Speaker, I thank my colleague from Ohio for allowing a gentleman from Texas to make the nexus with this bill.

Let me talk a little bit about H.R. 2366. I know he has been comparing and contrasting this bill with the Speaker's comments in an earlier speech but let me talk about the continuing budget resolution that concerns all of us and to contrast the CR with this bill we are debating today, H.R. 2366.

I am glad we have this opportunity to discuss the Speaker's comments and H.R. 2366, because there is a comparison between the two. First, we had the same committee, the Committee on Ways and Means, consider H.R. 2366 and the continuing resolution.

Madam Speaker, we also have a continuing resolution passed by the Ways and Means Committee that would increase Medicare premiums from $46.10 to $53.50 a month, which is the same committee from which this bill came.

That is why I think there is some concern. That is why I am glad that the gentleman from Ohio has brought up the comparison between what we are doing here today on the shutdown of the Federal Government and the concern about the increase in Medicare premiums with H.R. 2366 that came out of the same committee.

I think there is a comparison between the two, because H.R. 2366 deals with a problem that was solved on a bipartisan basis and actually when it is passed, it will be. But the continuing resolution that was passed here was not passed on a bipartisan basis, even though it came out of the same committee.

I think H.R. 2366 is a great example of recognizing a problem with the Social Security Act and Medicare and the medical device reporting requirement, and slowing it. Yet again today, because of the veto yesterday of the continuing resolution and recently of the debt ceiling, we have not seen any of the bipartisanship that we should have on H.R. 2366.

It was not stated by just myself on the floor but by the President himself, that if we go back to the actual $46.10 a month on a bipartisan basis like we have done on H.R. 2366, we might not see having the Federal Government shut down today and not having lots of Federal employees furloughed.

I would hope that the Committee on Ways and Means that sent us H.R. 2366 would also consider working on other even more important legislation, although I think the medical device reporting is important, particularly if you are dealing with pacemakers and folks that need it. But senior citizens also need to be able to afford that Medicare monthly premium. Going from $46.10 to $53.50 is just something that they cannot afford and frankly I applaud the President for vetoing that effort. Again hopefully it will come back to us and the Committee on Ways and Means and the Committee on Commerce can work together so we can have bipartisan resolution to this.

Mr. BROWN of Ohio. Madam Speaker, again I am pleased to support repeal of 1862(h) but oppose the Medicare withering on the vine as the Speaker has reminded us that his plan does.

Madam Speaker, I reserve the balance of my time.

Mr. BILIRAKIS. Madam Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. BARTON].

Mr. BARTON of Texas. I thank the gentleman from Florida, the chairman of the Subcommittee on Health and Environment, for yielding me the time.

Madam Speaker, unlike some of my Democratic colleagues, I am going to rise in support of this legislation and strictly speak on this legislation.

I would like to point out that the bill was reported out of the Committee on Commerce on a bipartisan basis. My good friend, the gentleman from California [Mr. WAXMAN], and the gentlewoman from Nevada [Mrs. VUCANOVICH] are the chief sponsors of the bill. The purpose of the bill is to repeal the cardiax pacemaker registry established in 1984 by the Social Security Act. I would like to read the background on this legislation. It is only two paragraphs, and I think it may be of some value to our colleagues.

It says that section 1862(h) of the Social Security Act requires doctors and hospitals receiving Medicare funds to provide information upon implementation, removal, or replacement of pacemaker devices and pacemaker leaders. These requirements became redundant in 1990 with the enactment of amendments to the Federal Food, Drug, and Cosmetic Act that established a more comprehensive system for reporting on medical devices. This legislation is needed to eliminate the unnecessary burden on the health care system, the Health Care Financing Administration, and the Food and Drug Administration. On October 12, 1995, the Speaker's advisory group on corerctions, a bipartisan task force, recommended to the Speaker that H.R. 2366 be placed on the House Corrections Calendar, which it is being done today, and which I would assume in the next 5 minutes or so that we are going to pass this, probably by a voice vote, perhaps by a rollcall vote.

This is an example of where we can work together in a bipartisan fashion to eliminate some of the unnecessary Federal rules and regulations that have grown like barnacles in the Federal Code over the last 20 to 30 years.

I support the leadership of the gentleman from Florida [Mr. BILIRAKIS], the chairman, and his effort on this and hope that we would focus on the issue at hand, this piece of legislation, and pass it forthwith.

Mr. BILIRAKIS. Madam Speaker, I guess unfortunately I misspoke in my opening remarks when I talked about the bipartisan nature of what we were doing here this morning, regarding this piece of legislation. That is very unfortunate.

Madam Speaker, I reserve the balance of my time.

Mr. BROWN of Ohio. Madam Speaker, I yield myself the balance of my time.

Madam Speaker, this is a bipartisan bill. We want to see it passed.

The gentleman from California, Mr. STARK, the gentleman from Texas, Mr. GENE GREEN, and the gentleman from Kentucky, Mr. WARD, that have spoken on this side of the aisle, all of us that are on the Commerce or Ways and Means committees that supported this bill want to see it passed.

We simply wanted, and I guess it was just too touchy an issue in this body, we wanted to debate perhaps the greatest Government program ever, Medicare, that has been with us for 30 years, that where 50 percent of the people in this country were not covered, did not have any health insurance, 50 percent of the elderly in 1965, today only 1 or 2 percent of the elderly do not have coverage because of Medicare.

Yet this Gingrich plan will increase people that are uninsured by as much as 50 percent according to nonpartisan experts.

More to the point on section 1862, by striking subsection (h) which is what we should do, repealing that but not repealing and allowing Medicare to wither on the vine, the poorest elderly are going to have a $700 out-of-pocket expense to pay for these pacemakers because of the Medicaid reforms on something called QMB that the Gingrich plan has allowed.

Madam Speaker, I support this bill, I do not want to see Medicare wither on the vine. I hope that down the road we can have a real Medicare debate where people are not interrupting one another to say that it is not germane because the American people deserve that.

Madam Speaker, I support H.R. 2366.

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

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

Possibly, present company excepted, I do not know, I would suggest that most of the Members on the other side of the aisle have been involved in Medicare debates over the years, particularly during election time. They are very adept at it, and this morning proves that, I think, more than anything else.

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

□ 1130

The SPEAKER pro tempore (Mrs. MYRICK). Pursuant to the rule, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read a third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and (three-fifths having voted in favor thereof) the bill was passed.

The motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BILIRAKIS. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 2366.

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

There was no objection.

FEDERAL REPORTS ELIMINATION AND SUNSET ACT OF 1995

The Clerk called the Senate bill (S. 790) to provide for the modification or elimination of Federal reporting requirements.

The Clerk read the bill, as follows:

S. 790

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Reports Elimination and Sunset Act of 1995".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—DEPARTMENTS

Subtitle A—Department of Agriculture

Sec. 1011. Reports eliminated.
Sec. 1012. Reports modified.

Subtitle B—Department of Commerce

Sec. 1021. Reports eliminated.
Sec. 1022. Reports modified.

Subtitle C—Department of Defense

Sec. 1031. Reports eliminated.

Subtitle D—Department of Education

Sec. 1041. Reports eliminated.
Sec. 1042. Reports modified.

Subtitle E—Department of Energy

Sec. 1051. Reports eliminated.
Sec. 1052. Reports modified.

Subtitle F—Department of Health and Human Services

Sec. 1061. Reports eliminated.
Sec. 1062. Reports modified.

Subtitle G—Department of Housing and Urban Development

Sec. 1071. Reports eliminated.
Sec. 1072. Reports modified.

Subtitle H—Department of the Interior

Sec. 1081. Reports eliminated.
Sec. 1082. Reports modified.

Subtitle I—Department of Justice

Sec. 1091. Reports eliminated.

Subtitle J—Department of Labor

Sec. 1101. Reports eliminated.
Sec. 1102. Reports modified.

Subtitle K—Department of State

Sec. 1111. Reports eliminated.

Subtitle L—Department of Transportation

Sec. 1121. Reports eliminated.
Sec. 1122. Reports modified.

Subtitle M—Department of the Treasury

Sec. 1131. Reports eliminated.
Sec. 1132. Reports modified.

Subtitle N—Department of Veterans Affairs

Sec. 1141. Reports eliminated.

TITLE II—INDEPENDENT AGENCIES

Subtitle A—Action

Sec. 2011. Reports eliminated.

Subtitle B—Environmental Protection Agency

Sec. 2021. Reports eliminated.

Subtitle C—Equal Employment Opportunity Commission

Sec. 2031. Reports modified.

Subtitle D—Federal Aviation Administration

Sec. 2041. Reports eliminated.

Subtitle E—Federal Communications Commission

Sec. 2051. Reports eliminated.

Subtitle F—Federal Deposit Insurance Corporation

Sec. 2061. Reports eliminated.

Subtitle G—Federal Emergency Management Agency

Sec. 2071. Reports eliminated.

Subtitle H—Federal Retirement Thrift Investment Board

Sec. 2081. Reports eliminated.

Subtitle I—General Services Administration
Sec. 2091. Reports eliminated.
Subtitle J—Interstate Commerce Commission
Sec. 2101. Reports eliminated.
Subtitle K—Legal Services Corporation
Sec. 2111. Reports modified.
Subtitle L—National Aeronautics and Space Administration
Sec. 2121. Reports eliminated.
Subtitle M—National Council on Disability
Sec. 2131. Reports eliminated.
Subtitle N—National Science Foundation
Sec. 2141. Reports eliminated.
Subtitle O—National Transportation Safety Board
Sec. 2151. Reports modified.
Subtitle P—Neighborhood Reinvestment Corporation
Sec. 2161. Reports eliminated.
Subtitle Q—Nuclear Regulatory Commission
Sec. 2171. Reports modified.
Subtitle R—Office of Personnel Management
Sec. 2181. Reports eliminated.
Sec. 2182. Reports modified.
Subtitle S—Office of Thrift Supervision
Sec. 2191. Reports modified.
Subtitle T—Panama Canal Commission
Sec. 2201. Reports eliminated.
Subtitle U—Postal Service
Sec. 2211. Reports modified.
Subtitle V—Railroad Retirement Board
Sec. 2221. Reports modified.
Subtitle W—Thrift Depositor Protection Oversight Board
Sec. 2231. Reports modified.
Subtitle X—United States Information Agency
Sec. 2241. Reports eliminated.
TITLE III—REPORTS BY ALL DEPARTMENTS AND AGENCIES
Sec. 3001. Reports eliminated.
Sec. 3002. Reports modified.
Sec. 3003. Termination of reporting requirements.

TITLE I—DEPARTMENTS

Subtitle A—Department of Agriculture

SEC. 1011. REPORTS ELIMINATED.

(a) REPORT ON MONITORING AND EVALUATION.—Section 1246 of the Food Security Act of 1985 (16 U.S.C. 3846) is repealed.

(b) REPORT ON RETURN ON ASSETS.—Section 2512 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1421b) is amended—

(1) in subsection (a), by striking "(a) IMPROVING" and all that follows through "FORECASTS.—"; and

(2) by striking subsection (b).

(c) REPORT ON FARM VALUE OF AGRICULTURAL PRODUCTS.—Section 2513 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1421c) is repealed.

(d) REPORT ON ORIGIN OF EXPORTS OF PEANUTS.—Section 1558 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 958) is repealed and sections 1559 and 1560 of such Act are redesignated as sections 1558 and 1559, respectively.

(e) REPORT ON REPORTING OF IMPORTING FEES.—Section 407 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736a) is amended—

(1) by striking subsection (b); and

(2) by redesignating subsections (c) through (h) as subsections (b) through (g), respectively.

(f) REPORT ON AGRICULTURAL INFORMATION EXCHANGE WITH IRELAND.—Section 1420 of the Food Security Act of 1985 (Public Law 99-198; 99 Stat. 1551) is amended—

(1) in subsection (a), by striking "(a)"; and

(2) by striking subsection (b).

(g) REPORT ON POTATO INSPECTION.—Section 1704 of the Food Security Act of 1985 (Public Law 99-198; 7 U.S.C. 499n note) is amended by striking the second sentence.

(h) REPORT ON TRANSPORTATION OF FERTILIZER AND AGRICULTURAL CHEMICALS.—Section 2517 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 104 Stat. 4077) is repealed and sections 2518 and 2519 of such Act are redesignated as sections 2517 and 2518, respectively.

(i) REPORT ON UNIFORM END-USE VALUE TESTS.—Section 307 of the Futures Trading Act of 1986 (Public Law 99-641; 7 U.S.C. 76 note) is amended by striking subsection (c).

(j) REPORT ON PROJECT AREAS WITH HIGH FOOD STAMP PAYMENT ERROR RATES.—Section 16(i) of the Food Stamp Act of 1977 (7 U.S.C. 2025(i)) is amended by striking paragraph (3).

(k) REPORT ON EFFECT OF EFAP DISPLACEMENT ON COMMERCIAL SALES.—Section 203C(a) of the Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is amended by striking the last sentence.

(l) REPORT ON WIC EXPENDITURES AND PARTICIPATION LEVELS.—Section 17(m) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(m)) is amended—

(1) by striking paragraphs (8) and (9); and

(2) by redesignating paragraphs (10) and (11) as paragraphs (8) and (9), respectively.

(m) REPORT ON WIC MIGRANT SERVICES.—Section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) is amended by striking subsection (j).

(n) REPORT ON DEMONSTRATIONS INVOLVING INNOVATIVE HOUSING UNITS.—Section 506(b) of the Housing Act of 1949 (42 U.S.C. 1476(b)) is amended by striking the last sentence.

(o) REPORT ON LAND EXCHANGES IN COLUMBIA RIVER GORGE NATIONAL SCENIC AREA.—Section 9(d)(3) of the Columbia River Gorge National Scenic Area Act (16 U.S.C. 544g(d)(3)) is amended by striking the second sentence.

(p) REPORT ON INCOME AND EXPENDITURES OF CERTAIN LAND ACQUISITIONS.—Section 2(e) of Public Law 96-586 (94 Stat. 3382) is amended by striking the second sentence.

(q) REPORT ON SPECIAL AREA DESIGNATIONS.—Section 1506 of the Agriculture and Food Act of 1981 (16 U.S.C. 3415) is repealed and sections 1507, 1508, 1509, and 1511 of such Act are redesignated as sections 1506, 1507, 1508, and 1509, respectively.

(r) REPORT ON EVALUATION OF SPECIAL AREA DESIGNATIONS.—Section 1510 of the Agriculture and Food Act of 1981 (16 U.S.C. 3419) is repealed.

(s) REPORT ON AGRICULTURAL PRACTICES AND WATER RESOURCES DATABASE DEVELOPMENT.—Section 1485 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5505) is amended—

(1) in subsection (a), by striking "(a) REPOSITORY.—"; and

(2) by striking subsection (b).

(t) REPORT ON PLANT GENOME MAPPING.—Section 1671 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5924) is amended—

(1) by striking subsection (g); and

(2) by redesignating subsection (h) as subsection (g).

(u) REPORT ON APPRAISAL OF PROPOSED BUDGET FOR FOOD AND AGRICULTURAL SCIENCES.—Section 1408(g) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123(g)) is amended—

(1) by striking paragraph (2); and

(2) by redesignating paragraph (3) as paragraph (2).

(v) REPORT ON ECONOMIC IMPACT OF ANIMAL DAMAGE ON AQUACULTURE INDUSTRY.—Section 1475(e) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3322(e)) is amended—

(1) in paragraph (1), by striking "(1)"; and

(2) by striking paragraph (2).

(w) REPORT ON AWARDS MADE BY THE NATIONAL RESEARCH INITIATIVE AND SPECIAL GRANTS.—Section 2 of the Act of August 4, 1965 (7 U.S.C. 450i), is amended—

(1) by striking subsection (l); and

(2) by redesignating subsection (m) as subsection (l).

(x) REPORT ON PAYMENTS MADE UNDER RESEARCH FACILITIES ACT.—Section 8 of the Research Facilities Act (7 U.S.C. 390i) is repealed.

(y) REPORT ON FINANCIAL AUDIT REVIEWS OF STATES WITH HIGH FOOD STAMP PARTICIPATION.—The first sentence of section 11(l) of the Food Stamp Act of 1977 (7 U.S.C. 2020(l)) is amended by striking ", and shall, upon completion of the audit, provide a report to Congress of its findings and recommendations within one hundred and eighty days".

(z) REPORT ON RURAL TELEPHONE BANK.—Section 408(b)(3) of the Rural Electrification Act of 1936 (7 U.S.C. 948(b)(3)) is amended by striking out subparagraph (I) and redesignating subparagraph (J) as subparagraph (I).

SEC. 1012. REPORTS MODIFIED.

(a) REPORT ON ANIMAL WELFARE ENFORCEMENT.—The first sentence of section 25 of the Animal Welfare Act (7 U.S.C. 2155) is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting "; and"; and

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

"(5) the information and recommendations described in section 11 of the Horse Protection Act of 1970 (15 U.S.C. 1830).".

(b) REPORT ON HORSE PROTECTION ENFORCEMENT.—Section 11 of the Horse Protection Act of 1970 (15 U.S.C. 1830) is amended by striking "On or before the expiration of thirty calendar months following the date of enactment of this Act, and every twelve calendar months thereafter, the Secretary shall submit to the Congress a report upon" and inserting the following: "As part of the report submitted by the Secretary under section 25 of the Animal Welfare Act (7 U.S.C. 2155), the Secretary shall include information on".

(c) REPORT ON AGRICULTURAL QUARANTINE INSPECTION FUND.—The Secretary of Agriculture shall not be required to submit a report to the appropriate committees of Congress on the status of the Agricultural Quarantine Inspection fund more frequently than annually.

(d) REPORT ON ESTIMATED EXPENDITURES UNDER FOOD STAMP PROGRAM.—The third sentence of section 18(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2027(a)(1)) is amended—

(1) by striking "by the fifteenth day of each month" and inserting "for each quarter or other appropriate period"; and

(2) by striking "the second preceding month's expenditure" and inserting "the expenditure for the quarter or other period".

(e) REPORT ON PRIORITIES FOR RESEARCH, EXTENSION, AND TEACHING.—Section 1407(f)(1)

of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3122(f)(1)) is amended—

(1) in the paragraph heading, by striking "ANNUAL REPORT" and inserting "REPORT"; and

(2) by striking "Not later than June 30 of each year" and inserting "At such times as the Joint Council determines appropriate".

(f) 5-YEAR PLAN FOR FOOD AND AGRICULTURAL SCIENCES.—Section 1407(f)(2) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3122(f)(2)) is amended by striking the second sentence.

(g) REPORT ON EXAMINATION OF FEDERALLY SUPPORTED AGRICULTURAL RESEARCH AND EXTENSION PROGRAMS.—Section 1408(g)(1) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123(g)(1)) is amended by inserting "may provide" before "a written report".

(h) REPORT ON EFFECTS OF FOREIGN OWNERSHIP OF AGRICULTURAL LAND.—Section 5(b) of the Agricultural Foreign Investment Disclosure Act of 1978 (7 U.S.C. 3504(b)) is amended to read as follows:

"(b) An analysis and determination shall be made, and a report on the Secretary's findings and conclusions regarding such analysis and determination under subsection (a) shall be transmitted within 90 days after the end of each of the following periods:

"(1) The period beginning on the date of the enactment of the Federal Reports Elimination and Sunset Act of 1995 and ending on December 31, 1995.

"(2) Each 10-year period thereafter.".

Subtitle B—Department of Commerce

SEC. 1021. REPORTS ELIMINATED.

(a) REPORT ON VOTING REGISTRATION.—Section 207 of the Voting Rights Act of 1965 (42 U.S.C. 1973aa-5) is repealed.

(b) REPORT ON ESTIMATE OF SPECIAL AGRICULTURAL WORKERS.—Section 210A(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1161(b)(3)) is repealed.

(c) REPORT ON LONG RANGE PLAN FOR PUBLIC BROADCASTING.—Section 393A(b) of the Communications Act of 1934 (47 U.S.C. 393a(b)) is repealed.

(d) REPORT ON STATUS, ACTIVITIES, AND EFFECTIVENESS OF UNITED STATES COMMERCIAL CENTERS IN ASIA, LATIN AMERICA, AND AFRICA AND PROGRAM RECOMMENDATIONS.—Section 401(j) of the Jobs Through Exports Act of 1992 (15 U.S.C. 4723a(j)) is repealed.

(e) REPORT ON KUWAIT RECONSTRUCTION CONTRACTS.—Section 606(f) of the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991 is repealed.

(f) REPORT ON UNITED STATES-CANADA FREE-TRADE AGREEMENT.—Section 409(a)(3)(B) of the United States-Canada Free-Trade Agreement Implementation Act of 1988 (19 U.S.C. 2112 note) is amended to read as follows:

"(3) The United States members of the working group established under article 1907 of the Agreement shall consult regularly with the Committee on Finance of the Senate, the Committee on Ways and Means of the House of Representatives, and advisory committees established under section 135 of the Trade Act of 1974 regarding—

"(A) the issues being considered by the working group; and

"(B) as appropriate, the objectives and strategy of the United States in the negotiations.".

(g) REPORT ON ESTABLISHMENT OF AMERICAN BUSINESS CENTERS AND ON ACTIVITIES OF THE INDEPENDENT STATES BUSINESS AND AGRICULTURE ADVISORY COUNCIL.—Section 305 of the Freedom for Russia and Emerging Democracies and Open Markets Support Act of 1992 (22 U.S.C. 5825) is repealed.

(h) REPORT ON FISHERMAN'S CONTINGENCY FUND REPORT.—Section 406 of the Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. 1846) is repealed.

(i) REPORT ON USER FEES ON SHIPPERS.—Section 208 of the Water Resources Development Act of 1986 (33 U.S.C. 2236) is amended by—

(1) striking subsection (b); and

(2) redesignating subsections (c), (d), (e), and (f) as subsections (b), (c), (d), and (e), respectively.

SEC. 1022. REPORTS MODIFIED.

(a) REPORT ON FEDERAL TRADE PROMOTION STRATEGIC PLAN.—Section 2312(f) of the Export Enhancement Act of 1988 (15 U.S.C. 4727(f) is amended to read as follows:

"(f) REPORT TO THE CONGRESS.—The chairperson of the TPCC shall prepare and submit to the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Foreign Affairs of the House of Representatives, not later than September 30, 1995, and annually thereafter, a report describing—

"(1) the strategic plan developed by the TPCC pursuant to subsection (c), the implementation of such plan, and any revisions thereto; and

"(2) the implementation of sections 303 and 304 of the Freedom for Russia and Emerging Democracies and Open Markets Support Act of 1992 (22 U.S.C. 5823 and 5824) concerning funding for export promotion activities and the interagency working groups on energy of the TPCC.".

(b) REPORT ON EXPORT POLICY.—Section 2314(b)(1) of the Export Enhancement Act of 1988 (15 U.S.C. 4729(b)(1)) is amended—

(1) in subparagraph (E) by striking out "and" after the semicolon;

(2) in subparagraph (F) by striking out the period and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new subparagraphs:

"(G) the status, activities, and effectiveness of the United States commercial centers established under section 401 of the Jobs Through Exports Act of 1992 (15 U.S.C. 4723a);

"(H) the implementation of sections 301 and 302 of the Freedom for Russia and Emerging Democracies and Open Markets Support Act of 1992 (22 U.S.C. 5821 and 5822) concerning American Business Centers and the Independent States Business and Agriculture Advisory Council;

"(I) the programs of other industrialized nations to assist their companies with their efforts to transact business in the independent states of the former Soviet Union; and

"(J) the trading practices of other Organization for Economic Cooperation and Development nations, as well as the pricing practices of transitional economies in the independent states, that may disadvantage United States companies.".

Subtitle C—Department of Defense

SEC. 1031. REPORTS ELIMINATED.

(a) REPORT ON SEMATECH.—Section 274 of The National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1071) is amended—

(1) in section 6 by striking out the item relating to section 274; and

(2) by striking out section 274.

(b) REPORT ON REVIEW OF DOCUMENTATION IN SUPPORT OF WAIVERS FOR PEOPLE ENGAGED IN ACQUISITION ACTIVITIES.—

(1) IN GENERAL.—Section 1208 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 1701 note) is repealed.

(2) CLERICAL AMENDMENT TO TABLE OF CONTENTS.—Section 2(b) of such Act is amended by striking out the item relating to section 1208.

Subtitle D—Department of Education

SEC. 1041. REPORTS ELIMINATED.

(a) REPORT ON PERSONNEL REDUCTION AND ANNUAL LIMITATIONS.—Subsection (a) of section 403 of the Department of Education Organization Act (20 U.S.C. 3463(a)) is amended in paragraph (2), by striking all beginning with "and shall," through the end thereof and inserting a period.

(b) REPORT ON SUPPORTED EMPLOYMENT ACTIVITIES.—Subsection (c) of section 311 of the Rehabilitation Act of 1973 (29 U.S.C. 777a(c)) is amended—

(1) by striking paragraph (3); and

(2) by redesignating paragraph (4) as paragraph (3).

(c) REPORT ON THE CLIENT ASSISTANCE PROGRAM.—Subsection (g) of section 112 of the Rehabilitation Act of 1973 (29 U.S.C. 732(g)) is amended—

(1) by striking paragraphs (4) and (5); and

(2) in paragraph (6), by striking "such report or for any other" and inserting "any".

(d) REPORT ON THE SUMMARY OF LOCAL EVALUATIONS OF COMMUNITY EDUCATION EMPLOYMENT CENTERS.—Section 370 of the Carl D. Perkins Vocational and Applied Technology Act (20 U.S.C. 2396h) is amended—

(1) in the section heading, by striking **"AND REPORT"**;

(2) in subsection (a), by striking "(a) LOCAL EVALUATION.—"; and

(3) by striking subsection (b).

(e) REPORT ON THE ADMINISTRATION OF THE VOCATIONAL EDUCATION ACT OF 1917.—Section 18 of the Vocational Education Act of 1917 (20 U.S.C. 28) is repealed.

(f) REPORT BY THE INTERDEPARTMENTAL TASK FORCE ON COORDINATING VOCATIONAL EDUCATION AND RELATED PROGRAMS.—Subsection (d) of section 4 of the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990 (20 U.S.C. 2303(d)) is repealed.

(g) REPORT ON THE EVALUATION OF THE GATEWAY GRANTS PROGRAM.—Subparagraph (B) of section 322(a)(3) of the Adult Education Act (20 U.S.C. 1203a(a)(3)(B)) is amended by striking "and report the results of such evaluation to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate".

(h) REPORT ON THE BILINGUAL VOCATIONAL TRAINING PROGRAM.—Paragraph (3) of section 441(e) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2441(e)(3)) is amended by striking the last sentence thereof.

(i) REPORT ON ANNUAL UPWARD MOBILITY PROGRAM ACTIVITY.—Section 2(a)(6)(A) of the Act of June 20, 1936 (20 U.S.C. 107a(a)(6)(A)), is amended by striking "and annually submit to the appropriate committees of Congress a report based on such evaluations,".

SEC. 1042. REPORTS MODIFIED.

(a) REPORT ON THE CONDITION OF BILINGUAL EDUCATION IN THE NATION.—Section 6213 of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (20 U.S.C. 3303 note) is amended—

(1) in the section heading, by striking **"REPORT ON"** and inserting **"INFORMATION REGARDING"**; and

(2) by striking the matter preceding paragraph (1) and inserting "The Secretary shall

collect data for program management and accountability purposes regarding—".

(b) REPORT TO CONGRESS ON THE STEWART B. MCKINNEY HOMELESS ASSISTANCE ACT.—Subsection (b) of section 724 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11434(b)) is amended by striking paragraph (4) and the first paragraph (5) and inserting the following:

"(4) The Secretary shall prepare and submit a report to the appropriate committees of the Congress at the end of every other fiscal year. Such report shall—

"(A) evaluate the programs and activities assisted under this part; and

"(B) contain the information received from the States pursuant to section 722(d)(3).".

(c) REPORT TO GIVE NOTICE TO CONGRESS.—Subsection (d) of section 482 of the Higher Education Act of 1965 (20 U.S.C. 1089(d)) is amended—

(1) in the first sentence by striking "the items specified in the calendar have been completed and provide all relevant forms, rules, and instructions with such notice" and inserting "a deadline included in the calendar described in subsection (a) is not met"; and

(2) by striking the second sentence.

(d) ANNUAL REPORT ON ACTIVITIES UNDER THE REHABILITATION ACT OF 1973.—Section 13 of the Rehabilitation Act of 1973 (29 U.S.C. 712) is amended by striking "twenty" and inserting "eighty".

(e) REPORT TO THE CONGRESS REGARDING REHABILITATION TRAINING PROGRAMS.—The second sentence of section 302(c) of the Rehabilitation Act of 1973 (29 U.S.C. 774(c)) is amended by striking "simultaneously with the budget submission for the succeeding fiscal year for the Rehabilitation Services Administration" and inserting "by September 30 of each fiscal year".

(f) ANNUAL AUDIT OF STUDENT LOAN INSURANCE FUND.—Section 432(b) of the Higher Education Act of 1965 (20 U.S.C. 1082(b)) is amended to read as follows:

"(b) FINANCIAL OPERATIONS RESPONSIBILITIES.—The Secretary shall, with respect to the financial operations arising by reason of this part prepare annually and submit a budget program as provided for wholly owned Government corporations by chapter 91 of title 31, United States Code. The transactions of the Secretary, including the settlement of insurance claims and of claims for payments pursuant to section 1078 of this title, and transactions related thereto and vouchers approved by the Secretary in connection with such transactions, shall be final and conclusive upon all accounting and other officers of the Government.".

Subtitle E—Department of Energy

SEC. 1051. REPORTS ELIMINATED.

(a) REPORTS ON PERFORMANCE AND DISPOSAL OF ALTERNATIVE FUELED HEAVY DUTY VEHICLES.—Paragraphs (3) and (4) of section 400AA(b) of the Energy Policy and Conservation Act (42 U.S.C. 6374(b)(3), 6374(b)(4)) are repealed.

(b) REPORT ON WIND ENERGY SYSTEMS.—Section 9(a)(3) of the Wind Energy Systems Act of 1980 (42 U.S.C. 9208(a)(3)) is repealed.

(c) REPORT ON COMPREHENSIVE PROGRAM MANAGEMENT PLAN FOR OCEAN THERMAL ENERGY CONVERSION.—Section 3(d) of the Ocean Thermal Energy Conversion Research, Development, and Demonstration Act (42 U.S.C. 9002(d)) is repealed.

(d) REPORTS ON SUBSEABED DISPOSAL OF SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE.—Subsections (a) and (b)(5) of section 224 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10204(a), 10204(b)(5)) are repealed.

(e) REPORT ON FUEL USE ACT.—Sections 711(c)(2) and 806 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8421(c)(2), 8482) are repealed.

(f) REPORT ON TEST PROGRAM OF STORAGE OF REFINED PETROLEUM PRODUCTS WITHIN THE STRATEGIC PETROLEUM RESERVE.—Section 160(g)(7) of the Energy Policy and Conservation Act (42 U.S.C. 6240(g)(7)) is repealed.

(g) REPORT ON NAVAL PETROLEUM AND OIL SHALE RESERVES PRODUCTION.—Section 7434 of title 10, United States Code, is repealed.

(h) REPORT ON EFFECTS OF PRESIDENTIAL MESSAGE ESTABLISHING A NUCLEAR NONPROLIFERATION POLICY ON NUCLEAR RESEARCH AND DEVELOPMENT COOPERATIVE AGREEMENTS.—Section 203 of the Department of Energy Act of 1978—Civilian Applications (22 U.S.C. 2429 note) is repealed.

(i) REPORT ON WRITTEN AGREEMENTS REGARDING NUCLEAR WASTE REPOSITORY SITES.—Section 117(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10137(c)) is amended by striking the following: "If such written agreement is not completed prior to the expiration of such period, the Secretary shall report to the Congress in writing not later than 30 days after the expiration of such period on the status of negotiations to develop such agreement and the reasons why such agreement has not been completed. Prior to submission of such report to the Congress, the Secretary shall transmit such report to the Governor of such State or the governing body of such affected Indian tribe, as the case may be, for their review and comments. Such comments shall be included in such report prior to submission to the Congress.".

(j) QUARTERLY REPORT ON STRATEGIC PETROLEUM RESERVES.—Section 165(b) of the Energy Policy and Conservation Act (42 U.S.C. 6245(b)) is repealed.

(k) REPORT ON THE DEPARTMENT OF ENERGY.—The Federal Energy Administration Act of 1974 (15 U.S.C. 790d), is amended by striking out section 55.

(l) REPORT ON CURRENT STATUS OF COMPREHENSIVE MANAGEMENT FOR NUCLEAR SAFETY RESEARCH, DEVELOPMENT, AND DEMONSTRATION.—Section 8(c) of the Nuclear Safety Research, Development, and Demonstration Act of 1980 (42 U.S.C. 9707(c)) is repealed.

(m) REPORT ON ACTIVITIES OF THE GEOTHERMAL ENERGY COORDINATION AND MANAGEMENT PROJECT.—Section 302(a) of the Geothermal Energy Research, Development, and Demonstration Act of 1974 (30 U.S.C. 1162(a)) is repealed.

(n) REPORT ON ACTIVITIES UNDER THE MAGNETIC FUSION ENERGY ENGINEERING ACT OF 1980.—Section 12 of the Magnetic Fusion Energy Engineering Act of 1980 (42 U.S.C. 9311) is repealed.

(o) REPORT ON ACTIVITIES UNDER THE ELECTRIC AND HYBRID VEHICLE RESEARCH, DEVELOPMENT, AND DEMONSTRATION ACT OF 1976.—Section 14 of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976 (15 U.S.C. 2513) is repealed.

(p) REPORT ON ACTIVITIES UNDER THE METHANE TRANSPORTATION RESEARCH, DEVELOPMENT, AND DEMONSTRATION ACT OF 1980.—Section 9 of the Methane Transportation Research, Development, and Demonstration Act of 1980 (15 U.S.C. 3808) is repealed.

SEC. 1052. REPORTS MODIFIED.

(a) REPORTS ON PROCESS-ORIENTED INDUSTRIAL ENERGY EFFICIENCY AND INDUSTRIAL INSULATION AUDIT GUIDELINES.—

(1) Section 132(d) of the Energy Policy Act of 1992 (42 U.S.C. 6349(d)) is amended—

(A) in the language preceding paragraph (1), by striking "Not later than 2 years after October 24, 1992, and annually thereafter" and inserting "Not later than October 24, 1995, and biennially thereafter";

(B) in paragraph (4), by striking "and" at the end;

(C) in paragraph (5), by striking the period at the end and inserting "; and"; and

(D) by adding at the end the following new paragraph:

"(6) the information required under section 133(c).".

(2) Section 133(c) of the Energy Policy Act of 1992 (42 U.S.C. 6350(c)) is amended—

(A) by striking, "October 24, 1992" and inserting "October 24, 1995"; and

(B) by inserting "as part of the report required under section 132(d)," after "and biennially thereafter,".

(b) REPORT ON AGENCY REQUESTS FOR WAIVER FROM FEDERAL ENERGY MANAGEMENT REQUIREMENTS.—Section 543(b)(2) of the National Energy Conservation Policy Act (42 U.S.C. 8253(b)(2)) is amended—

(1) by inserting ", as part of the report required under section 548(b)," after "the Secretary shall"; and

(2) by striking "promptly".

(c) REPORT ON THE PROGRESS, STATUS, ACTIVITIES, AND RESULTS OF PROGRAMS REGARDING THE PROCUREMENT AND IDENTIFICATION OF ENERGY EFFICIENT PRODUCTS.—Section 161(d) of the Energy Policy Act of 1992 (42 U.S.C. 8262g(d)) is amended by striking "of each year thereafter,"; and inserting "thereafter as part of the report required under section 548(b) of the National Energy Conservation Policy Act,".

(d) REPORT ON THE FEDERAL GOVERNMENT ENERGY MANAGEMENT PROGRAM.—Section 548(b) of the National Energy Conservation Policy Act (42 U.S.C. 8258(b)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking "and" after the semicolon;

(B) by redesignating subparagraph (B) as subparagraph (C); and

(C) by inserting after subparagraph (A) the following new subparagraph:

"(B) the information required under section 543(b)(2); and";

(2) in paragraph (2), by striking "and" after the semicolon;

(3) in paragraph (3), by striking the period at the end and inserting "; and"; and

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

"(4) the information required under section 161(d) of the Energy Policy Act of 1992.".

(e) REPORT ON ALTERNATIVE FUEL USE BY SELECTED FEDERAL VEHICLES.—Section 400AA(b)(1)(B) of the Energy Policy and Conservation Act (42 U.S.C. 6374(b)(1)(B)) is amended by striking "and annually thereafter".

(f) REPORT ON THE OPERATION OF STATE ENERGY CONSERVATION PLANS.—Section 365(c) of the Energy Policy and Conservation Act (42 U.S.C. 6325(c)) is amended by striking "report annually" and inserting ", as part of the report required under section 657 of the Department of Energy Organization Act, report".

(g) REPORT ON THE DEPARTMENT OF ENERGY.—Section 657 of the Department of Energy Organization Act (42 U.S.C. 7267) is amended by inserting after "section 15 of the Federal Energy Administration Act of 1974," the following: "section 365(c) of the Energy Policy and Conservation Act, section 304(c) of the Nuclear Waste Policy Act of 1982,".

(h) REPORT ON COST-EFFECTIVE WAYS TO INCREASE HYDROPOWER PRODUCTION AT FEDERAL WATER FACILITIES.—Section 2404 of the

Energy Policy Act of 1992 (16 U.S.C. 797 note) is amended—

(1) in subsection (a), by striking "The Secretary, in consultation with the Secretary of the Interior and the Secretary of the Army," and inserting "The Secretary of the Interior and the Secretary of the Army, in consultation with the Secretary,"; and

(2) in subsection (b), by striking "the Secretary" and inserting "the Secretary of the Interior, or the Secretary of the Army,".

(i) REPORT ON PROGRESS MEETING FUSION ENERGY PROGRAM OBJECTIVES.—Section 2114(c)(5) of the Energy Policy Act of 1992 (42 U.S.C. 13474(c)(5)) is amended by striking out the first sentence and inserting in lieu thereof "The President shall include in the budget submitted to the Congress each year under section 1105 of title 31, United States Code, a report prepared by the Secretary describing the progress made in meeting the program objectives, milestones, and schedules established in the management plan.".

(j) REPORT ON HIGH-PERFORMANCE COMPUTING ACTIVITIES.—Section 203(d) of the High-Performance Computing Act of 1991 (15 U.S.C. 5523(d)) is amended to read as follows:

"(d) REPORTS.—Not later than 1 year after the date of enactment of this subsection, and thereafter as part of the report required under section 101(a)(3)(A), the Secretary of Energy shall report on activities taken to carry out this Act.".

(k) REPORT ON NATIONAL HIGH-PERFORMANCE COMPUTING PROGRAM.—Section 101(a)(4) of the High-Performance Computing Act of 1991 (15 U.S.C. 5511(a)(4)) is amended—

(1) in subparagraph (D), by striking "and" at the end;

(2) by redesignating subparagraph (E) as subparagraph (F); and

(3) by inserting after subparagraph (D) the following new subparagraph:

"(E) include the report of the Secretary of Energy required by section 203(d); and".

(l) REPORT ON NUCLEAR WASTE DISPOSAL PROGRAM.—Section 304(d) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10224(d)) is amended to read as follows:

"(d) AUDIT BY GAO.—If requested by either House of the Congress (or any committee thereof) or if considered necessary by the Comptroller General, the General Accounting Office shall conduct an audit of the Office, in accord with such regulations as the Comptroller General may prescribe. The Comptroller General shall have access to such books, records, accounts, and other materials of the Office as the Comptroller General determines to be necessary for the preparation of such audit. The Comptroller General shall submit a report on the results of each audit conducted under this section.".

Subtitle F—Department of Health and Human Services

SEC. 1061. REPORTS ELIMINATED.

(a) REPORT ON THE EFFECTS OF TOXIC SUBSTANCES.—Subsection (c) of section 27 of the Toxic Substance Control Act (15 U.S.C. 2626(c)) is repealed.

(b) REPORT ON COMPLIANCE WITH THE CONSUMER-PATIENT RADIATION HEALTH AND SAFETY ACT.—Subsection (d) of section 981 of the Consumer-Patient Radiation Health and Safety Act of 1981 (42 U.S.C. 10006(d)) is repealed.

(c) REPORT ON EVALUATION OF TITLE VIII PROGRAMS.—Section 859 of the Public Health Service Act (42 U.S.C. 298b-6) is repealed.

(d) REPORT ON MODEL SYSTEM FOR PAYMENT FOR OUTPATIENT HOSPITAL SERVICES.—Paragraph (6) of section 1135(d) of the Social Security Act (42 U.S.C. 1320b-5(d)(6)) is repealed.

(e) REPORT ON MEDICARE TREATMENT OF UNCOMPENSATED CARE.—Paragraph (2) of section 603(a) of the Social Security Amendments of 1983 (42 U.S.C. 1395ww note) is repealed.

(f) REPORT ON PROGRAM TO ASSIST HOMELESS INDIVIDUALS.—Subsection (d) of section 9117 of the Omnibus Budget Reconciliation Act of 1987 (42 U.S.C. 1383 note) is repealed.

SEC. 1062. REPORTS MODIFIED.

(a) REPORT OF THE SURGEON GENERAL.—Section 239 of the Public Health Service Act (42 U.S.C. 238h) is amended to read as follows:

"BIANNUAL REPORT

"SEC. 239. The Surgeon General shall transmit to the Secretary, for submission to the Congress, on January 1, 1995, and on January 1, every 2 years thereafter, a full report of the administration of the functions of the Service under this Act, including a detailed statement of receipts and disbursements.".

(b) REPORT ON HEALTH SERVICE RESEARCH ACTIVITIES.—Subsection (b) of section 494A of the Public Health Service Act (42 U.S.C. 289c-1(b)) is amended by striking "September 30, 1993, and annually thereafter" and inserting "December 30, 1993, and each December 30 thereafter".

(c) REPORT ON FAMILY PLANNING.—Section 1009(a) of the Public Health Service Act (42 U.S.C. 300a-7(a)) is amended by striking "each fiscal year" and inserting "fiscal year 1995, and each second fiscal year thereafter,".

(d) REPORT ON THE STATUS OF HEALTH INFORMATION AND HEALTH PROMOTION.—Section 1705(a) of the Public Health Service Act (42 U.S.C. 300u-4) is amended in the first sentence by striking out "annually" and inserting in lieu thereof "biannually".

Subtitle G—Department of Housing and Urban Development

SEC. 1071. REPORTS ELIMINATED.

(a) REPORTS ON PUBLIC HOUSING HOMEOWNERSHIP AND MANAGEMENT OPPORTUNITIES.—Section 21(f) of the United States Housing Act of 1937 (42 U.S.C. 1437s(f)) is repealed.

(b) INTERIM REPORT ON PUBLIC HOUSING MIXED INCOME NEW COMMUNITIES STRATEGY DEMONSTRATION.—Section 522(k)(1) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437f note) is repealed.

(c) BIENNIAL REPORT ON INTERSTATE LAND SALES REGISTRATION PROGRAM.—Section 1421 of the Interstate Land Sales Full Disclosure Act (15 U.S.C. 1719a) is repealed.

(d) QUARTERLY REPORT ON ACTIVITIES UNDER THE FAIR HOUSING INITIATIVES PROGRAM.—Section 561(e)(2) of the Housing and Community Development Act of 1987 (42 U.S.C. 3616a(e)(2)) is repealed.

(e) COLLECTION OF AND ANNUAL REPORT ON RACIAL AND ETHNIC DATA.—Section 562 of the Housing and Community Development Act of 1987 (42 U.S.C. 3608a) is amended—

(1) in subsection (a)—

(A) in the first sentence—

(i) by striking "the Secretary of Housing and Urban Development and"; and

(ii) by striking "each", the first place it appears; and

(B) in the second sentence, by striking "involved"; and

(2) in subsection (b)—

(A) by striking "The Secretary of Housing and Urban Development and the" and inserting "The"; and

(B) by striking "each".

SEC. 1072. REPORTS MODIFIED.

(a) REPORT ON HOMEOWNERSHIP OF MULTIFAMILY UNITS PROGRAM.—Section 431 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12880) is amended—

(1) in the section heading, by striking **"ANNUAL"**; and

(2) by striking "The Secretary shall annually" and inserting "The Secretary shall no later than December 31, 1995,".

(b) TRIENNIAL AUDIT OF TRANSACTIONS OF NATIONAL HOMEOWNERSHIP FOUNDATION.—Section 107(g)(1) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701y(g)(1)) is amended by striking the last sentence.

(c) REPORT ON LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM.—Section 2605(h) of the Low-Income Home Energy Assistance Act of 1981 (Public Law 97-35; 42 U.S.C. 8624(h)), is amended by striking out "(but not less frequently than every three years),".

Subtitle H—Department of the Interior

SEC. 1081. REPORTS ELIMINATED.

(a) REPORT ON AUDITS IN FEDERAL ROYALTY MANAGEMENT SYSTEM.—Section 17(j) of the Mineral Leasing Act (30 U.S.C. 226(j)) is amended by striking the last sentence.

(b) REPORT ON DOMESTIC MINING, MINERALS, AND MINERAL RECLAMATION INDUSTRIES.—Section 2 of the Mining and Minerals Policy Act of 1970 (30 U.S.C. 21a) is amended by striking the last sentence.

(c) REPORT ON PHASE I OF THE HIGH PLAINS STATES GROUNDWATER DEMONSTRATION PROJECT.—Section 3(d) of the High Plains States Groundwater Demonstration Program Act of 1983 (43 U.S.C. 390g-1(d)) is repealed.

(d) REPORT ON RECLAMATION REFORM ACT COMPLIANCE.—Section 224(g) of the Reclamation Reform Act of 1982 (43 U.S.C. 390ww(g)) is amended by striking the last 2 sentences.

(e) REPORT ON GEOLOGICAL SURVEYS CONDUCTED OUTSIDE THE DOMAIN OF THE UNITED STATES.—Section 2 of Public Law 87-626 (43 U.S.C. 31(c)) is repealed.

(f) REPORT ON RECREATION USE FEES.—Section 4(h) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-6a(h)) is repealed.

(g) REPORT ON FEDERAL SURPLUS REAL PROPERTY PUBLIC BENEFIT DISCOUNT PROGRAM FOR PARKS AND RECREATION.—Section 203(o)(1) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(o)(1)) is amended by striking "subsection (k) of this section and".

SEC. 1082. REPORTS MODIFIED.

(a) REPORT ON LEVELS OF THE OGALLALA AQUIFER.—Title III of the Water Resources Research Act of 1984 (42 U.S.C. 10301 note) is amended—

(1) in section 306, by striking "annually" and inserting "biennially"; and

(2) in section 308, by striking "intervals of one year" and inserting "intervals of 2 years".

(b) REPORT ON EFFECTS OF OUTER CONTINENTAL SHELF LEASING ACTIVITIES ON HUMAN, MARINE, AND COASTAL ENVIRONMENTS.—Section 20(e) of the Outer Continental Shelf Lands Act (43 U.S.C. 1346(e)) is amended by striking "each fiscal year" and inserting "every 3 fiscal years".

Subtitle I—Department of Justice

SEC. 1091. REPORTS ELIMINATED.

(a) REPORT ON DRUG INTERDICTION TASK FORCE.—Section 3301(a)(1)(C) of the National Drug Interdiction Act of 1986 (21 U.S.C. 801 note; Public Law 99-570; 100 Stat. 3207-98) is repealed.

(b) REPORT ON EQUAL ACCESS TO JUSTICE.—Section 2412(d)(5) of title 28, United States Code, is repealed.

(c) REPORT ON FEDERAL OFFENDER CHARACTERISTICS.—Section 3624(f)(6) of title 18, United States Code, is repealed.

(d) REPORT ON COSTS OF DEATH PENALTY.—The Anti-Drug Abuse Act of 1988 (Public Law 100-690; 102 Stat. 4395; 21 U.S.C. 848 note) is amended by striking out section 7002.

(e) MINERAL LANDS LEASING ACT.—Section 8B of the Mineral Lands Leasing Act (30 U.S.C. 208-2) is repealed.

(f) SMALL BUSINESS ACT.—Subsection (c) of section 10 of the Small Business Act (15 U.S.C. 639(c)) is repealed.

(g) ENERGY POLICY AND CONSERVATION ACT.—Section 252(i) of the Energy Policy Conservation Act (42 U.S.C. 6272(i)) is amended by striking ", at least once every 6 months, a report" and inserting ", at such intervals as are appropriate based on significant developments and issues, reports".

(h) REPORT ON FORFEITURE FUND.—Section 524(c) of title 28, United States Code, is amended—

(1) by striking out paragraph (7); and

(2) by redesignating paragraphs (8) through (12) as paragraphs (7) through (11), respectively.

Subtitle J—Department of Labor

SEC. 1101. REPORTS ELIMINATED.

Section 408(d) of the Veterans Education and Employment Amendments of 1989 (38 U.S.C. 4100 note) is repealed.

SEC. 1102. REPORTS MODIFIED.

(a) REPORT ON THE ACTIVITIES CONDUCTED UNDER THE FAIR LABOR STANDARDS ACT OF 1938.—Section 4(d)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 204(d)(1)) is amended—

(1) by striking "annually" and inserting "biannually"; and

(2) by striking "preceding year" and inserting "preceding two years".

(b) ANNUAL REPORT OF THE OFFICE OF WORKERS' COMPENSATION.—

(1) REPORT ON THE ADMINISTRATION OF THE LONGSHORE AND HARBOR WORKERS' COMPENSATION ACT.—Section 42 of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 942) is amended—

(A) by striking "beginning of each" and all that follows through "Amendments of 1984" and inserting "end of each fiscal year"; and

(B) by adding the following new sentence at the end: "Such report shall include the annual reports required under section 426(b) of the Black Lung Benefits Act (30 U.S.C. 936(b)) and section 8194 of title 5, United States Code, and shall be identified as the Annual Report of the Office of Workers' Compensation Programs.".

(2) REPORT ON THE ADMINISTRATION OF THE BLACK LUNG BENEFITS PROGRAM.—Section 426(b) of the "Black Lung Benefits Act (30 U.S.C. 936(b)) is amended—

(A) by striking "Within" and all that follows through "Congress the" and inserting "At the end of each fiscal year, the"; and

(B) by adding the following new sentence at the end: "Each such report shall be prepared and submitted to Congress in accordance with the requirement with respect to submission under section 42 of the Longshore Harbor Workers' Compensation Act (33 U.S.C. 942).".

(3) REPORT ON THE ADMINISTRATION OF THE FEDERAL EMPLOYEES' COMPENSATION ACT.—(A) Subchapter I of chapter 81 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 8152. Annual report

"The Secretary of Labor shall, at the end of each fiscal year, prepare a report with respect to the administration of this chapter. Such report shall be submitted to Congress in accordance with the requirement with respect to submission under section 42 of the Longshore Harbor Workers' Compensation Act (33 U.S.C. 942).".

(B) The table of sections for chapter 81 of title 5, United States Code, is amended by inserting after the item relating to section 8151 the following:

"8152. Annual report.".

(c) ANNUAL REPORT ON THE DEPARTMENT OF LABOR.—Section 9 of an Act entitled "An Act to create a Department of Labor", approved March 4, 1913 (29 U.S.C. 560) is amended by striking "make a report" and all that follows through "the department" and inserting "prepare and submit to Congress the financial statements of the Department that have been audited".

Subtitle K—Department of State

SEC. 1111. REPORTS ELIMINATED.

Section 8 of the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2606) is amended by striking subsection (b), and redesignating subsection (c) as subsection (b).

Subtitle L—Department of Transportation

SEC. 1121. REPORTS ELIMINATED.

(a) REPORT ON DEEPWATER PORT ACT OF 1974.—Section 20 of the Deepwater Port Act of 1974 (33 U.S.C. 1519) is repealed.

(b) REPORT ON COAST GUARD LOGISTICS CAPABILITIES CRITICAL TO MISSION PERFORMANCE.—Sections 5(a)(2) and 5(b) of the Coast Guard Authorization Act of 1988 (10 U.S.C. 2304 note) are repealed.

(c) REPORT ON MARINE PLASTIC POLLUTION RESEARCH AND CONTROL ACT OF 1987.—Section 2201(a) of the Marine Plastic Pollution Research and Control Act of 1987 (33 U.S.C. 1902 note) is amended by striking "biennially" and inserting "triennially".

(d) REPORT ON APPLIED RESEARCH AND TECHNOLOGY PROGRAM.—Section 307(e)(11) of title 23, United States Code, is repealed.

(e) REPORTS ON HIGHWAY SAFETY IMPROVEMENT PROGRAMS.—

(1) REPORT ON RAILWAY-HIGHWAY CROSSINGS PROGRAM.—Section 130(g) of title 23, United States Code, is amended by striking the last 3 sentences.

(2) REPORT ON HAZARD ELIMINATION PROGRAM.—Section 152(g) of title 23, United States Code, is amended by striking the last 3 sentences.

(f) REPORT ON HIGHWAY SAFETY PERFORMANCE—FATAL AND INJURY ACCIDENT RATES ON PUBLIC ROADS IN THE UNITED STATES.—Section 207 of the Highway Safety Act of 1982 (23 U.S.C. 401 note) is repealed.

(g) REPORT ON HIGHWAY SAFETY PROGRAM STANDARDS.—Section 402(a) of title 23, United States Code, is amended by striking the fifth sentence.

(h) REPORT ON RAILROAD-HIGHWAY DEMONSTRATION PROJECTS.—Section 163(o) of the Federal-Aid Highway Act of 1973 (23 U.S.C. 130 note) is repealed.

(i) REPORT ON UNIFORM RELOCATION ACT AMENDMENTS OF 1987.—Section 103(b)(2) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4604(b)(2)) is repealed.

(j) REPORT ON FEDERAL RAILROAD SAFETY ACT OF 1970.—Section 211 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 440) is repealed.

(k) REPORT ON RAILROAD FINANCIAL ASSISTANCE.—Section 308(d) of title 49, United States Code, is repealed.

(l) REPORT ON USE OF ADVANCED TECHNOLOGY BY THE AUTOMOBILE INDUSTRY.—Section 305 of the Automotive Propulsion Research and Development Act of 1978 (15 U.S.C. 2704) is amended by striking the last sentence.

(m) REPORT ON OBLIGATIONS.—Section 4(b) of the Federal Transit Act (49 U.S.C. App. 1603(b)) is repealed.

(n) REPORT ON SUSPENDED LIGHT RAIL SYSTEM TECHNOLOGY PILOT PROJECT.—Section 26(c)(11) of the Federal Transit Act (49 U.S.C. App. 1622(c)(11)) is repealed.

(o) REPORT ON SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION.—Section 10(a) of the Act of May 13, 1954 (68 Stat. 96, chapter 201; 33 U.S.C. 989(a)) is repealed.

(p) REPORTS ON PIPELINES ON FEDERAL LANDS.—Section 28(w)(4) of the Mineral Leasing Act (30 U.S.C. 185(w)(4)) is repealed.

(q) REPORTS ON PIPELINE SAFETY.—

(1) REPORT ON NATURAL GAS PIPELINE SAFETY ACT OF 1968.—Section 16(a) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1683(a)) is amended in the first sentence by striking "of each year" and inserting "of each odd-numbered year".

(2) REPORT ON HAZARDOUS LIQUID PIPELINE SAFETY ACT OF 1979.—Section 213 of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2012) is amended in the first sentence by striking "of each year" and inserting "of each odd-numbered year".

SEC. 1122. REPORTS MODIFIED.

(a) REPORT ON OIL SPILL LIABILITY TRUST FUND.—The quarterly report regarding the Oil Spill Liability Trust Fund required to be submitted to the House and Senate Committees on Appropriations under House Report 101-892, accompanying the appropriations for the Coast Guard in the Department of Transportation and Related Agencies Appropriations Act, 1991, shall be submitted not later than 30 days after the end of the fiscal year in which this Act is enacted and annually thereafter.

(b) REPORT ON JOINT FEDERAL AND STATE MOTOR FUEL TAX COMPLIANCE PROJECT.—Section 1040(d)(1) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 101 note) is amended by striking "September 30 and".

(c) REPORT ON PUBLIC TRANSPORTATION.—Section 308(e)(1) of title 49, United States Code, is amended by striking "January of each even-numbered year" and inserting "March 1995, March 1996, and March of each odd-numbered year thereafter".

(d) REPORT ON NATION'S HIGHWAYS AND BRIDGES.—Section 307(h) of title 23, United States Code, is amended by striking "January 1983, and in January of every second year thereafter" and inserting "March 1995, March 1996, and March of each odd-numbered year thereafter".

Subtitle M—Department of the Treasury

SEC. 1131. REPORTS ELIMINATED.

(a) REPORT ON THE OPERATION AND STATUS OF STATE AND LOCAL GOVERNMENT FISCAL ASSISTANCE TRUST FUND.—Paragraph (8) of section 14001(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (31 U.S.C. 6701 note) is repealed.

(b) REPORT ON THE ANTIRECESSION PROVISIONS OF THE PUBLIC WORKS EMPLOYMENT ACT OF 1976.—Section 213 of the Public Works Employment Act of 1976 (42 U.S.C. 6733) is repealed.

(c) REPORT ON THE ASBESTOS TRUST FUND.—Paragraph (2) of section 5(c) of the Asbestos Hazard Emergency Response Act of 1986 (20 U.S.C. 4022(c)) is repealed.

SEC. 1132. REPORTS MODIFIED.

(a) REPORT ON THE WORLD CUP USA 1994 COMMEMORATIVE COIN ACT.—Subsection (g) of section 205 of the World Cup USA 1994 Commemorative Coin Act (31 U.S.C. 5112 note) is amended by striking "month" and inserting "calendar quarter".

(b) REPORTS ON VARIOUS FUNDS.—Subsection (b) of section 321 of title 31, United States Code, is amended—

(1) by striking "and" at the end of paragraph (5),

(2) by striking the period at the end of paragraph (6) and inserting "; and", and

(3) by adding after paragraph (6) the following new paragraph:

"(7) notwithstanding any other provision of law, fulfill any requirement to issue a report on the financial condition of any fund on the books of the Treasury by including the required information in a consolidated report, except that information with respect to a specific fund shall be separately reported if the Secretary determines that the consolidation of such information would result in an unwarranted delay in the availability of such information.".

(c) REPORT ON THE JAMES MADISON-BILL OF RIGHTS COMMEMORATIVE COIN ACT.—Subsection (c) of section 506 of the James Madison-Bill of Rights Commemorative Coin Act (31 U.S.C. 5112 note) is amended by striking out "month" and inserting in lieu thereof "calendar quarter".

Subtitle N—Department of Veterans Affairs

SEC. 1141. REPORTS ELIMINATED.

(a) REPORT ON ADEQUACY OF RATES FOR STATE HOME CARE.—Section 1741 of such title is amended—

(1) by striking out subsection (c); and

(2) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

(b) REPORT ON LOANS TO PURCHASE MANUFACTURED HOMES.—Section 3712 of such title is amended—

(1) by striking out subsection (l); and

(2) by redesignating subsection (m) as subsection (l).

(c) REPORT ON COMPLIANCE WITH FUNDED PERSONNEL CODING.—

(1) REPEAL OF REPORT REQUIREMENT.—Section 8110(a)(4) of title 38, United States Code, is amended by striking out subparagraph (C).

(2) CONFORMING AMENDMENTS.—Section 8110(a)(4) of title 38, United States Code, is amended by—

(A) redesignating subparagraph (C) as subparagraph (D);

(B) in subparagraph (A), by striking out "subparagraph (D)" and inserting in lieu thereof "subparagraph (C)"; and

(C) in subparagraph (B), by striking out "subparagraph (D)" and inserting in lieu thereof "subparagraph (C)".

TITLE II—INDEPENDENT AGENCIES

Subtitle A—Action

SEC. 2011. REPORTS ELIMINATED.

Section 226 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5026) is amended—

(1) by striking subsection (b); and

(2) in subsection (a)—

(A) in paragraph (2), by striking "(2)" and inserting "(b)"; and

(B) in paragraph (1)—

(i) by striking "(1)(A)" and inserting "(1)"; and

(ii) in subparagraph (B)—

(I) by striking "(B)" and inserting "(2)"; and

(II) by striking "subparagraph (A)" and inserting "paragraph (1)".

Subtitle B—Environmental Protection Agency

SEC. 2021. REPORTS ELIMINATED.

(a) REPORT ON ALLOCATION OF WATER.—Section 102 of the Federal Water Pollution Control Act (33 U.S.C. 1252) is amended by striking subsection (d).

(b) REPORT ON VARIANCE REQUESTS.—Section 301(n) of the Federal Water Pollution Control Act (33 U.S.C. 1311(n)) is amended by striking paragraph (8).

(c) REPORT ON IMPLEMENTATION OF CLEAN LAKES PROJECTS.—Section 314(d) of the Federal Water Pollution Control Act (33 U.S.C. 1324(d)) is amended—

(1) by striking paragraph (3); and

(2) by redesignating paragraph (4) as paragraph (3).

(d) REPORT ON USE OF MUNICIPAL SECONDARY EFFLUENT AND SLUDGE.—Section 516 of the Federal Water Pollution Control Act (33 U.S.C. 1375) (as amended by subsection (g)) is further amended—

(1) by striking subsection (c); and

(2) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

(e) REPORT ON CERTAIN WATER QUALITY STANDARDS AND PERMITS.—Section 404 of the Water Quality Act of 1987 (Public Law 100-4; 33 U.S.C. 1375 note) is amended—

(1) by striking subsection (c); and

(2) by redesignating subsection (d) as subsection (c).

(f) REPORT ON CLASS V WELLS.—Section 1426 of title XIV of the Public Health Service Act (commonly known as the "Safe Drinking Water Act") (42 U.S.C. 300h-5) is amended—

(1) in subsection (a), by striking "(a) MONITORING METHODS.—"; and

(2) by striking subsection (b).

(g) REPORT ON SOLE SOURCE AQUIFER DEMONSTRATION PROGRAM.—Section 1427 of title XIV of the Public Health Service Act (commonly known as the "Safe Drinking Water Act") (42 U.S.C. 300h-6) is amended—

(1) by striking subsection (l); and

(2) by redesignating subsections (m) and (n) as subsections (l) and (m), respectively.

(h) REPORT ON SUPPLY OF SAFE DRINKING WATER.—Section 1442 of title XIV of the Public Health Service Act (commonly known as the "Safe Drinking Water Act") (42 U.S.C. 300h-6) is amended—

(1) by striking subsection (c);

(2) by redesignating subsection (d) as subsection (c); and

(3) by redesignating subsections (f) and (g) as subsections (d) and (e), respectively.

(i) REPORT ON NONNUCLEAR ENERGY AND TECHNOLOGIES.—Section 11 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5910) is repealed.

(j) REPORT ON EMISSIONS AT COAL-BURNING POWERPLANTS.—

(1) Section 745 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8455) is repealed.

(2) The table of contents in section 101(b) of such Act (42 U.S.C. prec. 8301) is amended by striking the item relating to section 745.

(k) 5-YEAR PLAN FOR ENVIRONMENTAL RESEARCH, DEVELOPMENT, AND DEMONSTRATION.—

(1) Section 5 of the Environmental Research, Development, and Demonstration Authorization Act of 1976 (42 U.S.C. 4361) is repealed.

(2) Section 4 of the Environmental Research, Development, and Demonstration Authorization Act of 1978 (42 U.S.C. 4361a) is repealed.

(3) Section 8 of such Act (42 U.S.C. 4365) is amended—

(A) by striking subsection (c); and

(B) by redesignating subsections (d) through (i) as subsections (c) through (h), respectively.

(l) PLAN ON ASSISTANCE TO STATES FOR RADON PROGRAMS.—Section 305 of the Toxic Substances Control Act (15 U.S.C. 2665) is amended—

(1) by striking subsection (d); and

(2) by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

Subtitle C—Equal Employment Opportunity Commission

SEC. 2031. REPORTS MODIFIED.

Section 705(k)(2)(C) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-4(k)(2)(C)) is amended—

(1) in the matter preceding clause (i), by striking "including" and inserting "including information, presented in the aggregate, relating to";

(2) in clause (i), by striking "the identity of each person or entity" and inserting "the number of persons and entities";

(3) in clause (ii), by striking "such person or entity" and inserting "such persons and entities"; and

(4) in clause (iii)—

(A) by striking "fee" and inserting "fees"; and

(B) by striking "such person or entity" and inserting "such persons and entities".

Subtitle D—Federal Aviation Administration

SEC. 2041. REPORTS ELIMINATED.

Section 7207(c)(4) of the Anti-Drug Abuse Act of 1988 (Public Law 100-690; 102 Stat. 4428; 49 U.S.C. App. 1354 note) is amended—

(1) by striking out "GAO"; and

(2) by striking out "the Comptroller General" and inserting in lieu thereof "the Department of Transportation Inspector General".

Subtitle E—Federal Communications Commission

SEC. 2051. REPORTS ELIMINATED.

(a) REPORT TO THE CONGRESS UNDER THE COMMUNICATIONS SATELLITE ACT OF 1962.—Section 404(c) of the Communications Satellite Act of 1962 (47 U.S.C. 744(c)) is repealed.

(b) REIMBURSEMENT FOR AMATEUR EXAMINATION EXPENSES.—Section 4(f)(4)(J) of the Communications Act of 1934 (47 U.S.C. 154(f)(4)(J)) is amended by striking out the last sentence.

Subtitle F—Federal Deposit Insurance Corporation

SEC. 2061. REPORTS ELIMINATED.

Section 102(b)(1) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (Public Law 102-242; 105 Stat. 2237; 12 U.S.C. 1825 note) is amended to read as follows:

"(1) QUARTERLY REPORTING.—Not later than 90 days after the end of any calendar quarter in which the Federal Deposit Insurance Corporation (hereafter in this section referred to as the 'Corporation') has any obligations pursuant to section 14 of the Federal Deposit Insurance Act outstanding, the Comptroller General of the United States shall submit a report on the Corporation's compliance at the end of that quarter with section 15(c) of the Federal Deposit Insurance Act to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives. Such a report shall be included in the Comptroller General's audit report for that year, as required by section 17 of the Federal Deposit Insurance Act.".

Subtitle G—Federal Emergency Management Agency

SEC. 2071. REPORTS ELIMINATED.

Section 201(h) of the Federal Civil Defense Act of 1950 (50 U.S.C. App. 2281(h)) is amended by striking the second proviso.

Subtitle H—Federal Retirement Thrift Investment Board

SEC. 2081. REPORTS ELIMINATED.

Section 9503 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) The requirements of this section are satisfied with respect to the Thrift Savings Plan described under subchapter III of chapter 84 of title 5, by preparation and transmission of the report described under section 8439(b) of such title.".

Subtitle I—General Services Administration

SEC. 2091. REPORTS ELIMINATED.

(a) REPORT ON PROPERTIES CONVEYED FOR HISTORIC MONUMENTS AND CORRECTIONAL FACILITIES.—Section 203(o) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(o)) is amended—

(1) by striking out paragraph (1);

(2) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively; and

(3) in paragraph (2) (as so redesignated) by striking out "paragraph (2)" and inserting in lieu thereof "paragraph (3)".

(b) REPORT ON PROPOSED SALE OF SURPLUS REAL PROPERTY AND REPORT ON NEGOTIATED SALES.—Section 203(e)(6) of the Federal Prop rty and Administrative Services Act of 1949 (40 U.S.C. 484(e)(6)) is repealed.

(c) REPORT ON PROPERTIES CONVEYED FOR WILDLIFE CONSERVATION.—Section 3 of the Act entitled "An Act authorizing the transfer of certain real property for wildlife, or other purposes.", approved May 19, 1948 (16 U.S.C. 667d; 62 Stat. 241) is amended by striking out "and shall be included in the annual budget transmitted to the Congress".

Subtitle J—Interstate Commerce Commission

SEC. 2101. REPORTS ELIMINATED.

Section 10327(k) of title 49, United States Code, is amended to read as follows:

"(k) If an extension granted under subsection (j) is not sufficient to allow for completion of necessary proceedings, the Commission may grant a further extension in an extraordinary situation if a majority of the Commissioners agree to the further extension by public vote.".

Subtitle K—Legal Services Corporation

SEC. 2111. REPORTS MODIFIED.

Section 1009(c)(2) of the Legal Services Corporation Act (42 U.S.C. 2996h(c)(2)) is amended by striking out "The" and inserting in lieu thereof "Upon request, the".

Subtitle L—National Aeronautics and Space Administration

SEC. 2121. REPORTS ELIMINATED.

Section 21(g) of the Small Business Act (15 U.S.C. 648(g)) is amended to read as follows:

"(g) NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AND REGIONAL TECHNOLOGY TRANSFER CENTERS.—The National Aeronautics and Space Administration and regional technology transfer centers supported by the National Aeronautics and Space Administration are authorized and directed to cooperate with small business development centers participating in the program.".

Subtitle M—National Council on Disability

SEC. 2131. REPORTS ELIMINATED.

Section 401(a) of the Rehabilitation Act of 1973 (29 U.S.C. 781(a)) is amended—

(1) by striking paragraph (9); and

(2) by redesignating paragraphs (10) and (11) as paragraphs (9) and (10), respectively.

Subtitle N—National Science Foundation

SEC. 2141. REPORTS ELIMINATED.

(a) STRATEGIC PLAN FOR SCIENCE AND ENGINEERING EDUCATION.—Section 107 of the Education for Economic Security Act (20 U.S.C. 3917) is repealed.

(b) BUDGET ESTIMATE.—Section 14 of the National Science Foundation Act of 1950 (42 U.S.C. 1873) is amended by striking subsection (j).

Subtitle O—National Transportation Safety Board

SEC. 2151. REPORTS MODIFIED.

Section 305 of the Independent Safety Board Act of 1974 (49 U.S.C. 1904) is amended—

(1) in paragraph (2) by adding "and" after the semicolon;

(2) in paragraph (3) by striking out "; and" and inserting in lieu thereof a period; and

(3) by striking out paragraph (4).

Subtitle P—Neighborhood Reinvestment Corporation

SEC. 2161. REPORTS ELIMINATED.

Section 607(c) of the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8106(c)) is amended by striking the second sentence.

Subtitle Q—Nuclear Regulatory Commission

SEC. 2171. REPORTS MODIFIED.

Section 208 of the Energy Reorganization Act of 1974 (42 U.S.C. 5848) is amended by striking "each quarter a report listing for that period" and inserting "an annual report listing for the previous fiscal year".

Subtitle R—Office of Personnel Management

SEC. 2181. REPORTS ELIMINATED.

(a) REPORT ON SENIOR EXECUTIVE SERVICE.—(1) Section 3135 of title 5, United States Code, is repealed.

(2) The table of sections for chapter 31 of title 5, United States Code, is amended by striking out the item relating to section 3135.

(b) REPORT ON PERFORMANCE AWARDS.—Section 4314(d) of title 5, United States Code, is repealed.

(c) REPORT ON TRAINING PROGRAMS.—(1) Section 4113 of title 5, United States Code, is repealed.

(2) The table of sections for chapter 41 of title 5, United States Code, is amended by striking out the item relating to section 4113.

(d) REPORT ON PREVAILING RATE SYSTEM.—Section 5347(e) of title 5, United States Code, is amended by striking out the fourth and fifth sentences.

(e) REPORT ON ACTIVITIES OF THE MERIT SYSTEMS PROTECTION BOARD AND THE OFFICE OF PERSONNEL MANAGEMENT.—Section 2304 of title 5, United States Code, is amended—

(1) in subsection (a) by striking out "(a)"; and

(2) by striking subsection (b).

SEC. 2182. REPORTS MODIFIED.

(a) REPORT ON DISTRICT OF COLUMBIA RETIREMENT FUND.—Section 145 of the District of Columbia Retirement Reform Act (Public Law 96-122; 93 Stat. 882) is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) by striking out "(1)";

(ii) by striking out "and the Comptroller General shall each" and inserting in lieu thereof "shall"; and

(iii) by striking out "each"; and

(B) by striking out paragraph (2); and

(2) in subsection (d), by striking out "the Comptroller General and" each place it appears.

(b) REPORT ON REVOLVING FUND.—Section 1304(e)(6) of title 5, United States Code, is amended by striking out "at least once every three years".

Subtitle S—Office of Thrift Supervision

SEC. 2191. REPORTS MODIFIED.

Section 18(c)(6)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1438(c)(6)(B)) is amended—

(1) by striking out "annually";

(2) by striking out "audit, settlement," and inserting in lieu thereof "settlement"; and

(3) by striking out ", and the first audit" and all that follows through "enacted".

Subtitle T—Panama Canal Commission

SEC. 2201. REPORTS ELIMINATED.

(a) REPORTS ON PANAMA CANAL.—Section 1312 of the Panama Canal Act of 1979 (Public Law 96-70; 22 U.S.C. 3722) is repealed.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents in section 1 of such Act is amended by striking out the item relating to section 1312.

Subtitle U—Postal Service

SEC. 2211. REPORTS MODIFIED.

(a) REPORT ON CONSUMER EDUCATION PROGRAMS.—Section 4(b) of the mail Order Consumer Protection Amendments of 1983 (39 U.S.C. 3001 note; Public Law 98-186; 97 Stat. 1318) is amended to read as follows:

"(b) A summary of the activities carried out under subsection (a) shall be included in the first semiannual report submitted each year as required under section 5 of the Inspector General Act of 1978 (5 U.S.C. App.).".

(b) REPORT ON INVESTIGATIVE ACTIVITIES.—Section 3013 of title 39, United States Code, is amended in the last sentence by striking out "the Board shall transmit such report to the Congress" and inserting in lieu thereof "the information in such report shall be included in the next semiannual report required under section 5 of the Inspector General Act of 1978 (5 U.S.C. App.)".

Subtitle V—Railroad Retirement Board

SEC. 2221. REPORTS MODIFIED.

Section 502 of the Railroad Retirement Solvency Act of 1983 (45 U.S.C. 231f-1) is amended by striking "On or before July 1, 1985, and each calendar year thereafter" and inserting "As part of the annual report required under section 22(a) of the Railroad Retirement Act of 1974 (45 U.S.C. 231u(a))".

Subtitle W—Thrift Depositor Protection Oversight Board

SEC. 2231. REPORTS MODIFIED.

Section 21A(k)(9) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(k)(9)) is amended by striking out "the end of each calendar quarter" and inserting in lieu thereof "June 30 and December 31 of each calendar year".

Subtitle X—United States Information Agency

SEC. 2241. REPORTS ELIMINATED.

Notwithstanding section 601(c)(4) of the Foreign Service Act of 1980 (22 U.S.C. 4001(c)(4)), the reports otherwise required under such section shall not cover the activities of the United States Information Agency.

TITLE III—REPORTS BY ALL DEPARTMENTS AND AGENCIES

SEC. 3001. REPORTS ELIMINATED.

(a) REPORT ON PART-TIME EMPLOYMENT.—(1) Section 3407 of title 5, United States Code, is repealed.

(2) The table of sections for chapter 34 of title 5, United States Code, is amended by striking out the item relating to section 3407.

(b) BUDGET INFORMATION ON CONSULTING SERVICES.—(1) Section 1114 of title 31, United States Code, is repealed.

(2) The table of sections for chapter 11 of title 31, United States Code, is amended by striking out the item relating to section 1114.

(c) SEMIANNUAL REPORT ON LOBBYING.—Section 1352 of title 31, United States Code, is amended by—

(1) striking out subsection (d); and

(2) redesignating subsections (e), (f), (g), and (h) as subsections (d), (e), (f), and (g), respectively.

(d) REPORTS ON PROGRAM FRAUD AND CIVIL REMEDIES.—(1) Section 3810 of title 31, United States Code, is repealed.

(2) The table of sections for chapter 38 of title 31, United States Code, is amended by striking out the item relating to section 3810.

(e) REPORT ON RIGHT TO FINANCIAL PRIVACY ACT.—Section 1121 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3421) is repealed.

(f) REPORT ON PLANS TO CONVERT TO THE METRIC SYSTEM.—Section 12 of the Metric Conversion Act of 1975 (15 U.S.C. 205j-1) is repealed.

(g) REPORT ON TECHNOLOGY UTILIZATION AND INTELLECTUAL PROPERTY RIGHTS.—Section 11(f) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(f)) is repealed.

(h) REPORT ON EXTRAORDINARY CONTRACTUAL ACTIONS TO FACILITATE THE NATIONAL DEFENSE.—Section 4(a) of the Act entitled "An Act to authorize the making, amendment, and modification of contracts to facilitate the national defense", approved August 28, 1958 (50 U.S.C. 1434(a)), is amended by striking out "all such actions taken" and inserting in lieu thereof "if any such action has been taken".

(i) REPORTS ON DETAILING EMPLOYEES.—Section 619 of the Treasury, Postal Service, and General Government Appropriations Act, 1993 (Public Law 102-393; 106 Stat. 1769), is repealed.

SEC. 3002. REPORTS MODIFIED.

Section 552b(j) of title 5, United States Code, is amended to read as follows:

"(j) Each agency subject to the requirements of this section shall annually report to the Congress regarding the following:

"(1) The changes in the policies and procedures of the agency under this section that have occurred during the preceding 1-year period.

"(2) A tabulation of the number of meetings held, the exemptions applied to close meetings, and the days of public notice provided to close meetings.

"(3) A brief description of litigation or formal complaints concerning the implementation of this section by the agency.

"(4) A brief explanation of any changes in law that have affected the responsibilities of the agency under this section.".

SEC. 3003. TERMINATION OF REPORTING REQUIREMENTS.

(a) TERMINATION.—

(1) IN GENERAL.—Subject to the provisions of paragraph (2), each provision of law requiring the submittal to Congress (or any committee of the Congress) of any annual, semiannual, or other regular periodic report specified on the list described under subsection (c) shall cease to be effective, with respect to that requirement, 4 years after the date of the enactment of this Act.

(2) EXCEPTION.—The provisions of paragraph (1) shall not apply to any report required under—

(A) the Inspector General Act of 1978 (5 U.S.C. App.); or

(B) the Chief Financial Officers Act of 1990 (Public Law 101-576), including provisions enacted by the amendments made by that Act.

(b) IDENTIFICATION OF WASTEFUL REPORTS.—The President shall include in the first annual budget submitted pursuant to section 1105 of title 31, United States Code, after the date of enactment of this Act a list of reports that the President has determined are unnecessary or wasteful and the reasons for such determination.

(c) LIST OF REPORTS.—The list referred to under subsection (a) is the list prepared by the Clerk of the House of Representatives for the first session of the 103d Congress under clause 2 of rule III of the Rules of the House of Representatives (House Document No. 103-7).

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. CLINGER

Mr. CLINGER. Madam Speaker, I offer an amendment in the nature of a substitute.

The clerk read as follows:

Amendment in the nature of a substitute offered by Mr. CLINGER:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Reports Elimination and Sunset Act of 1995".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
TITLE I—DEPARTMENTS
Subtitle A—Department of Agriculture
Sec. 1011. Reports eliminated.
Sec. 1012. Reports modified.
Subtitle B—Department of Commerce
Sec. 1021. Reports eliminated.
Sec. 1022. Reports modified.
Subtitle C—Department of Defense
Sec. 1031. Reports eliminated.
Subtitle D—Department of Education
Sec. 1041. Reports eliminated.
Sec. 1042. Reports modified.
Subtitle E—Department of Energy
Sec. 1051. Reports eliminated.
Sec. 1052. Reports modified.
Subtitle F—Department of Health and Human Services
Sec. 1061. Reports eliminated.
Sec. 1062. Reports modified.
Subtitle G—Department of Housing and Urban Development
Sec. 1071. Reports eliminated.
Sec. 1072. Reports modified.
Subtitle H—Department of the Interior
Sec. 1081. Reports eliminated.
Sec. 1082. Reports modified.
Subtitle I—Department of Justice
Sec. 1091. Reports eliminated.
Subtitle J—Department of Labor
Sec. 1101. Reports eliminated.
Sec. 1102. Reports modified.
Subtitle K—Department of State
Sec. 1111. Reports eliminated.
Sec. 1112. International narcotics control.
Subtitle L—Department of Transportation
Sec. 1121. Reports eliminated.
Sec. 1122. Reports modified.
Subtitle M—Department of the Treasury
Sec. 1131. Reports eliminated.
Sec. 1132. Reports modified.
Subtitle N—Department of Veterans Affairs
Sec. 1141. Reports eliminated.
TITLE II—INDEPENDENT AGENCIES
Subtitle A—Action
Sec. 2011. Reports eliminated.
Subtitle B—Environmental Protection Agency
Sec. 2021. Reports eliminated.
Subtitle C—Equal Employment Opportunity Commission
Sec. 2031. Reports modified.
Subtitle D—Federal Aviation Administration
Sec. 2041. Reports eliminated.
Subtitle E—Federal Communications Commission
Sec. 2051. Reports eliminated.
Subtitle F—Federal Deposit Insurance Corporation
Sec. 2061. Reports eliminated.
Subtitle G—Federal Emergency Management Agency
Sec. 2071. Reports eliminated.
Subtitle H—Federal Retirement Thrift Investment Board
Sec. 2081. Reports eliminated.
Subtitle I—General Services Administration
Sec. 2091. Reports eliminated.
Subtitle J—Interstate Commerce Commission
Sec. 2101. Reports eliminated.
Subtitle K—Legal Services Corporation
Sec. 2111. Reports modified.
Subtitle L—National Aeronautics and Space Administration
Sec. 2121. Reports eliminated.
Subtitle M—National Council on Disability
Sec. 2131. Reports eliminated.
Subtitle N—National Science Foundation
Sec. 2141. Reports eliminated.
Subtitle O—National Transportation Safety Board
Sec. 2151. Reports modified.
Subtitle P—Neighborhood Reinvestment Corporation
Sec. 2161. Reports eliminated.
Subtitle Q—Nuclear Regulatory Commission
Sec. 2171. Reports modified.
Subtitle R—Office of Personnel Management
Sec. 2181. Reports eliminated.
Sec. 2182. Reports modified.
Subtitle S—Office of Thrift Supervision
Sec. 2191. Reports modified.
Subtitle T—Panama Canal Commission
Sec. 2201. Reports eliminated.
Subtitle U—Postal Service
Sec. 2211. Reports modified.
Subtitle V—Railroad Retirement Board
Sec. 2221. Reports modified.
Subtitle W—Thrift Depositor Protection Oversight Board
Sec. 2231. Reports modified.
Subtitle X—United States Information Agency
Sec. 2241. Reports eliminated.
TITLE III—REPORTS BY ALL DEPARTMENTS AND AGENCIES
Sec. 3001. Reports eliminated.
Sec. 3002. Reports modified.
Sec. 3003. Termination of reporting requirements.

TITLE I—DEPARTMENTS

Subtitle A—Department of Agriculture

SEC. 1011. REPORTS ELIMINATED.

(a) REPORT ON MONITORING AND EVALUATION.—Section 1246 of the Food Security Act of 1985 (16 U.S.C. 3846) is repealed.

(b) REPORT ON RETURN ON ASSETS.—Section 2512 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1421b) is amended—

(1) in subsection (a), by striking "(a) IMPROVING" and all that follows through "FORECASTS.—"; and

(2) by striking subsection (b).

(c) REPORT ON FARM VALUE OF AGRICULTURAL PRODUCTS.—Section 2513 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1421c) is repealed.

(d) REPORT ON ORIGIN OF EXPORTS OF PEANUTS.—Section 1558 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 958) is repealed and sections 1559 and 1560 of such Act are redesignated as sections 1558 and 1559, respectively.

(e) REPORT ON REPORTING OF IMPORTING FEES.—Section 407 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736a) is amended—

(1) by striking subsection (b); and

(2) by redesignating subsections (c) through (h) as subsections (b) through (g), respectively.

(f) REPORT ON AGRICULTURAL INFORMATION EXCHANGE WITH IRELAND.—Section 1420 of the Food Security Act of 1985 (Public Law 99-198; 99 Stat. 1551) is amended—

(1) in subsection (a), by striking "(a)"; and

(2) by striking subsection (b).

(g) REPORT ON POTATO INSPECTION.—Section 1704 of the Food Security Act of 1985 (Public Law 99-198; 7 U.S.C. 499n note) is amended by striking the second sentence.

(h) REPORT ON TRANSPORTATION OF FERTILIZER AND AGRICULTURAL CHEMICALS.—Section 2517 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624; 104 Stat. 4077) is repealed and sections 2518 and 2519 of such Act are redesignated as sections 2517 and 2518, respectively.

(i) REPORT ON UNIFORM END-USE VALUE TESTS.—Section 307 of the Futures Trading Act of 1986 (Public Law 99-641; 7 U.S.C. 76 note) is amended by striking subsection (c).

(j) REPORT ON PROJECT AREAS WITH HIGH FOOD STAMP PAYMENT ERROR RATES.—Section 16(i) of the Food Stamp Act of 1977 (7 U.S.C. 2025(i)) is amended by striking paragraph (3).

(k) REPORT ON EFFECT OF EFAP DISPLACEMENT ON COMMERCIAL SALES.—Section 203C(a) of the Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is amended by striking the last sentence.

(l) REPORT ON WIC EXPENDITURES AND PARTICIPATION LEVELS.—Section 17(m) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(m)) is amended—

(1) by striking paragraph (9); and

(2) by redesignating paragraphs (10) and (11) as paragraphs (9) and (10), respectively.

(m) REPORT ON DEMONSTRATIONS INVOLVING INNOVATIVE HOUSING UNITS.—Section 506(b) of the Housing Act of 1949 (42 U.S.C. 1476(b)) is amended by striking the last sentence.

(n) REPORT ON LAND EXCHANGES IN COLUMBIA RIVER GORGE NATIONAL SCENIC AREA.—Section 9(d)(3) of the Columbia River Gorge National Scenic Area Act (16 U.S.C. 544g(d)(3)) is amended by striking the second sentence.

(o) REPORT ON INCOME AND EXPENDITURES OF CERTAIN LAND ACQUISITIONS.—Section 2(e) of Public Law 96-586 (94 Stat. 3382) is amended by striking the second sentence.

(p) REPORT ON SPECIAL AREA DESIGNATIONS.—Section 1506 of the Agriculture and Food Act of 1981 (16 U.S.C. 3415) is repealed and sections 1507, 1508, 1509, and 1511 of such Act are redesignated as sections 1506, 1507, 1508, and 1509, respectively.

(q) REPORT ON EVALUATION OF SPECIAL AREA DESIGNATIONS.—Section 1510 of the Agriculture and Food Act of 1981 (16 U.S.C. 3419) is repealed.

(r) REPORT ON AGRICULTURAL PRACTICES AND WATER RESOURCES DATABASE DEVELOPMENT.—Section 1485 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5505) is amended—

(1) in subsection (a), by striking "(a) REPOSITORY.—"; and

(2) by striking subsection (b).

(s) REPORT ON PLANT GENOME MAPPING.—Section 1671 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5924) is amended—

(1) by striking subsection (g); and

(2) by redesignating subsection (h) as subsection (g).

(t) REPORT ON APPRAISAL OF PROPOSED BUDGET FOR FOOD AND AGRICULTURAL SCIENCES.—Section 1408(g) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123(g)) is amended—

(1) by striking paragraph (2); and

(2) by redesignating paragraph (3) as paragraph (2).

(u) REPORT ON ECONOMIC IMPACT OF ANIMAL DAMAGE ON AQUACULTURE INDUSTRY.—Section 1475(e) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3322(e)) is amended—

(1) in paragraph (1), by striking "(1)"; and

(2) by striking paragraph (2).

(v) REPORT ON AWARDS MADE BY THE NATIONAL RESEARCH INITIATIVE AND SPECIAL GRANTS.—Section 2 of the Act of August 4, 1965 (7 U.S.C. 450i), is amended—

(1) by striking subsection (l); and

(2) by redesignating subsection (m) as subsection (l).

(w) REPORT ON PAYMENTS MADE UNDER RESEARCH FACILITIES ACT.—Section 8 of the Research Facilities Act (7 U.S.C. 390i) is repealed.

(x) REPORT ON FINANCIAL AUDIT REVIEWS OF STATES WITH HIGH FOOD STAMP PARTICIPATION.—The first sentence of section 11(l) of the Food Stamp Act of 1977 (7 U.S.C. 2020(l)) is amended by striking ", and shall, upon completion of the audit, provide a report to Congress of its findings and recommendations within one hundred and eighty days".

(y) REPORT ON RURAL TELEPHONE BANK.—Section 408(b)(3) of the Rural Electrification Act of 1936 (7 U.S.C. 948(b)(3)) is amended by striking out subparagraph (I) and redesignating subparagraph (J) as subparagraph (I).

(z) CONFORMING AMENDMENTS.—The table of contents appearing in section 1(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 is amended—

(1) by striking the items relating to sections 1558, 1559, and 1560 and inserting the following:

"Sec. 1558. Sense of Congress concerning rebalancing proposal of the European community.

"Sec. 1559. Sense of the Senate regarding multilateral trade negotations.";

(2) by striking the item relating to section 2513; and

(C) by striking the items relating to sections 2517, 2518, and 2519 and inserting the following:

"Sec. 2517. Establishing quality as a goal for Commodity Credit Corporation programs.

"Sec. 2518. Severability.".

SEC. 1012. REPORTS MODIFIED.

(a) REPORT ON ANIMAL WELFARE ENFORCEMENT.—The first sentence of section 25 of the Animal Welfare Act (7 U.S.C. 2155) is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting "; and"; and

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

"(5) the information and recommendations described in section 11 of the Horse Protection Act of 1970 (15 U.S.C. 1830).".

(b) REPORT ON HORSE PROTECTION ENFORCEMENT.—Section 11 of the Horse Protection Act of 1970 (15 U.S.C. 1830) is amended by striking "On or before the expiration of thirty calendar months following the date of enactment of this Act, and every twelve calendar months thereafter, the Secretary shall submit to the Congress a report upon" and inserting the following: "As part of the report submitted by the Secretary under section 25 of the Animal Welfare Act (7 U.S.C. 2155), the Secretary shall include information on".

(c) REPORT ON AGRICULTURAL QUARANTINE INSPECTION FUND.—The Secretary of Agriculture shall not be required to submit a report to the appropriate committees of Congress on the status of the Agricultural Quarantine Inspection fund more frequently than annually.

(d) REPORT ON PRIORITIES FOR RESEARCH, EXTENSION, AND TEACHING.—Section 1407(f)(1) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3122(f)(1)) is amended—

(1) in the paragraph heading, by striking "ANNUAL REPORT" and inserting "REPORT"; and

(2) by striking "Not later than June 30 of each year" and inserting "At such times as the Joint Council determines appropriate".

(e) 5-YEAR PLAN FOR FOOD AND AGRICULTURAL SCIENCES.—Section 1407(f)(2) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3122(f)(2)) is amended by striking the second sentence.

(f) REPORT ON EXAMINATION OF FEDERALLY SUPPORTED AGRICULTURAL RESEARCH AND EXTENSION PROGRAMS.—Section 1408(g)(1) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123(g)(1)) is amended by inserting "may provide" before "a written report".

(g) REPORT ON EFFECTS OF FOREIGN OWNERSHIP OF AGRICULTURAL LAND.—Section 5(b) of the Agricultural Foreign Investment Disclosure Act of 1978 (7 U.S.C. 3504(b)) is amended to read as follows:

"(b) An analysis and determination shall be made, and a report on the Secretary's findings and conclusions regarding such analysis and determination under subsection (a) shall be transmitted within 90 days after the end of each of the following periods:

"(1) The period beginning on the date of the enactment of the Federal Reports Elimination and Sunset Act of 1995 and ending on December 31, 1995.

"(2) Each 10-year period thereafter.".

Subtitle B—Department of Commerce

SEC. 1021. REPORTS ELIMINATED.

(a) REPORT ON VOTING REGISTRATION.—Section 207 of the Voting Rights Act of 1965 (42 U.S.C. 1973aa-5) is repealed.

(b) REPORT ON LONG RANGE PLAN FOR PUBLIC BROADCASTING.—Section 393A(b) of the Communications Act of 1934 (47 U.S.C. 393a(b)) is repealed.

(c) REPORT ON STATUS, ACTIVITIES, AND EFFECTIVENESS OF UNITED STATES COMMERCIAL CENTERS IN ASIA, LATIN AMERICA, AND AFRICA AND PROGRAM RECOMMENDATIONS.—Section 401(j) of the Jobs Through Exports Act of 1992 (15 U.S.C. 4723a(j)) is repealed.

(d) REPORT ON KUWAIT RECONSTRUCTION CONTRACTS.—Section 606(f) of the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991 is repealed.

(e) REPORT ON UNITED STATES-CANADA FREE-TRADE AGREEMENT.—Section 409(a)(3) of the United States-Canada Free-Trade Agreement Implementation Act of 1988 (19 U.S.C. 2112 note) is amended to read as follows:

"(3) The United States members of the working group established under article 1907 of the Agreement shall consult regularly with the Committee on Finance of the Senate, the Committee on Ways and Means of the House of Representatives, and advisory committees established under section 135 of the Trade Act of 1974 regarding—

"(A) the issues being considered by the working group; and

"(B) as appropriate, the objectives and strategy of the United States in the negotiations.".

(f) REPORT ON ESTABLISHMENT OF AMERICAN BUSINESS CENTERS AND ON ACTIVITIES OF THE INDEPENDENT STATES BUSINESS AND AGRICULTURE ADVISORY COUNCIL.—Section 305 of the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992 (22 U.S.C. 5825) is repealed.

(g) REPORT ON FISHERMAN'S CONTINGENCY FUND REPORT.—Section 406 of the Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. 1846) is repealed.

(h) REPORT ON USER FEES ON SHIPPERS.—Section 208 of the Water Resources Development Act of 1986 (33 U.S.C. 2236) is amended by—

(1) striking subsection (b); and

(2) redesignating subsections (c), (d), (e), and (f) as subsections (b), (c), (d), and (e), respectively.

SEC. 1022. REPORTS MODIFIED.

(a) REPORT ON FEDERAL TRADE PROMOTION STRATEGIC PLAN.—Section 2312(f) of the Export Enhancement Act of 1988 (15 U.S.C. 4727(f) is amended to read as follows:

"(f) REPORT TO THE CONGRESS.—The chairperson of the TPCC shall prepare and submit to the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on International Relations of the House of Representatives, not later than September 30, 1995, and annually thereafter, a report describing—

"(1) the strategic plan developed by the TPCC pursuant to subsection (c), the implementation of such plan, and any revisions thereto; and

"(2) the implementation of sections 303 and 304 of the Freedom for Russia and Emerging Democracies and Open Markets Support Act of 1992 (22 U.S.C. 5823 and 5824) concerning funding for export promotion activities and the interagency working groups on energy of the TPCC.".

(b) REPORT ON EXPORT POLICY.—Section 2314(b)(1) of the Export Enhancement Act of 1988 (15 U.S.C. 4729(b)(1)) is amended—

(1) in subparagraph (E) by striking out "and" after the semicolon;

(2) in subparagraph (F) by striking out the period and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new subparagraphs:

"(G) the status, activities, and effectiveness of the United States commercial centers established under section 401 of the Jobs Through Exports Act of 1992 (15 U.S.C. 4723a);

"(H) the implementation of sections 301 and 302 of the Freedom for Russia and Emerging Democracies and Open Markets Support Act of 1992 (22 U.S.C. 5821 and 5822) concerning American Business Centers and the Independent States Business and Agriculture Advisory Council;

"(I) the programs of other industrialized nations to assist their companies with their efforts to transact business in the independent states of the former Soviet Union; and

"(J) the trading practices of other Organization for Economic Cooperation and Development nations, as well as the pricing practices of transitional economies in the independent states, that may disadvantage United States companies.".

Subtitle C—Department of Defense

SEC. 1031. REPORTS ELIMINATED.

(a) REPORT ON SEMATECH.—The National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1071) is amended—

(1) in section 6 by striking out the item relating to section 274; and

(2) by striking out section 274.

(b) REPORT ON REVIEW OF DOCUMENTATION IN SUPPORT OF WAIVERS FOR PEOPLE ENGAGED IN ACQUISITION ACTIVITIES.—

(1) IN GENERAL.—Section 1208 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 1701 note) is repealed.

(2) CLERICAL AMENDMENT TO TABLE OF CONTENTS.—Section 2(b) of such Act is amended by striking out the item relating to section 1208.

Subtitle D—Department of Education

SEC. 1041. REPORTS ELIMINATED.

(a) REPORT ON PERSONNEL REDUCTION AND ANNUAL LIMITATIONS.—Subsection (a) of section 403 of the Department of Education Organization Act (20 U.S.C. 3463(a)) is amended in paragraph (2), by striking all beginning with "and shall," through the end thereof and inserting a period.

(b) REPORT ON SUPPORTED EMPLOYMENT ACTIVITIES.—Subsection (c) of section 311 of the Rehabilitation Act of 1973 (29 U.S.C. 777a(c)) is amended—

(1) in paragraph (2) by adding at the end "and";

(2) by striking paragraph (3); and

(3) by redesignating paragraph (4) as paragraph (3).

(c) REPORT ON THE CLIENT ASSISTANCE PROGRAM.—Subsection (g) of section 112 of the Rehabilitation Act of 1973 (29 U.S.C. 732(g)) is amended—

(1) by striking paragraphs (4) and (5); and

(2) in paragraph (6), by striking "such report or for any other" and inserting "any".

(d) REPORT ON THE SUMMARY OF LOCAL EVALUATIONS OF COMMUNITY EDUCATION EMPLOYMENT CENTERS.—Section 370 of the Carl D. Perkins Vocational and Applied Technology Act (20 U.S.C. 2396h) is amended—

(1) in the section heading, by striking "**AND REPORT**";

(2) in subsection (a), by striking "(a) LOCAL EVALUATION.—"; and

(3) by striking subsection (b).

(e) REPORT ON THE ADMINISTRATION OF THE VOCATIONAL EDUCATION ACT OF 1917.—Section 18 of the Vocational Education Act of 1917 (20 U.S.C. 28) is repealed.

(f) REPORT BY THE INTERDEPARTMENTAL TASK FORCE ON COORDINATING VOCATIONAL EDUCATION AND RELATED PROGRAMS.—Subsection (d) of section 4 of the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990 (20 U.S.C. 2303(d)) is repealed.

(g) REPORT ON THE EVALUATION OF THE GATEWAY GRANTS PROGRAM.—Subparagraph (B) of section 322(a)(3) of the Adult Education Act (20 U.S.C. 1203a(a)(3)(B)) is amended by striking "and report the results of such evaluation to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate".

(h) REPORT ON THE BILINGUAL VOCATIONAL TRAINING PROGRAM.—Paragraph (3) of section 441(e) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2441(e)(3)) is amended by striking the last sentence thereof.

(i) REPORT ON ANNUAL UPWARD MOBILITY PROGRAM ACTIVITY.—Section 2(a)(6)(A) of the Act of June 20, 1936 (20 U.S.C. 107a(a)(6)(A)), is amended by striking "and annually submit to the appropriate committees of Congress a report based on such evaluations,".

SEC. 1042. REPORTS MODIFIED.

(a) REPORT ON THE CONDITION OF BILINGUAL EDUCATION IN THE NATION.—Section 6213 of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (20 U.S.C. 3303 note) is amended—

(1) in the section heading, by striking "**REPORT ON**" and inserting "**INFORMATION REGARDING**"; and

(2) by striking the matter preceding paragraph (1) and inserting "The Secretary shall collect data for program management and accountability purposes regarding—".

(b) REPORT TO GIVE NOTICE TO CONGRESS.—Subsection (d) of section 482 of the Higher Education Act of 1965 (20 U.S.C. 1089(d)) is amended—

(1) in the first sentence by striking "the items specified in the calendar have been completed and provide all relevant forms, rules, and instructions with such notice" and inserting "a deadline included in the calendar described in subsection (a) is not met"; and

(2) by striking the second sentence.

(c) ANNUAL REPORT ON ACTIVITIES UNDER THE REHABILITATION ACT OF 1973.—Section 13 of the Rehabilitation Act of 1973 (29 U.S.C. 712) is amended by striking "twenty" and inserting "eighty".

(d) REPORT TO THE CONGRESS REGARDING REHABILITATION TRAINING PROGRAMS.—The second sentence of section 302(c) of the Rehabilitation Act of 1973 (29 U.S.C. 774(c)) is amended by striking "simultaneously with the budget submission for the succeeding fiscal year for the Rehabilitation Services Administration" and inserting "by September 30 of each fiscal year".

(e) ANNUAL AUDIT OF STUDENT LOAN INSURANCE FUND.—Section 432(b) of the Higher Education Act of 1965 (20 U.S.C. 1082(b)) is amended to read as follows:

"(b) FINANCIAL OPERATIONS RESPONSIBILITIES.—The Secretary shall, with respect to the financial operations arising by reason of this part prepare annually and submit a budget program as provided for wholly owned Government corporations by chapter 91 of title 31, United States Code. The transactions of the Secretary, including the settlement of insurance claims and of claims for payments pursuant to section 1078 of this title, and transactions related thereto and vouchers approved by the Secretary in connection with such transactions, shall be final and conclusive upon all accounting and other officers of the Government.".

Subtitle E—Department of Energy

SEC. 1051. REPORTS ELIMINATED.

(a) REPORTS ON PERFORMANCE AND DISPOSAL OF ALTERNATIVE FUELED HEAVY DUTY VEHICLES.—Paragraphs (3) and (4) of section 400AA(b) of the Energy Policy and Conservation Act (42 U.S.C. 6374(b)(3), 6374(b)(4)) are repealed, and paragraph (5) of that section is redesignated as paragraph (3).

(b) REPORT ON WIND ENERGY SYSTEMS.—Section 9(a) of the Wind Energy Systems Act of 1980 (42 U.S.C. 9208(a)) is amended—

(1) by striking paragraph (3);

(2) in paragraph (1) by adding "and" after the semicolon; and

(3) in paragraph (2) by striking "; and" and inserting a period.

(c) REPORT ON COMPREHENSIVE PROGRAM MANAGEMENT PLAN FOR OCEAN THERMAL ENERGY CONVERSION.—Section 3(d) of the Ocean Thermal Energy Conversion Research, Development, and Demonstration Act (42 U.S.C. 9002(d)) is repealed.

(d) REPORTS ON SUBSEABED DISPOSAL OF SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE.—Subsections (a) and (b)(5) of section 224 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10204(a), 10204(b)(5)) are repealed.

(e) REPORT ON FUEL USE ACT.—Sections 711(c)(2) and 806 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8421(c)(2), 8482) are repealed.

(f) REPORT ON TEST PROGRAM OF STORAGE OF REFINED PETROLEUM PRODUCTS WITHIN THE STRATEGIC PETROLEUM RESERVE.—Section 160(g)(7) of the Energy Policy and Conservation Act (42 U.S.C. 6240(g)(7)) is repealed.

(g) REPORT ON NAVAL PETROLEUM AND OIL SHALE RESERVES PRODUCTION.—Section 7434 of title 10, United States Code, is repealed.

(h) REPORT ON EFFECTS OF PRESIDENTIAL MESSAGE ESTABLISHING A NUCLEAR NONPROLIFERATION POLICY ON NUCLEAR RESEARCH AND DEVELOPMENT COOPERATIVE AGREEMENTS.—Section 203 of the Department of Energy Act of 1978—Civilian Applications (22 U.S.C. 2429 note) is repealed.

(i) REPORT ON WRITTEN AGREEMENTS REGARDING NUCLEAR WASTE REPOSITORY SITES.—Section 117(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10137(c)) is amended by striking the following: "If such written agreement is not completed within such period, the Secretary shall report to the Congress in writing within 30 days on the status of negotiations to develop such agreement and the reasons why such agreement has not been completed. Prior to submission of such report to the Congress, the Secretary shall transmit such report to the Governor of such State or the governing body of such affected Indian tribe, as the case may be, for their review and comments. Such comments shall be included in such report prior to submission to the Congress.".

(j) QUARTERLY REPORT ON STRATEGIC PETROLEUM RESERVES.—Section 165 of the Energy Policy and Conservation Act (42 U.S.C. 6245) is amended—

(1) by striking subsection (b); and

(2) by striking "(a)".

(k) REPORT ON THE DEPARTMENT OF ENERGY.—The Federal Energy Administration Act of 1974 (15 U.S.C. 790d), is amended by striking out section 55.

(l) REPORT ON CURRENT STATUS OF COMPREHENSIVE MANAGEMENT FOR NUCLEAR SAFETY RESEARCH, DEVELOPMENT, AND DEMONSTRATION.—Section 8(c) of the Nuclear Safety Research, Development, and Demonstration Act of 1980 (42 U.S.C. 9707(c)) is repealed.

(m) REPORT ON ACTIVITIES OF THE GEOTHERMAL ENERGY COORDINATION AND MANAGEMENT PROJECT.—Section 302(a) of the Geothermal Energy Research, Development, and Demonstration Act of 1974 (30 U.S.C. 1162(a)) is repealed.

(n) REPORT ON ACTIVITIES UNDER THE MAGNETIC FUSION ENERGY ENGINEERING ACT OF 1980.—Section 12 of the Magnetic Fusion Energy Engineering Act of 1980 (42 U.S.C. 9311) is repealed.

(o) REPORT ON ACTIVITIES UNDER THE ELECTRIC AND HYBRID VEHICLE RESEARCH, DEVELOPMENT, AND DEMONSTRATION ACT OF 1976.—Section 14 of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976 (15 U.S.C. 2513) is repealed.

(p) REPORT ON ACTIVITIES UNDER THE METHANE TRANSPORTATION RESEARCH, DEVELOPMENT, AND DEMONSTRATION ACT OF 1980.—Section 9 of the Methane Transportation Research, Development, and Demonstration Act of 1980 (15 U.S.C. 3808) is repealed.

SEC. 1052. REPORTS MODIFIED.

(a) REPORTS ON PROCESS-ORIENTED INDUSTRIAL ENERGY EFFICIENCY AND INDUSTRIAL INSULATION AUDIT GUIDELINES.—

(1) Section 132(d) of the Energy Policy Act of 1992 (42 U.S.C. 6349(d)) is amended—

(A) in the language preceding paragraph (1), by striking "Not later than 2 years after the date of the enactment of this Act and annually thereafter" and inserting "Not later than October 24, 1995, and biennially thereafter";

(B) in paragraph (4), by striking "and" at the end;

(C) in paragraph (5), by striking the period at the end and inserting "; and"; and

(D) by adding at the end the following new paragraph:

"(6) the information required under section 133(c).".

(2) Section 133(c) of the Energy Policy Act of 1992 (42 U.S.C. 6350(c)) is amended—

(A) by striking, "the date of the enactment of this Act" and inserting "October 24, 1995"; and

(B) by inserting "as part of the report required under section 132(d)," after "and biennially thereafter,".

(b) REPORT ON AGENCY REQUESTS FOR WAIVER FROM FEDERAL ENERGY MANAGEMENT REQUIREMENTS.—Section 543(b)(2) of the National Energy Conservation Policy Act (42 U.S.C. 8253(b)(2)) is amended—

(1) by inserting ", as part of the report required under section 548(b)," after "the Secretary shall"; and

(2) by striking "promptly".

(c) REPORT ON THE PROGRESS, STATUS, ACTIVITIES, AND RESULTS OF PROGRAMS REGARDING THE PROCUREMENT AND IDENTIFICATION OF ENERGY EFFICIENT PRODUCTS.—Section 161(d) of the Energy Policy Act of 1992 (42 U.S.C. 8262g(d)) is amended by striking "of each year thereafter," and inserting "thereafter as part of the report required under section 548(b) of the National Energy Conservation Policy Act,".

(d) REPORT ON THE FEDERAL GOVERNMENT ENERGY MANAGEMENT PROGRAM.—Section 548(b) of the National Energy Conservation Policy Act (42 U.S.C. 8258(b)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking "and" after the semicolon;

(B) by redesignating subparagraph (B) as subparagraph (C); and

(C) by inserting after subparagraph (A) the following new subparagraph:

"(B) the information required under section 543(b)(2); and";

(2) in paragraph (2), by striking "and" after the semicolon;

(3) in paragraph (3), by striking the period at the end and inserting "; and"; and

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

"(4) the information required under section 161(d) of the Energy Policy Act of 1992.".

(e) REPORT ON ALTERNATIVE FUEL USE BY SELECTED FEDERAL VEHICLES.—Section 400AA(b)(1)(B) of the Energy Policy and Conservation Act (42 U.S.C. 6374(b)(1)(B)) is amended by striking ", and annually thereafter".

(f) REPORT ON THE OPERATION OF STATE ENERGY CONSERVATION PLANS.—Section 365(c) of the Energy Policy and Conservation Act (42 U.S.C. 6325(c)) is amended by striking "report annually" and inserting ", as part of the report required under section 657 of the Department of Energy Organization Act, report".

(g) REPORT ON THE DEPARTMENT OF ENERGY.—Section 657 of the Department of Energy Organization Act (42 U.S.C. 7267) is amended by inserting after "section 15 of the Federal Energy Administration Act of 1974," the following: "section 365(c) of the Energy Policy and Conservation Act, section 304(c) of the Nuclear Waste Policy Act of 1982,".

(h) REPORT ON COST-EFFECTIVE WAYS TO INCREASE HYDROPOWER PRODUCTION AT FEDERAL WATER FACILITIES.—Section 2404 of the Energy Policy Act of 1992 (16 U.S.C. 797 note) is amended—

(1) in subsection (a), by striking "The Secretary, in consultation with the Secretary of the Interior and the Secretary of the Army," and inserting "The Secretary of the Interior and the Secretary of the Army, in consultation with the Secretary,"; and

(2) in subsection (b), by striking "the Secretary" and inserting "the Secretary of the Interior, or the Secretary of the Army,".

(i) REPORT ON PROGRESS MEETING FUSION ENERGY PROGRAM OBJECTIVES.—Section 2114(c)(5) of the Energy Policy Act of 1992 (42 U.S.C. 13474(c)(5)) is amended by striking out the first sentence and inserting in lieu thereof "The President shall include in the budget submitted to the Congress each year under section 1105 of title 31, United States Code, a report prepared by the Secretary describing the progress made in meeting the program objectives, milestones, and schedules established in the management plan.".

(j) REPORT ON HIGH-PERFORMANCE COMPUTING ACTIVITIES.—Section 203(d) of the High-Performance Computing Act of 1991 (15 U.S.C. 5523(d)) is amended to read as follows:

"(d) REPORTS.—Not later than 1 year after the date of enactment of this subsection, and thereafter as part of the report required under section 101(a)(3)(A), the Secretary of Energy shall report on activities taken to carry out this Act.".

(k) REPORT ON NATIONAL HIGH-PERFORMANCE COMPUTING PROGRAM.—Section 101(a)(4) of the High-Performance Computing Act of 1991 (15 U.S.C. 5511(a)(4)) is amended—

(1) in subparagraph (D), by striking "and" at the end;

(2) by redesignating subparagraph (E) as subparagraph (F); and

(3) by inserting after subparagraph (D) the following new subparagraph:

"(E) include the report of the Secretary of Energy required by section 203(d); and".

(l) REPORT ON NUCLEAR WASTE DISPOSAL PROGRAM.—Section 304(d) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10224(d)) is amended to read as follows:

"(d) AUDIT BY GAO.—If requested by either House of the Congress (or any committee thereof) or if considered necessary by the Comptroller General, the General Accounting Office shall conduct an audit of the Office, in accord with such regulations as the Comptroller General may prescribe. The Comptroller General shall have access to such books, records, accounts, and other materials of the Office as the Comptroller General determines to be necessary for the preparation of such audit. The Comptroller General shall submit a report on the results of each audit conducted under this section.".

Subtitle F—Department of Health and Human Services

SEC. 1061. REPORTS ELIMINATED.

(a) REPORT ON THE EFFECTS OF TOXIC SUBSTANCES.—Subsection (c) of section 27 of the

Toxic Substances Control Act (15 U.S.C. 2626(c)) is repealed.

(b) REPORT ON COMPLIANCE WITH THE CONSUMER-PATIENT RADIATION HEALTH AND SAFETY ACT.—Subsection (d) of section 981 of the Consumer-Patient Radiation Health and Safety Act of 1981 (42 U.S.C. 10006(d)) is repealed.

(c) REPORT ON EVALUATION OF TITLE VIII PROGRAMS.—Section 859 of the Public Health Service Act (42 U.S.C. 298b-6) is repealed.

(d) REPORT ON MEDICARE TREATMENT OF UNCOMPENSATED CARE.—Paragraph (2) of section 603(a) of the Social Security Amendments of 1983 (42 U.S.C. 1395ww note) is repealed.

(e) REPORT ON PROGRAM TO ASSIST HOMELESS INDIVIDUALS.—Subsection (d) of section 9117 of the Omnibus Budget Reconciliation Act of 1987 (42 U.S.C. 1383 note) is repealed.

SEC. 1062. REPORTS MODIFIED.

(a) REPORT OF THE SURGEON GENERAL.—Section 239 of the Public Health Service Act (42 U.S.C. 238h) is amended to read as follows:

"BIANNUAL REPORT

"SEC. 239. The Surgeon General shall transmit to the Secretary, for submission to the Congress, on January 1, 1995, and on January 1, every 2 years thereafter, a full report of the administration of the functions of the Service under this Act, including a detailed statement of receipts and disbursements.".

(b) REPORT ON HEALTH SERVICE RESEARCH ACTIVITIES.—Subsection (b) of section 494A of the Public Health Service Act (42 U.S.C. 289c-1(b)) is amended by striking "September 30, 1993, and annually thereafter" and inserting "December 30, 1993, and each December 30 thereafter".

(c) REPORT ON FAMILY PLANNING.—Section 1009(a) of the Public Health Service Act (42 U.S.C. 300a-7(a)) is amended by striking "each fiscal year" and inserting "fiscal year 1995, and each second fiscal year thereafter".

(d) REPORT ON THE STATUS OF HEALTH INFORMATION AND HEALTH PROMOTION.—Section 1705(a) of the Public Health Service Act (42 U.S.C. 300u-4) is amended in the first sentence by striking out "annually" and inserting in lieu thereof "biannually".

Subtitle G—Department of Housing and Urban Development

SEC. 1071. REPORTS ELIMINATED.

(a) REPORTS ON PUBLIC HOUSING HOMEOWNERSHIP AND MANAGEMENT OPPORTUNITIES.—Section 21(f) of the United States Housing Act of 1937 (42 U.S.C. 1437s(f)) is repealed.

(b) INTERIM REPORT ON PUBLIC HOUSING MIXED INCOME NEW COMMUNITIES STRATEGY DEMONSTRATION.—Section 522(k)(1) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437f note) is repealed.

(c) BIENNIAL REPORT ON INTERSTATE LAND SALES REGISTRATION PROGRAM.—Section 1421 of the Interstate Land Sales Full Disclosure Act (15 U.S.C. 1719a) is repealed.

(d) QUARTERLY REPORT ON ACTIVITIES UNDER THE FAIR HOUSING INITIATIVES PROGRAM.—Section 561(e)(2) of the Housing and Community Development Act of 1987 (42 U.S.C. 3616a(e)(2)) is repealed.

(e) COLLECTION OF AND ANNUAL REPORT ON RACIAL AND ETHNIC DATA.—Section 562 of the Housing and Community Development Act of 1987 (42 U.S.C. 3608a) is amended—

(1) in subsection (a)—

(A) in the first sentence—

(i) by striking "the Secretary of Housing and Urban Development and"; and

(ii) by striking "each", the first place it appears; and

(B) in the second sentence, by striking "involved"; and

(2) in subsection (b)—

(A) by striking "The Secretary of Housing and Urban Development and the" and inserting "The"; and

(B) by striking "each".

SEC. 1072. REPORTS MODIFIED.

(a) REPORT ON HOMEOWNERSHIP OF MULTIFAMILY UNITS PROGRAM.—Section 431 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12880) is amended—

(1) in the section heading, by striking "**ANNUAL**"; and

(2) by striking "The Secretary shall annually" and inserting "The Secretary shall no later than December 31, 1995,".

(b) TRIENNIAL AUDIT OF TRANSACTIONS OF NATIONAL HOMEOWNERSHIP FOUNDATION.—Section 107(g)(1) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701y(g)(1)) is amended by striking the last sentence.

(c) REPORT ON LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM.—Section 2605(h) of the Low-Income Home Energy Assistance Act of 1981 (Public Law 97-35; 42 U.S.C. 8624(h)), is amended by striking out "(but not less frequently than every three years),".

Subtitle H—Department of the Interior

SEC. 1081. REPORTS ELIMINATED.

(a) REPORT ON AUDITS IN FEDERAL ROYALTY MANAGEMENT SYSTEM.—Section 17(j) of the Mineral Leasing Act (30 U.S.C. 226(j)) is amended by striking the last sentence.

(b) REPORT ON DOMESTIC MINING, MINERALS, AND MINERAL RECLAMATION INDUSTRIES.—Section 2 of the Mining and Minerals Policy Act of 1970 (30 U.S.C. 21a) is amended by striking the last sentence.

(c) REPORT ON PHASE I OF THE HIGH PLAINS STATES GROUNDWATER DEMONSTRATION PROJECT.—Section 3(d) of the High Plains States Groundwater Demonstration Program Act of 1983 (43 U.S.C. 390g-1(d)) is repealed.

(d) REPORT ON RECLAMATION REFORM ACT COMPLIANCE.—Section 224(g) of the Reclamation Reform Act of 1982 (43 U.S.C. 390ww(g)) is amended by striking the last 2 sentences.

(e) REPORT ON GEOLOGICAL SURVEYS CONDUCTED OUTSIDE THE DOMAIN OF THE UNITED STATES.—Section 2 of Public Law 87-626 (43 U.S.C. 31(c)) is repealed.

(f) REPORT ON RECREATION USE FEES.—Section 4(h) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-6a(h)) is repealed.

SEC. 1082. REPORTS MODIFIED.

(a) REPORT ON LEVELS OF THE OGALLALA AQUIFER.—Title III of the Water Resources Research Act of 1984 (42 U.S.C. 10301 note) is amended—

(1) in section 306, by striking "annually" and inserting "biennially"; and

(2) in section 308, by striking "intervals of one year" and inserting "intervals of 2 years".

(b) REPORT ON EFFECTS OF OUTER CONTINENTAL SHELF LEASING ACTIVITIES ON HUMAN, MARINE, AND COASTAL ENVIRONMENTS.—Section 20(e) of the Outer Continental Shelf Lands Act (43 U.S.C. 1346(e)) is amended by striking "each fiscal year" and inserting "every 3 fiscal years".

Subtitle I—Department of Justice

SEC. 1091. REPORTS ELIMINATED.

(a) REPORT ON DRUG INTERDICTION TASK FORCE.—Section 3301(a)(1)(C) of the National Drug Interdiction Act of 1986 (21 U.S.C. 801 note; Public Law 99-570; 100 Stat. 3207-98) is repealed.

(b) REPORT ON EQUAL ACCESS TO JUSTICE.—Section 2412(d)(5) of title 28, United States Code, is repealed.

(c) REPORT ON FEDERAL OFFENDER CHARACTERISTICS.—Section 3624(f)(6) of title 18, United States Code, is repealed.

(d) REPORT ON COSTS OF DEATH PENALTY.—The Anti-Drug Abuse Act of 1988 (Public Law 100-690; 102 Stat. 4395; 21 U.S.C. 848 note) is amended by striking out section 7002.

(e) MINERAL LEASING ACT.—Section 8B of the Mineral Leasing Act (30 U.S.C. 208-2) is repealed.

(f) SMALL BUSINESS ACT.—Subsection (c) of section 10 of the Small Business Act (15 U.S.C. 639(c)) is repealed.

(g) ENERGY POLICY AND CONSERVATION ACT.—Section 252(i) of the Energy Policy Conservation Act (42 U.S.C. 6272(i)) is amended by striking ", at least once every 6 months, a report" and inserting ", at such intervals as are appropriate based on significant developments and issues, reports".

(h) REPORT ON FORFEITURE FUND.—Section 524(c) of title 28, United States Code, is amended—

(1) by striking out paragraph (7); and

(2) by redesignating paragraphs (8) through (12) as paragraphs (7) through (11), respectively.

Subtitle J—Department of Labor

SEC. 1101. REPORTS ELIMINATED.

Section 408(d) of the Veterans Education and Employment Amendments of 1989 (38 U.S.C. 4100 note) is repealed.

SEC. 1102. REPORTS MODIFIED.

(a) REPORT ON THE ACTIVITIES CONDUCTED UNDER THE FAIR LABOR STANDARDS ACT OF 1938.—Section 4(d)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 204(d)(1)) is amended—

(1) by striking "annually" and inserting "biennially"; and

(2) by striking "preceding year" and inserting "preceding two years".

(b) ANNUAL REPORT OF THE OFFICE OF WORKERS' COMPENSATION.—

(1) REPORT ON THE ADMINISTRATION OF THE LONGSHORE AND HARBOR WORKERS' COMPENSATION ACT.—Section 42 of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 942) is amended—

(A) by striking "beginning of each" and all that follows through "Amendments of 1984" and inserting "end of each fiscal year"; and

(B) by adding the following new sentence at the end: "Such report shall include the annual reports required under section 426(b) of the Black Lung Benefits Act (30 U.S.C. 936(b)) and section 8152 of title 5, United States Code, and shall be identified as the Annual Report of the Office of Workers' Compensation Programs.".

(2) REPORT ON THE ADMINISTRATION OF THE BLACK LUNG BENEFITS PROGRAM.—Section 426(b) of the Black Lung Benefits Act (30 U.S.C. 936(b)) is amended—

(A) by striking "Within" and all that follows through "Congress the" and inserting "At the end of each fiscal year, the"; and

(B) by adding the following new sentence at the end: "Each such report shall be prepared and submitted to Congress in accordance with the requirement with respect to submission under section 42 of the Longshore Harbor Workers' Compensation Act (33 U.S.C. 942).".

(3) REPORT ON THE ADMINISTRATION OF THE FEDERAL EMPLOYEES' COMPENSATION ACT.—(A) Subchapter I of chapter 81 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 8152. Annual report

"The Secretary of Labor shall, at the end of each fiscal year, prepare a report with respect to the administration of this chapter.

Such report shall be submitted to Congress in accordance with the requirement with respect to submission under section 42 of the Longshore Harbor Workers' Compensation Act (33 U.S.C. 942).".

(B) The table of sections for chapter 81 of title 5, United States Code, is amended by inserting after the item relating to section 8151 the following:

"8152. Annual report.".

(c) ANNUAL REPORT ON THE DEPARTMENT OF LABOR.—Section 9 of an Act entitled "An Act to create a Department of Labor", approved March 4, 1913 (29 U.S.C. 560) is amended by striking "make a report" and all that follows through "the department" and inserting "prepare and submit to Congress the financial statements of the Department that have been audited".

Subtitle K—Department of State

SEC. 1111. REPORTS ELIMINATED.

(a) REPORT ON AUDIT OF USE OF FUNDS FOR U.N. HIGH COMMISSIONER FOR REFUGEES.—Section 8 of the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2606) is amended by striking subsection (b), and redesignating subsection (c) as subsection (b).

(b) REPORT ON MATTERS RELATING TO FOREIGN RELATIONS AND SCIENCE AND TECHNOLOGY.—Section 503(b) of the Foreign Relations Authorization Act, Fiscal Year 1979 (22 U.S.C. 2656c(b)) is repealed.

SEC. 1112. INTERNATIONAL NARCOTICS CONTROL.

(a) Section 489A of the Foreign Assistance Act of 1961 (22 U.S.C. 2291i) is repealed.

(b) Section 490A of that Act (22 U.S.C. 2291k) is repealed.

(c) Section 489 of that Act (22 U.S.C. 2291h) is amended—

(1) in the section heading by striking **"FOR FISCAL YEAR 1995"**; and

(2) by striking subsection (c).

(d) Section 490 of that Act (22 U.S.C. 2291j) is amended—

(1) in the section heading by striking **"FOR FISCAL YEAR 1995"**; and

(2) by striking subsection (i).

Subtitle L—Department of Transportation

SEC. 1121. REPORTS ELIMINATED.

(a) REPORT ON DEEPWATER PORT ACT OF 1974.—Section 20 of the Deepwater Port Act of 1974 (33 U.S.C. 1519) is repealed.

(b) REPORT ON COAST GUARD LOGISTICS CAPABILITIES CRITICAL TO MISSION PERFORMANCE.—Sections 5(a)(2) and 5(b) of the Coast Guard Authorization Act of 1988 (10 U.S.C. 2304 note) are repealed.

(c) REPORT ON MARINE PLASTIC POLLUTION RESEARCH AND CONTROL ACT OF 1987.—Section 2201(a) of the Marine Plastic Pollution Research and Control Act of 1987 (33 U.S.C. 1902 note) is amended by striking "biennially" and inserting "triennially".

(d) REPORT ON HIGHWAY SAFETY PROGRAM STANDARDS.—Section 402(a) of title 23, United States Code, is amended by striking the fifth sentence.

(e) REPORT ON RAILROAD-HIGHWAY DEMONSTRATION PROJECTS.—Section 163(o) of the Federal-Aid Highway Act of 1973 (23 U.S.C. 130 note) is repealed.

(f) REPORT ON UNIFORM RELOCATION ACT AMENDMENTS OF 1987.—Section 103(b)(2) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4604(b)(2)) is repealed.

(g) REPORT ON FEDERAL RAILROAD SAFETY.—(1) Section 20116 of title 49, United States Code, is repealed.

(2) The table of sections at the beginning of chapter 201 of title 49, United States Code, is amended by striking the item relating to section 20116.

(h) REPORT ON RAILROAD FINANCIAL ASSISTANCE.—Section 308(d) of title 49, United States Code, is repealed.

(i) REPORT ON USE OF ADVANCED TECHNOLOGY BY THE AUTOMOBILE INDUSTRY.—Section 305 of the Automotive Propulsion Research and Development Act of 1978 (15 U.S.C. 2704) is amended by striking the last sentence.

(j) REPORT ON SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION.—Section 10(a) of the Act of May 13, 1954 (68 Stat. 96, chapter 201; 33 U.S.C. 989(a)) is repealed.

(k) REPORTS ON PIPELINES ON FEDERAL LANDS.—Section 28(w)(4) of the Mineral Leasing Act (30 U.S.C. 185(w)(4)) is repealed.

"(2) For any species determined to be an endangered species or a threatened species under section 4(a), or proposed for listing under section 4(b), prior to the effective date of this section, and for any species for which a final recovery plan has not been published prior to January 1, 1993, the Secretary shall develop and implement a final recovery plan pursuant to the requirements of this section not later than 2 years after the effective date of this section.

"(3) The Secretary shall prepare and publish in the Federal Register a notice of availability of, and request for public comment on, a draft version of any revision of a recovery plan.

"(4) The Secretary shall hold a public hearing on the draft version of each new or revised recovery plan in each county or parish to which the version applies.

"(5) Prior to the decision to adopt a final version of each new or revised recovery plan, the Secretary shall consider all information presented during each hearing held pursuant to paragraph (4) and received in response to the request for comments contained in the final regulation specified in paragraph (1)(A) or the Federal Register notice specified in paragraph (4). The Secretary shall publish the response of the Secretary to all information presented in such testimony or comments in the final version of the new or revised recovery plan.

"(6) Prior to implementation of a new or revised recovery plan, each affected Federal agency shall consider separately all information presented during each hearing held pursuant to paragraph (5) and received in response to the request for comments contained in the final regulation specified in paragraph (1)(A) or the Federal Register notice specified in paragraph (4).

(l) REPORT ON PIPELINE SAFETY.—Section 60124(a) of title 49, United States Code, is amended in the first sentence by striking "of each year" and inserting "of each odd-numbered year".

SEC. 1122. REPORTS MODIFIED.

(a) REPORT ON OIL SPILL LIABILITY TRUST FUND.—The quarterly report regarding the Oil Spill Liability Trust Fund required to be submitted to the House and Senate Committees on Appropriations under House Report 101-892, accompanying the appropriations for the Coast Guard in the Department of Transportation and Related Agencies Appropriations Act, 1991, shall be submitted not later than 30 days after the end of the fiscal year in which this Act is enacted and annually thereafter.

(b) REPORT ON JOINT FEDERAL AND STATE MOTOR FUEL TAX COMPLIANCE PROJECT.—Section 1040(d)(1) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 101 note) is amended by striking "September 30 and".

Subtitle M—Department of the Treasury

SEC. 1131. REPORTS ELIMINATED.

(a) REPORT ON THE OPERATION AND STATUS OF STATE AND LOCAL GOVERNMENT FISCAL ASSISTANCE TRUST FUND.—Paragraph (8) of section 14001(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (31 U.S.C. 6701 note) is repealed.

(b) REPORT ON THE ANTIRECESSION PROVISIONS OF THE PUBLIC WORKS EMPLOYMENT ACT OF 1976.—Section 213 of the Public Works Employment Act of 1976 (42 U.S.C. 6733) is repealed.

(c) REPORT ON THE ASBESTOS TRUST FUND.—Paragraph (2) of section 5(c) of the Asbestos Hazard Emergency Response Act of 1986 (20 U.S.C. 4022(c)) is repealed.

SEC. 1132. REPORTS MODIFIED.

(a) REPORT ON THE WORLD CUP USA 1994 COMMEMORATIVE COIN ACT.—Subsection (g) of section 205 of the World Cup USA 1994 Commemorative Coin Act (31 U.S.C. 5112 note) is amended by striking "month" and inserting "calendar quarter".

(b) REPORTS ON VARIOUS FUNDS.—Subsection (b) of section 321 of title 31, United States Code, is amended—

(1) by striking "and" at the end of paragraph (5),

(2) by striking the period at the end of paragraph (6) and inserting "; and", and

(3) by adding after paragraph (6) the following new paragraph:

"(7) notwithstanding any other provision of law, fulfill any requirement to issue a report on the financial condition of any fund on the books of the Treasury by including the required information in a consolidated report, except that information with respect to a specific fund shall be separately reported if the Secretary determines that the consolidation of such information would result in an unwarranted delay in the availability of such information.".

(c) REPORT ON THE JAMES MADISON-BILL OF RIGHTS COMMEMORATIVE COIN ACT.—Subsection (c) of section 506 of the James Madison-Bill of Rights Commemorative Coin Act (31 U.S.C. 5112 note) is amended by striking out "month" each place it appears and inserting in lieu thereof "calendar quarter".

Subtitle N—Department of Veterans Affairs

SEC. 1141. REPORTS ELIMINATED.

(a) REPORT ON ADEQUACY OF RATES FOR STATE HOME CARE.—Section 1741 of title 38, United States Code, is amended—

(1) by striking out subsection (c); and

(2) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

(b) REPORT ON LOANS TO PURCHASE MANUFACTURED HOMES.—Section 3712 of title 38, United States Code, of is amended—

(1) by striking out subsection (l); and

(2) by redesignating subsection (m) as subsection (l).

(c) REPORT ON COMPLIANCE WITH FUNDED PERSONNEL CODING.—

(1) REPEAL OF REPORT REQUIREMENT.—Section 8110(a)(4) of title 38, United States Code, is amended by striking out subparagraph (C).

(2) CONFORMING AMENDMENTS.—Section 8110(a)(4) of title 38, United States Code, is amended by—

(A) redesignating subparagraph (D) as subparagraph (C);

(B) in subparagraph (A), by striking out "subparagraph (D)" and inserting in lieu thereof "subparagraph (C)"; and

(C) in subparagraph (B), by striking out "subparagraph (D)" and inserting in lieu thereof "subparagraph (C)".

TITLE II—INDEPENDENT AGENCIES

Subtitle A—Action

SEC. 2011. REPORTS ELIMINATED.

Section 226 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5026) is amended—

(1) by striking subsection (b); and

(2) in subsection (a)—

(A) in paragraph (2), by striking "(2)" and inserting "(b)"; and

(B) in paragraph (1)—

(i) by striking "(1)(A)" and inserting "(1)"; and

(ii) in subparagraph (B)—

(I) by striking "(B)" and inserting "(2)"; and

(II) by striking "subparagraph (A)" and inserting "paragraph (1)".

Subtitle B—Environmental Protection Agency

SEC. 2021. REPORTS ELIMINATED.

(a) REPORT ON ALLOCATION OF WATER.—Section 102 of the Federal Water Pollution Control Act (33 U.S.C. 1252) is amended by striking subsection (d).

(b) REPORT ON VARIANCE REQUESTS.—Section 301(n)(8) of the Federal Water Pollution Control Act (33 U.S.C. 1311(n)(8)) is amended by striking "Every 6 months after the date of the enactment of this subsection, the Administrator shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation" and inserting "By January 1, 1997, and January 1 of every odd-numbered year thereafter, the Administrator shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure".

(c) REPORT ON IMPLEMENTATION OF CLEAN LAKES PROJECTS.—Section 314(d)(3) of the Federal Water Pollution Control Act (33 U.S.C. 1324(d)(3)) is amended by striking "The Administrator shall report annually to the Committee on Public Works and Transportation" and inserting "By January 1, 1997, and January 1 of every odd-numbered year thereafter, the Administrator shall report to the Committee on Transportation and Infrastructure".

(d) REPORT ON USE OF MUNICIPAL SECONDARY EFFLUENT AND SLUDGE.—Section 516 of the Federal Water Pollution Control Act (33 U.S.C. 1375) is amended—

(1) by striking subsection (d); and

(2) by redesignating subsections (e) and (g) as subsections (d) and (e), respectively.

(e) REPORT ON CERTAIN WATER QUALITY STANDARDS AND PERMITS.—Section 404 of the Water Quality Act of 1987 (Public Law 100–4; 33 U.S.C. 1375 note) is amended—

(1) by striking subsection (c); and

(2) by redesignating subsection (d) as subsection (c).

(f) REPORT ON CLASS V WELLS.—Section 1426 of title XIV of the Public Health Service Act (commonly known as the "Safe Drinking Water Act") (42 U.S.C. 300h–5) is amended—

(1) in subsection (a), by striking "(a) MONITORING METHODS.—"; and

(2) by striking subsection (b).

(g) REPORT ON SOLE SOURCE AQUIFER DEMONSTRATION PROGRAM.—Section 1427 of title XIV of the Public Health Service Act (commonly known as the "Safe Drinking Water Act") (42 U.S.C. 300h–6) is amended—

(1) by striking subsection (l); and

(2) by redesignating subsections (m) and (n) as subsections (l) and (m), respectively.

(h) REPORT ON SUPPLY OF SAFE DRINKING WATER.—Section 1442 of title XIV of the Public Health Service Act (commonly known as the "Safe Drinking Water Act") (42 U.S.C. 300h–6) is amended—

(1) by striking subsection (c);

(2) by redesignating subsection (d) as subsection (c); and

(3) by redesignating subsections (f) and (g) as subsections (d) and (e), respectively.

(i) REPORT ON NONNUCLEAR ENERGY AND TECHNOLOGIES.—Section 11 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5910) is repealed.

(j) REPORT ON EMISSIONS AT COAL-BURNING POWERPLANTS.—

(1) Section 745 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8455) is repealed.

(2) The table of contents in section 101(b) of such Act (42 U.S.C. prec. 8301) is amended by striking the item relating to section 745.

(k) 5-YEAR PLAN FOR ENVIRONMENTAL RESEARCH, DEVELOPMENT, AND DEMONSTRATION.—

(1) Section 5 of the Environmental Research, Development, and Demonstration Authorization Act of 1976 (42 U.S.C. 4361) is repealed.

(2) Section 4 of the Environmental Research, Development, and Demonstration Authorization Act of 1978 (42 U.S.C. 4361a) is repealed.

(3) Section 8 of such Act (42 U.S.C. 4365) is amended—

(A) by striking subsection (c); and

(B) by redesignating subsections (e) through (i) as subsections (c) through (g), respectively.

(l) PLAN ON ASSISTANCE TO STATES FOR RADON PROGRAMS.—Section 305 of the Toxic Substances Control Act (15 U.S.C. 2665) is amended—

(1) by striking subsection (d); and

(2) by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

Subtitle C—Equal Employment Opportunity Commission

SEC. 2031. REPORTS MODIFIED.

Section 705(k)(2)(C) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–4(k)(2)(C)) is amended—

(1) in the matter preceding clause (i), by striking "including" and inserting "including information, presented in the aggregate, relating to";

(2) in clause (i), by striking "the identity of each person or entity" and inserting "the number of persons and entities";

(3) in clause (ii), by striking "such person or entity" and inserting "such persons and entities"; and

(4) in clause (iii)—

(A) by striking "fee" and inserting "fees"; and

(B) by striking "such person or entity" and inserting "such persons and entities".

Subtitle D—Federal Aviation Administration

SEC. 2041. REPORTS ELIMINATED.

The provision that was section 7207(c)(4) of the Anti-Drug Abuse Act of 1988 (Public Law 100–690; 102 Stat. 4428; 49 U.S.C. App. 1354 note) is amended—

(1) by striking out "GAO"; and

(2) by striking out "the Comptroller General" and inserting in lieu thereof "the Department of Transportation Inspector General".

Subtitle E—Federal Communications Commission

SEC. 2051. REPORTS ELIMINATED.

(a) REPORT TO THE CONGRESS UNDER THE COMMUNICATIONS SATELLITE ACT OF 1962.—Section 404(c) of the Communications Satellite Act of 1962 (47 U.S.C. 744(c)) is repealed.

(b) REIMBURSEMENT FOR AMATEUR EXAMINATION EXPENSES.—Section 4(f)(4)(J) of the Communications Act of 1934 (47 U.S.C. 154(f)(4)(J)) is amended by striking out the last sentence.

Subtitle F—Federal Deposit Insurance Corporation

SEC. 2061. REPORTS ELIMINATED.

Section 102(b)(1) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (Public Law 102–242; 105 Stat. 2237; 12 U.S.C. 1825 note) is amended to read as follows:

"(1) QUARTERLY REPORTING.—Not later than 90 days after the end of any calendar quarter in which the Federal Deposit Insurance Corporation (hereafter in this section referred to as the 'Corporation') has any obligations pursuant to section 14 of the Federal Deposit Insurance Act outstanding, the Comptroller General of the United States shall submit a report on the Corporation's compliance at the end of that quarter with section 15(c) of the Federal Deposit Insurance Act to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives. Such a report shall be included in the Comptroller General's audit report for that year, as required by section 17 of the Federal Deposit Insurance Act.".

Subtitle G—Federal Emergency Management Agency

SEC. 2071. REPORTS ELIMINATED.

Section 611(i) of The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196(i)) is amended—

(1) by striking paragraph (3); and

(2) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

Subtitle H—Federal Retirement Thrift Investment Board

SEC. 2081. REPORTS ELIMINATED.

Section 9503 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) The requirements of this section are satisfied with respect to the Thrift Savings Plan described under subchapter III of chapter 84 of title 5, by preparation and transmission of the report described under section 8439(b) of such title.".

Subtitle I—General Services Administration

SEC. 2091. REPORTS ELIMINATED.

(a) REPORT ON PROPERTIES CONVEYED FOR HISTORIC MONUMENTS AND CORRECTIONAL FACILITIES.—Section 203(o) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(o)) is amended—

(1) by striking out paragraph (1);

(2) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively; and

(3) in paragraph (2) (as so redesignated) by striking out "paragraph (2)" and inserting in lieu thereof "paragraph (3)".

(b) REPORT ON PROPERTIES CONVEYED FOR WILDLIFE CONSERVATION.—Section 3 of the Act entitled "An Act authorizing the transfer of certain real property for wildlife, or other purposes.", approved May 19, 1948 (16 U.S.C. 667d; 62 Stat. 241) is amended by striking out "and shall be included in the annual budget transmitted to the Congress".

Subtitle J—Interstate Commerce Commission

SEC. 2101. REPORTS ELIMINATED.

Section 10327(k) of title 49, United States Code, is amended to read as follows:

"(k) If an extension granted under subsection (j) is not sufficient to allow for completion of necessary proceedings, the Commission may grant a further extension in an extraordinary situation if a majority of the Commissioners agree to the further extension by public vote.".

Subtitle K—Legal Services Corporation

SEC. 2111. REPORTS MODIFIED.

Section 1009(c)(2) of the Legal Services Corporation Act (42 U.S.C. 2996h(c)(2)) is amended by striking out "The" and inserting in lieu thereof "Upon request, the".

Subtitle L—National Aeronautics and Space Administration

SEC. 2121. REPORTS ELIMINATED.

Section 21(g) of the Small Business Act (15 U.S.C. 648(g)) is amended to read as follows:

"(g) NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AND REGIONAL TECHNOLOGY TRANSFER CENTERS.—The National Aeronautics and Space Administration and regional technology transfer centers supported by the National Aeronautics and Space Administration are authorized and directed to cooperate with small business development centers participating in the program.".

Subtitle M—National Council on Disability

SEC. 2131. REPORTS ELIMINATED.

Section 401(a) of the Rehabilitation Act of 1973 (29 U.S.C. 781(a)) is amended—

(1) by striking paragraph (9); and

(2) by redesignating paragraphs (10) and (11) as paragraphs (9) and (10), respectively.

Subtitle N—National Science Foundation

SEC. 2141. REPORTS ELIMINATED.

(a) STRATEGIC PLAN FOR SCIENCE AND ENGINEERING EDUCATION.—Section 107 of the Education for Economic Security Act (20 U.S.C. 3917) is repealed.

(b) BUDGET ESTIMATE.—Section 14 of the National Science Foundation Act of 1950 (42 U.S.C. 1873) is amended by striking subsection (j).

Subtitle O—National Transportation Safety Board

SEC. 2151. REPORTS MODIFIED.

Section 1117 of title 49, United States Code, is amended—

(1) in paragraph (2) by adding "and" after the semicolon;

(2) in paragraph (3) by striking out "; and" and inserting in lieu thereof a period; and

(3) by striking out paragraph (4).

Subtitle P—Neighborhood Reinvestment Corporation

SEC. 2161. REPORTS ELIMINATED.

Section 607(c) of the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8106(c)) is amended by striking the second sentence.

Subtitle Q—Nuclear Regulatory Commission

SEC. 2171. REPORTS MODIFIED.

Section 208 of the Energy Reorganization Act of 1974 (42 U.S.C. 5848) is amended by striking "each quarter a report listing for that period" and inserting "an annual report listing for the previous fiscal year".

Subtitle R—Office of Personnel Management

SEC. 2181. REPORTS ELIMINATED.

(a) REPORT ON SENIOR EXECUTIVE SERVICE.—(1) Section 3135 of title 5, United States Code, is repealed.

(2) The table of sections for chapter 31 of title 5, United States Code, is amended by striking out the item relating to section 3135.

(b) REPORT ON PERFORMANCE AWARDS.—Section 4314(d) of title 5, United States Code, is repealed.

(c) REPORT ON TRAINING PROGRAMS.—(1) Section 4113 of title 5, United States Code, is repealed.

(2) The table of sections for chapter 41 of title 5, United States Code, is amended by striking out the item relating to section 4113.

(d) REPORT ON PREVAILING RATE SYSTEM.—Section 5347(e) of title 5, United States Code, is amended by striking out the fourth and fifth sentences.

(e) REPORT ON ACTIVITIES OF THE MERIT SYSTEMS PROTECTION BOARD AND THE OFFICE OF PERSONNEL MANAGEMENT.—Section 2304 of title 5, United States Code, is amended—

(1) in subsection (a) by striking out "(a)"; and

(2) by striking subsection (b).

SEC. 2182. REPORTS MODIFIED.

Section 1304(e)(6) of title 5, United States Code, is amended by striking out "at least once every 3 years".

Subtitle S—Office of Thrift Supervision

SEC. 2191. REPORTS MODIFIED.

Section 18(c)(6)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1438(c)(6)(B)) is amended—

(1) by striking out "annually";

(2) by striking out "audit, settlement," and inserting in lieu thereof "settlement"; and

(3) by striking out ", and the first audit" and all that follows through "enacted".

Subtitle T—Panama Canal Commission

SEC. 2201. REPORTS ELIMINATED.

(a) REPORTS ON PANAMA CANAL.—Section 1312 of the Panama Canal Act of 1979 (Public Law 96-70; 22 U.S.C. 3722) is repealed.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents in section 1 of such Act is amended by striking out the item relating to section 1312.

Subtitle U—Postal Service

SEC. 2211. REPORTS MODIFIED.

(a) REPORT ON CONSUMER EDUCATION PROGRAMS.—Section 4(b) of the Mail Order Consumer Protection Amendments of 1983 (39 U.S.C. 3005 note; Public Law 98-186; 97 Stat. 1318) is amended to read as follows:

"(b) A summary of the activities carried out under subsection (a) shall be included in the first semiannual report submitted each year as required under section 5 of the Inspector General Act of 1978 (5 U.S.C. App.).".

(b) REPORT ON INVESTIGATIVE ACTIVITIES.—Section 3013 of title 39, United States Code, is amended in the last sentence by striking out "the Board shall transmit such report to the Congress" and inserting in lieu thereof "the information in such report shall be included in the next semiannual report required under section 5 of the Inspector General Act of 1978 (5 U.S.C. App.)".

Subtitle V—Railroad Retirement Board

SEC. 2221. REPORTS MODIFIED.

(a) COMBINATION OF REPORTS.—Section 502 of the Railroad Retirement Solvency Act of 1983 (45 U.S.C. 231f-1) is amended by striking "On or before July 1, 1985, and each calendar year thereafter" and inserting "As part of the annual report required under section 22(a) of the Railroad Retirement Act of 1974 (45 U.S.C. 231u(a))".

(b) MODIFICATION OF DATES FOR PROJECTION AND REPORT—Section 22 of the Railroad Retirement Act of 1974 (45 U.S.C. 231u) is amended—

(1) by striking "February 1" and inserting "May 1"; and

(2) by striking "April 1" and inserting "July 1".

Subtitle W—Thrift Depositor Protection Oversight Board

SEC. 2231. REPORTS MODIFIED.

Section 21A(k)(9) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(k)(9)) is amended by striking out "the end of each calendar quarter" and inserting in lieu thereof "June 30 and December 31 of each calendar year".

Subtitle X—United States Information Agency

SEC. 2241. REPORTS ELIMINATED.

Notwithstanding section 601(c)(4) of the Foreign Service Act of 1980 (22 U.S.C. 4001(c)(4)), the reports otherwise required under such section shall not cover the activities of the United States Information Agency.

TITLE III—REPORTS BY ALL DEPARTMENTS AND AGENCIES

SEC. 3001. REPORTS ELIMINATED.

(a) REPORT ON PART-TIME EMPLOYMENT.—(1) Section 3407 of title 5, United States Code, is repealed.

(2) The table of sections for chapter 34 of title 5, United States Code, is amended by striking out the item relating to section 3407.

(b) SEMIANNUAL REPORT ON LOBBYING.—Section 1352 of title 31, United States Code, is amended by—

(1) striking out subsection (d); and

(2) redesignating subsections (e), (f), (g), and (h) as subsections (d), (e), (f), and (g), respectively.

(c) REPORTS ON PROGRAM FRAUD AND CIVIL REMEDIES.—(1) Section 3810 of title 31, United States Code, is repealed.

(2) The table of sections for chapter 38 of title 31, United States Code, is amended by striking out the item relating to section 3810.

(d) REPORT ON RIGHT TO FINANCIAL PRIVACY ACT.—Section 1121 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3421) is repealed.

(e) REPORT ON PLANS TO CONVERT TO THE METRIC SYSTEM.—Section 12 of the Metric Conversion Act of 1975 (15 U.S.C. 205j-1) is repealed.

(f) REPORT ON TECHNOLOGY UTILIZATION AND INTELLECTUAL PROPERTY RIGHTS.—Section 11(f) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(f)) is repealed.

(g) REPORT ON EXTRAORDINARY CONTRACTUAL ACTIONS TO FACILITATE THE NATIONAL DEFENSE.—Section 4(a) of the Act entitled "An Act to authorize the making, amendment, and modification of contracts to facilitate the national defense", approved August 28, 1958 (50 U.S.C. 1434(a)), is amended by striking out "all such actions taken" and inserting in lieu thereof "if any such action has been taken".

(h) REPORTS ON DETAILING EMPLOYEES.—Section 619 of the Treasury, Postal Service, and General Government Appropriations Act, 1993 (Public Law 102-393; 106 Stat. 1769), is repealed.

SEC. 3002. REPORTS MODIFIED.

Section 552b(j) of title 5, United States Code, is amended to read as follows:

"(j) Each agency subject to the requirements of this section shall annually report to the Congress regarding the following:

"(1) The changes in the policies and procedures of the agency under this section that have occurred during the preceding 1-year period.

"(2) A tabulation of the number of meetings held, the exemptions applied to close meetings, and the days of public notice provided to close meetings.

"(3) A brief description of litigation or formal complaints concerning the implementation of this section by the agency.

"(4) A brief explanation of any changes in law that have affected the responsibilities of the agency under this section.".

SEC. 3003. TERMINATION OF REPORTING REQUIREMENTS.

(a) TERMINATION.—

(1) IN GENERAL.—Subject to the provisions of paragraph (2) of this subsection and subsection (d), each provision of law requiring the submittal to Congress (or any committee of the Congress) of any annual, semiannual, or other regular periodic report specified on the list described under subsection (c) shall cease to be effective, with respect to that requirement, 4 years after the date of the enactment of this Act.

(2) EXCEPTION.—The provisions of paragraph (1) shall not apply to any report required under—

(A) the Inspector General Act of 1978 (5 U.S.C. App.); or

(B) the Chief Financial Officers Act of 1990 (Public Law 101-576), including provisions enacted by the amendments made by that Act.

(b) IDENTIFICATION OF WASTEFUL REPORTS.—The President shall include in the first annual budget submitted pursuant to section 1105 of title 31, United States Code, after the date of enactment of this Act a list of reports that the President has determined are unnecessary or wasteful and the reasons for such determination.

(c) LIST OF REPORTS.—The list referred to under subsection (a) is the list prepared by the Clerk of the House of Representatives for the first session of the 103d Congress under clause 2 of rule III of the Rules of the House of Representatives (House Document No. 103-7).

(d) SPECIFIC REPORTS EXEMPTED.—Subsection (a)(1) shall not apply to any report required under—

(1) section 116 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n);

(2) section 306 of that Act (22 U.S.C. 2226);

(3) section 489 of that Act (22 U.S.C. 2291h);

(4) section 502B of that Act (22 U.S.C. 2304);

(5) section 634 of that Act (22 U.S.C. 2394);

(6) section 406 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (22 U.S.C. 2414a);

(7) section 25 of the Arms Export Control Act (22 U.S.C. 2765);

(8) section 28 of that Act (22 U.S.C. 2768);

(9) section 36 of that Act (22 U.S.C. 2776);

(10) section 6 of the Multinational Force and Observers Participation Resolution (22 U.S.C. 3425);

(11) section 104 of the FREEDOM Support Act (22 U.S.C. 5814);

(12) section 508 of that Act (22 U.S.C. 5858);

(13) section 4 of the War Powers Resolution (50 U.S.C. 1543);

(14) section 204 of the International Emergency Economic Powers Act (50 U.S.C. 1703);

(15) section 14 of the Export Administration Act of 1979 (50 U.S.C. App. 2413);

(16) section 207 of the International Economic Policy Act of 1972 (Public Law 92-412; 86 Stat. 648);

(17) section 4 of Public Law 93-121 (87 Stat. 448);

(18) section 108 of the National Security Act of 1947 (50 U.S.C. 404a);

(19) section 704 of the Support for East European Democracy (SEED) Act of 1989 (22 U.S.C. 5474);

(20) section 804 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246; 104 Stat. 72);

(21) section 140 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f);

(22) section 2 of the Act of September 21, 1950 (Chapter 976; 64 Stat. 903);

(23) section 3301 of the Panama Canal Act of 1979 (22 U.S.C. 3871);

(24) section 2202 of the Export Enhancement Act of 1988 (15 U.S.C. 4711);

(25) section 1504 of Public Law 103-160 (10 U.S.C. 402 note);

(26) section 502 of the International Security and Development Coordination Act of 1985 (22 U.S.C. 2349aa-7);

(27) section 23 of the Act of August 1, 1956 (Chapter 841; (22 U.S.C. 2694(2));

(28) section 5(c)(5) of the Export Administration Act of 1979 (50 U.S.C. App. 2404(c)(5);

(29) section 14 of the Export Administration Act of 1979 (50 U.S.C. App. 2413;

(30) section 50 of Public Law 87-297 (22 U.S.C. 2590);

(31) section 240A of the Foreign Assistance Act of 1961 (22 U.S.C. 2200a); or

(32) section 604 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1469).

Mr. CLINGER (during the reading). Madam Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

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

There was no objection.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania, Mr. CLINGER, will be recognized for 30 minutes, and the gentleman from Texas, Mr. GENE GREEN, will be recognized for 30 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. CLINGER].

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

Madam Speaker, I am pleased today to offer S. 790, the Federal Reports Elimination and Sunset Act of 1995, which streamlines Federal reporting requirements by cutting and reforming more than 200 congressionally mandated reporting requirements.

This bill was originally part of the Senate-passed version of the Paperwork Reduction Act. Senators MCCAIN and LEVIN are credited with the original concept of the provisions in this bill and I commend them for all the time that was put into this effort. While I was chairing the Paperwork Reduction Act conference it was agreed to that this effort merited separate introduction as freestanding legislation. In drafting this bill, every executive branch department and agency was asked to identify reports that could be eliminated. A copy of S. 790 was sent to every Chair and ranking member of every House and Senate full committee for their review. The response by both the majority and minority was overwhelmingly favorably and through this review process we were able to add more reports to this piece of legislation and compile a list of over 200 congressionally mandated reports which will be eliminated or modified.

My colleague from Maryland, Mr. EHRLICH, has recently introduced H.R. 2331 which is the House companion to the S. 790. I commend him for his dilligent efforts in working in the effort to alleviate the executive branch of its heavy paperwork burden. I urge all Members to join me in support of this important bill and I would at this time like to yield, as much time as he may consume, to my colleague from Maryland for an introductory statement.

Madam Speaker, I reserve the balance of my time.

Mr. GENE GREEN of Texas. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise to support S. 790.

In the previous Congresses, this bill would be a typical bill for the Suspension Calendar. It is not controversial and has bipartisan support, including the support of the administration.

This bill simply eliminates reports to Congress that have outlived their usefulness. Senator CARL LEVIN of Michigan instituted this bill last session and has been joined in the session by Senator MCCAIN.

The Federal Report Elimination and Sunset Act of 1995 eliminated over 200 congressionally mandated reports and sunsets most periodic reports authorized before 1982. Over 89 departments and agencies and all committees of the House and Senate were contacted to develop the list of reports to be eliminated.

Madam Speaker, to demonstrate why this report elimination bill is important, let me describe just a couple of the reports eliminated or modified. First is a monthly report required from the Secretary of the Treasury on the sales of the World Cup U.S.A. 1994 commemorative coin. The 1994 World Cup was an exciting event in the United States, but I think we could all agree that the monthly reports on a commemorative coin really serve no good, useful purpose.

The second example is a 1975 requirement that each agency report annually on its efforts to implement the metric system. I am sure there are those in these and each of the other 200 reports eliminated by this that were valuable at one time when they were written.

Continuing to spend the money and time to compile them is not a good use of scarce resources. Again, this is a good example, Madam Speaker, of bipartisanshipness on our committee that I would hope we would see on lots of other issues in Congress.

In reviewing the legislation, our ranking member, the gentlewoman from Illinois [Mrs. COLLINS], wrote to each ranking Democrat on all committees and asked them to review the particular bill. She asked them to advise of any reports listed to be eliminated that were useful to them and should, therefore, be kept. The bill incorporates changes by ranking members, the gentleman from Missouri [Mr. CLAY] and the gentleman from Indiana [Mr. HAMILTON], and those suggestions by Secretary Glickman and also the Railroad Retirement Board.

The bill is estimated to save over $2 million in printing costs and paperwork. Four years from now most of the

remaining congressionally mandated reports, an estimated 3,000, will be sunsetted. The sunset provision will require Congress to decide which reports should be authorized and which should be left behind.

Sunset legislation has been successful in a lot of our individual States, and I am glad to see our U.S. Congress again on a bipartisan basis addressing and using sunset to deal with the number of reports and the paperwork that we have.

With that, Madam Speaker, I am placing additional comments in the RECORD.

Thank you, Madam Speaker. I rise to support S. 790. In previous Congresses, this bill would be a typical bill for the Suspension Calendar. It is not controversial, and has bipartisan support, including the support of the administration. The bill simply eliminates reports to Congress that have outlived their usefulness. Senator CARL LEVIN of Michigan initiated this bill last session and is joined this year by Senator MCCAIN.

The Federal Reports Elimination and Sunset Act of 1995 eliminates almost 200 congressionally mandated reports, and sunsets most periodical reports authorized before 1992. Over 89 Departments and Agencies, and all committees of both the House and the Senate, were contacted to develop the list of reports to be eliminated.

Madam Speaker, to demonstrate why this report elimination bill is so important, let me describe just a couple of the reports that would be eliminated or modified. First is a monthly report required from the Secretary of the Treasury on the sales of the World Cup USA 1994 Commemorative Coin. The 1994 World Cup was an exciting event for the United States, but I think we would all agree that monthly reports on a commemorative coin is not a good use of resources.

The second example is a 1975 requirement that each agency report annually on its efforts to implement the metric system. Now, I am sure that these and each of the 200 other reports eliminated by this bill were valuable at the time they were written. Continuing to spend money and time to compile them is not a good use of scarce resources.

In reviewing this legislation, Mrs. COLLINS wrote to the ranking Democrat on each committee and asked them to review the bill. In particular, I asked them to advise if any of the reports listed to be eliminated were useful to them, and therefore should be kept. This bill incorporates the changes suggested by ranking members CLAY and HAMILTON, and those suggested by Secretary Glickman and the Railroad Retirement Board.

This bill is estimated to save over $2 million in printing costs and paperwork. Four years from now most of the remaining congressionally mandated reports—estimated at over 3,000—will be sunset. The sunset provision will require Congress to decide which reports should be reauthorized, and which should be left behind.

Congressionally mandated reports often serve useful purposes. They are among the oversight tools we use to find out if the intent of the Congress is being followed.

Reports to Congress are as prevalent under the new Republican leadership as they were under Democratic Congresses. For example, the Department of Commerce Dismantling Act, H.R. 1756, which is included in the House-passed Reconciliation bill, requires four reports to Congress from the Director of OMB. That's four reports over 3 years just on the process of dismantling the Department of Commerce.

Similarly, H.R. 4, the House welfare reform bill written by the Republican leadership, requires a number of reports from the Secretary of Health and Human Services, and still more reports to be filed by each State.

This bill, and the Paperwork Reduction Act, show what can be done if we act in a bipartisan way. The Paperwork Reduction Act amendments passed earlier this year sets out a goal of a 10-percent reduction in paperwork for each Department.

In the future, we would be wise to carefully consider reporting requirements in new legislation to see which reports we can do without. Based upon the recent record of this Congress, it appears that more reports than ever are still being required. Congress must police its own paperwork requirements as vigilantly as we expect the administration to curtail its demands on the public.

This bill represents a good first step in this process, and I urge my colleagues to support this bill.

Mr. STARK. Madam Speaker, will the gentleman yield?

Mr. GENE GREEN of Texas. I yield to the gentleman from California.

Mr. STARK. Madam Speaker, I would like to ask the distinguished gentleman from Texas, as this bill deals with Senate bill 790, eliminating and sunsetting acts, and there is a subtitle, F, Department of Health and Human Services; this does not under any circumstances accede to the wishes of Speaker GINGRICH and sunset the Medicare bill, by any chance, does it?

POINTS OF ORDER

Mr. EHRLICH. Madam Speaker, point of order.

The SPEAKER pro tempore. The gentleman will suspend.

The gentleman from Maryland will state his point of order.

Mr. EHRLICH. The gentleman has made a nongermane inquiry to the gentleman from Texas.

Mr. GENE GREEN of Texas. Madam Speaker, if I could be heard, I would just like to be able to answer that.

The SPEAKER pro tempore. The Chair will hear the gentleman.

Mr. GENE GREEN of Texas. Madam Speaker, in response to my colleague from California, I would be glad to go over subtitle F with him, the Department of Health and Human Services and the reports eliminated, and it does not address, you know, the controversy that the Speaker has talked about under Medicare. It does talk about the effects of toxic substances and an annual report from the Surgeon General to be transmitted to the Secretary.

Nowhere under subtitle F of S. 790 does it address the controversy that we see today and hear today concerning the quotes from our Speaker on Medicare.

Mr. EHRLICH. I thank the gentleman.

The SPEAKER pro tempore. The Chair would ask all Members to, please, confine their remarks to the debate on the bill under discussion which deals with the reporting requirements.

Mr. STARK. Madam Speaker, point of order. I believe I was on his time.

Mr. GENE GREEN of Texas. I was responding to the question. I yield additionally to my colleague, the gentleman from California.

The SPEAKER pro tempore. The gentleman from California will state his point of order.

Mr. STARK. No. I just indicated I had the time when the gentleman rose.

The SPEAKER pro tempore. The gentleman may proceed.

Mr. STARK. I thank the Speaker.

If the gentleman from Texas would yield further to enlighten this gentleman on the content of the bill and the intent of S. 790 and particularly subtitle F, eliminating reports of the Department of Health and Human Services, this is a report on Medicare treatment of uncompensated care that is eliminated.

Now, I believe that uncompensated care will increase as the uninsured increase as a result of the Republican bill for destroying or attempting to destroy Medicare and there will be a 50-percent increase in uninsured. The uninsured in this country will go from 40 million today to 66 million by 2002.

Those people will still be entitled to treatment in an emergency room, and normally if they were Medicare patients, that emergency room would, in the normal course of business, reimburse these hospitals.

Now, if we do not know the effect of all of these additional 20 million uninsured as caused as a result of the Gingrich Medicare bill, which attempts to destroy it, how will we be able to know whether the Government is fairly reimbursing the local hospitals which will have to have the increased burden of the Medicare treatment for those who no longer have insurance, particularly those poor seniors whose incomes are under $7,000, who will be cut out of the Medicaid Program if we do not have that information?

Will that not necessarily impact very seriously on those disproportionate-share hospitals who depend on the Medicare payment for uncompensated care? Without this report, how can we possibly know the horrendous effects that the changes, the Republican changes that they are trying to make to the Medicare bill to fund their tax cuts to the rich, how will that under S. 790, will there be a replacement? Will we be able to get that information so that we can compensate those hospitals?

Mr. GENE GREEN of Texas. In response to the question from my colleague from California, Madam Speaker and Members, the report on Medicare treatment of uncompensated care is a report that is required right now. If there is some senior citizen who is not on the fee-for-service Medicare and if they show up at an emergency room for treatment, then under current law they will still be treated no matter what. We are not changing that law either in the bill, S. 790, or any other bill that I have seen come through the Congress. So, in other words, if I am 70 years old and, because of the increase in Medicare premiums, I am not taking part in Medicare, if I show up at my local hospital, they still have to treat me. Mr. STARK, you are right, we are not changing that by this bill.

Mr. STARK. If the gentleman will yield further, we are led to believe that, further addressing S. 790 and the reports, that the amount of uncompensated care could rise to $33.5 billion, under one scenario, as much as $43 billion, and, further, that teaching hospitals could see the biggest increase of uncompensated care.

Now, without this information, I know that it is of no matter to the Republicans and to Speaker GINGRICH, who does not care if we close our centers of excellence as he begins to destroy Medicare over time, but S. 790 was one way, through the reports on Medicare treatment of the uncompensated care under subtitle F, that we would know what was happening. The hospitals are going to have to hold their annual cost increases to less than half of inflation, and many of the hospitals are likely to close, and they are the ones most likely to close, are those serving a high number of Medicare and Medicaid patients and the uninsured.

When there is a correction needed, I certainly would support it, and as the gentleman suggests, supporting S. 790 is a good thing. But the unintended consequences, or perhaps the intended consequences, if you would take the Speaker's speech at face value that he would like to destroy Medicare, and most of us do not want to, the Republicans do, the Democrats do not, but if the Republicans continue to prevail, then we will not even, under this bill, under subtitle F, have a report on the Medicare treatment on uncompensated care. And I ask the gentleman from Texas if that was intended.

Following that, I would like for us get on to the next report that assists the homeless. Could the gentleman respond to my question in terms of treatment of uncompensated care, how it will impact and require closing of community hospitals, all as a result of Speaker GINGRICH's Medicare changes?

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Mr. GENE GREEN of Texas. Well, again the gentleman brings up a valid point in reference to the report on the treatment of uncompensated care.

Madam Speaker, the treatment will still be there for uncompensated care because under this bill are we not withdrawing that ability. We will be able to know that without having an annual report from the Social Security Administration or the Medicare trustees on the treatment of uncompensated care. We can be assured it is going to happen.

We know in real life if somebody does not have insurance then they are going to show up at an emergency room for lots of reasons; for the flu, for toothaches, for lots of things like that. And if they do not have Medicare, then they will then be part of the general health care system, and that hospital will be required to treat them. As we know, in most of our emergency rooms around the country, they prioritize. Someone who has a lesser degree of illness than someone else may have to wait sometimes 6, 8, 10 hours for treatment.

Mr. STARK. If the gentleman would yield further, now under the current Medicare system as designed by the Democrats 30 years ago, we have compensated those hospitals, those distinguished teaching hospitals, the centers of excellence. We have compensated, and I am going to get to S. 790 here in a minute, because it is to this report on Medicare treatment of uncompensated care that is the nexus of my remarks.

If the gentleman from Texas will yield further as I make my nexus, the reports on the Medicare treatment of uncompensated care are how we know how to reimburse those hospitals, because under the Gingrich plan to demolish Medicare to help pay for tax cuts for the rich, these hospitals will not get paid. If we do not know, when we come to our next corrections day and they have closed the hospitals in Houston, and when they have closed the hospitals in Los Angeles, because they are treating people who cannot pay and the local taxpayers will not have any money to pay for it, Medicare has been reduced, we will not have that information anymore.

Can the gentleman assure me that aside from the hordes of disadvantaged children and crippled seniors and poor seniors who will be marching on Washington asking why Speaker GINGRICH led the fight to destroy Medicare, if there is no other way, will we know, will we still have reports that will call to our attention the obscene, criminal way in which the Republican bill will treat these seniors, if we do in fact support S. 790 as the gentleman suggests?

Mr. GENE GREEN of Texas. Madam Speaker, reclaiming my time. In response to my colleague from California, the reporting requirement in subtitle F and subsection (d) is not going to stop whatever the decision of this Congress, the Senate and the House, do on uncompensated care for Medicare or anyone else and I share the gentleman's concern. I have a district in Houston where my local hospitals are predominantly Medicare or cash payment, with very little third party coverage. In fact, we already have one hospital in my district which closed.

Mr. STARK. Madam Speaker, if the gentleman will yield, that is inhumane.

Mr. GENE GREEN of Texas. It is tragic. It happened even before the extreme Medicare plan that is considered by this Congress. I am only concerned that in other pieces of legislation we may make it even worse. But, again, this elimination of the Medicare report on uncompensated care, will not prevent seniors from receiving the care they need if they show up at a health care facility. Some other Republican legislation somewhere down the way may do it, but I have not seen one at this session do it.

Mr. STARK. Madam Speaker, if the gentleman will yield further, the gentleman's compassion for the seniors and his fight to preserve Medicare, in spite of the fight to destroy it led by Speaker GINGRICH and the chairman of the House Committee on Ways and Means, who is also a neighbor of the gentleman's, and it is evidenced by his supporting of this wonderful bill, S. 790, which, on the basis of the gentleman's recommendation, I certainly intend to vote for, but further, the gentleman's assurance that eliminating this report on uncompensated care will not further impact the hospitals in Houston beyond which the Committee on Ways and Means bill reported out by the chairman, who is also from Houston, which will probably cause the closing of many hospitals in Houston, I know that is not this gentleman's intent.

I respect the gentleman for his battle to preserve Texas hospitals for the seniors and the poor in the face of the Republican onslaught, where they are attempting to cut Medicare to pay for capital gains for the rich people in Houston, who will get these great capital gains tax reductions as the hospitals close and the homeless, by the way, in Houston, will go up.

If the gentleman will yield further, in this same section under S. 790 we are eliminating a report on programs to assist homeless individuals. Now, with the increased costs in Medicare that the Gingrich-Archer Medicare bill will cause, huge increases in costs to low-income seniors under Medicare, many of them write to me and tell me they will not be able to pay their rent, because not only will their copayments go up, the doctors will be charging them more.

If we do not have the report under S. 790 on page 33 in the report, we do not know of the huge increase in those homeless people, how will the city of Houston be able to come back here

through its Representatives who are concerned about the matter and those Representatives who care anything about the poor, how will you be able to know how the problem is growing as a result of the inhumane treatment under the Gingrich-Archer Medicare-Medicaid destruction bill, and how will you be able to, without the reports, if S. 790 passes, how will you know how this problem is being exacerbated?

Mr. GENE GREEN of Texas. Madam Speaker, in response, I have a great deal of faith in our local agencies, both our hospitals at the Texas Medical Center who will talk to their local Members about uncompensated care, but also with our local housing authorities. Because I work with, not only the HUD office locally in Houston, but also with the Houston Housing Authority to make sure the elderly and homeless are protected. Whether we have a report that is being filed up here which people will review or not, we still need to make sure we remember those people in those facilities.

Mr. STARK. Madam Speaker, if the gentleman will yield further, the gentleman is sure this Texas Medical Center and the people that run the housing programs will understand that there is a difference, we talk about a farm problem, the difference between hamburger and the other part of the cow, between the Members representing Houston, that this Member from Houston is an adamant supporter of programs for the poor and the hospitals, while other Members from Texas may be supporting the Gingrich plan, which will destroy the hospitals.

The gentleman is sure the hospitals will recognize him as a supporter of the Medicare plan, and not a destroyer?

Mr. GENE GREEN of Texas. Mr. Speaker, reclaiming my time, I am confident when we deal with all of these issues, that the people will know who is working for the hospitals and who is not whether they are in Houston or around the country.

Mr. STARK. Madam Speaker, I certainly hope so. I hope the hospitals in Houston know in spite of the gentleman's distinguished leadership on the part of S. 790, the gentleman has not taken leave of his senses and the gentleman is and continues to be an adamant fighter for the cause of the poor and for Medicare, in spite of the onslaught made by the Republicans and Speaker GINGRICH to destroy it.

Mr. GENE GREEN of Texas. Madam Speaker, reclaiming my time, I hope if we pass 790, we will see health care providers will not have to fill out unnecessary forms and they could provide more direct service to my constituents who need that medical treatment, instead of just filling out a form that they have to send in.

Mr. STARK. The gentleman makes an excellent point.

Mr. GENE GREEN of Texas. Madam Speaker, let me continue briefly. Reports to the Congress are prevalent not just under Republican leadership or under Democrat leadership. In fact, under a bill passed this session already, the Department of Commerce Dismantling Act, which was included in the reconciliation bill, four reports to Congress are required from the Director of OMB. Those four reports over 3 years are just the process of dismantling the Department of Commerce. Similarly, in the welfare bill that was passed earlier this year, there are a number of reports required from the Secretary of Health and Human Services, and still more reports to be filed by each State.

So this is an issue. We ultimately need to address. But, this bill needs to be passed, no matter who is in the leadership or who is in the White House, because we have to continually monitor the Government to make sure that we do not have duplicative reports or reports sitting on a shelf and gathering dust. We need to make sure we are actually utilizing them.

Madam Speaker, I reserve the balance of my time.

Mr. CLINGER. Madam Speaker, I yield myself 1 minute.

Madam Speaker, we have just observed a rather artful manipulation of the rules of the House to deliver a filibuster, almost a diatribe, on the question of Medicare. I would say that the nexus of this side of the aisle to the remarks by the gentleman from California is that the gentleman fails to recognize that Medicare is going broke, that the system is going to be bankrupt by the year 2002. One of the objectives of this legislation is to try to save some money. We get rid of some of these reports which are costly and are impacting possible our ability to continue to deliver quality medical care to our senior citizens.

So I think it has to be put in focus here, that what we are really dealing with here is a system that is going bankrupt. The gentleman from California apparently does not accept that, or is not willing to admit that. At least the gentleman does not seem to be willing to make the kind of sacrifices that are going to be needed to be made in order to ensure that senior citizens in generations to come will still have medical care.

Madam Speaker, I yield such time as he may consume to the gentleman from Maryland [Mr. EHRLICH].

Mr. EHRLICH. Madam Speaker, I honest to God got up to talk about the bill.

Madam Speaker, in 1993 Congress required the Office of the President and executive branch agencies to prepare more than 5,300 reports. This has become a genuine problem. It is one that the Federal Reports Elimination and Sunset Act has focused on directly, not only to save money but also to allow executive branch departments and agencies to focus their resources on more worthy endeavors.

As Chairman CLINGER has pointed out, conferees for the Paperwork Reduction Act felt that the original McCain and Levin amendments should be offered in both Chambers as freestanding legislation because of the important changes that this bill makes.

Majority and minority members of the Government Reform and Oversight Committee circulated a copy of S. 790 to all House full committee chairmen and ranking members in a two-fold effort to one, receive input from Committees with jurisdiction over the reports slated for elimination or modification and two, to gain broad bipartisan support for this bill. There was strong support from both sides of the aisle in the responses we received.

The sunset provision is a vital part of this bill. It eliminates those reports with annual, semiannual, or regular periodic reporting requirements 4 years after the bill's enactment, while affording Members of Congress the opportunity to reauthorize those reports deemed necessary for carrying out effective congressional oversight. This provision does not apply to any reporting requirements under the Inspector General Act of 1978 or the Chief Financial Officers Act of 1990. This provision originally was introduced by Senator MCCAIN and I commend him for his vision in including such an important provision in this bill.

Madam Speaker, the most important element of this bill can be found in the Congressional Budget Office report which has estimated that enactment of this bill will result in $2 million in savings each year for fiscal years 1996 through 1999 and that's before the sunset provision is factored in.

This legislation represents a perfect example of the reason for corrections day. Corrections day was established to correct outdated, noncontroversial legislation. This commonsense bill had bipartisan support from the Government Reform and Oversight Committee as well as the Speaker's Advisory Group on corrections day.

I urge every Member to join me in supporting this extremely important bill. We need to continue cutting to lighten the redtape burdening executive branch agencies so our Government can operate with fewer restrictions and greater efficiency.

Madam Speaker, I feel compelled to add two points. I am glad the people are up in the gallery today and I am glad these proceedings are televised, so that the American people can just see and hear what they just saw and heard.

With respect to the report on the termination of uncompensated care, which was our friends across the aisle's nexus to get into the Medicare debate, and I know facts are confusing and facts are very dangerous in political debate, but I feel compelled, Madam Speaker, to actually read the real words the Speaker used with respect to

the future of HCFA and Medicare, because the American people actually need to hear the facts, the real words.

The Speaker's quote was always as follows: "You know, we tell Boris Yeltsin, get rid of centralized command bureaucracies. Go to the marketplace. Okay. What do you think the Health Care Financing Administration is? It is a centralized command bureaucracy. It is everything we are telling Boris Yeltsin to get rid of. No, we don't get rid of it in round one, because we don't think it is politically smart. We don't think that is the right way to go through a transition. But we believe it is going to wither on the vine, because we think seniors, parenthetically, seniors, are voluntarily going to leave it voluntarily."

Facts. Real words, real quotes. Dangerous on this floor. But the American people watching on TV and the American people sitting in the gallery need to hear facts, real words.

□ 1200

Finally, Madam Speaker, I view this as an essential element in our continuing campaign to actually save American people money. The President's health care task force report cost the American public $14 million. This is merely a partial repayment for the hardworking folks who sent us to Washington.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mrs. MYRICK). The Chair reminds the Member not to direct remarks to the viewing audiences in the gallery or on television.

Mr. GENE GREEN of Texas. Madam Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am glad that the chairman of the committee particularly mentioned that Medicare is going broke, and although this bill, S. 790, has nothing to do with Medicare going broke, but let me respond to the gentleman's claim that Medicare is going broke because I think it has to be responded to on the floor.

Madam Speaker, Medicare is going broke in the year 2002, but not to the tune of $270 billion that they talk about cutting out of the system. The Medicare trustees' report said we needed to cut $90 billion to extend the solvency of the trust fund to the year 2006, not $270 billion. So the threat of going broke is only hype from the Republican side to try and justify the $245 billion in tax cuts that they are still going to try and provide.

Madam Speaker, let me respond to my colleague from Maryland, Mr. EHRLICH, on the Health Care Financing Administration and the direct quote. The Health Care Financing Administration has been seen as a euphemism for the Medicare Program, because without the Health Care Financing Administration you do not have a fee for service, you do not have an ability for someone to go pick their own doctor, you are going to have someone who is going to have their doctor picked for them by someone in Washington DC, or someone else.

Let us get back to S. 790, Madam Speaker, because again, it is to reform the reporting requirements, and I would hope it would be considered in light of the fact that there are individual reports that some of us may like in here, but our goal is to try and control the cost of Government, and S. 790 would do that.

Madam Speaker, I yield such time as he may consume to the gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. Madam Speaker, I thank the gentleman for yielding time to me, and I appreciate the importance of the debate which has taken place on the Medicare provisions of this bill and the implications that this bill has for Medicare.

Madam Speaker, I rise to make a couple of points and then ask a question about a separate section of this bill which will determine whether I am able to vote for the bill and determine whether we mobilize people to, in fact, vote against the bill.

There is a provision in the bill which would repeal the provisions of section 207 of the Voting Rights Act of 1965. It is under this first section of subtitle B of this bill, section 1021, and it appears to me that the effect of that provision is to do away with the requirement that statistical information regarding jurisdictions, both local and State, which are covered by the Voting Rights Act, are, in fact, complying with the Voting Rights Act.

In other words, you have certain States that have been required to be covered by the Voting Rights Act because of a history of having discriminated against certain voters in that particular State or that particular jurisdiction, and this particular reporting requirement that is being repealed requires the Census Bureau to obtain and report statistical information about voting patterns and registration patterns in those particular congressional districts, States, local jurisdictions, which are covered by the Voting Rights Act.

Madam Speaker, in the absence of this reporting provision, I would like to direct a question to the gentleman from Pennsylvania [Mr. CLINGER], if I might, since he is the chief spokesperson in favor of this bill.

In the absence of these reporting provisions, in the year 2000, when we are required to have the Census Bureau gather information on which redistricting will be done, how will we have the information available to us to determine whether it is important or necessary to continue to address this history of racial discrimination in registration and voting patterns in many of our southern States, and how will we determine whether it is necessary to continue to have majority-minority voting districts created under law?

Madam Speaker, I do not know how we would be able to do that without the statistical information. Perhaps the gentleman from Pennsylvania could enlighten me, because I am deeply troubled that we would be repealing the statute under which this kind of statistical information is gathered that serves a very, very, very important public purpose, and, in fact, is probably one of the most topical issues that we are dealing with and that the U.S. Supreme Court is dealing with.

Mr. GENE GREEN of Texas. Madam Speaker, if I could reclaim my time and ask that the chairman of the committee, Mr. CLINGER, respond on his time.

Mr. CLINGER. Madam Speaker, may I respond to the gentleman from North Carolina [Mr. WATT], and I think we can partially address his concerns.

Mr. WATT of North Carolina. Madam Speaker, I would like to make clear to the gentleman from Pennsylvania that the gentleman from Texas, Mr. GENE GREEN, has taken back his time.

So is the gentleman willing to respond to me on his time, because I need to have this question answered if I am going to be able to support the bill.

Mr. CLINGER. Madam Speaker, I yield myself such time as I may consume to respond to the inquiry of the gentleman from North Carolina.

I would say to the gentleman, my understanding is that this was originally in the bill as was introduced by Senator LEVIN. It, as I understand it, is a redundant report that is basically repetitive of a report that is still required and still provides the information that the gentleman is requesting.

Mr. WATT of North Carolina. Madam Speaker, will the gentleman yield?

Mr. CLINGER. I yield to the gentleman from North Carolina.

Mr. WATT of North Carolina. Madam Speaker, I would inquire of the gentleman, who does the other report? Is it the Census Bureau that does it?

Mr. CLINGER. Madam Speaker, reclaiming my time, it is indeed the Census Bureau that would do this. This was basically a technical glitch, and really as I understand it, it is a totally duplicative report. The information would still be required, still would be available. I think we all share the gentleman's concern that we need to have the proper information.

Mr. WATT of North Carolina. Madam Speaker, if the gentleman would yield further, would the gentleman be able to direct me to the provision which is the redundant provision? Also, would the gentleman tell me whether there is any way that we could temporarily pull this particular part out for those of us who have a strong commitment to continuing the Voters Rights Act?

Mr. CLINGER. Madam Speaker, in an attempt to allay the concerns of the gentleman, this particular provision; in fact, this section of the bill we requested the gentlewoman from Illinois [Mrs. COLLINS], the ranking member of the Committee on Government Reform and Oversight, to review. She, in turn, requested the ranking member of the Committee on the Judiciary, the gentleman from Michigan [Mr. CONYERS], to review this.

Mr. WATT of North Carolina. Madam Speaker, with due respect to both of those valuable people, they are not from States that are covered by the Voting Rights Act, and this has a particular significance to us in States which are substantially covered by the Voting Rights Act that it may not have to someone in Illinois.

Mr. CLINGER. Madam Speaker, if I may respond to the gentleman in this respect: The counsel to the Committee on Government Reform and Oversight is standing at the gentleman's right shoulder and is going to provide the gentleman, I hope, with information that would, again, allay your concerns that, in fact, information is going to be provided.

Mr. WATT of North Carolina. Madam Speaker, the gentleman has handed me a section which is section 207 of the Voting Rights Act, which appears to direct the Census Bureau to do exactly the same thing that this particular section directs the Census Bureau to do.

So why is it necessary to repeal this provision? We are not accomplishing anything by repealing it if, in fact, the same requirement is imposed on the Census Bureau somewhere else.

Mr. CLINGER. Madam Speaker, if I may respond to the gentleman this way, that it is really basically a technical redrafting of the law so that we make it a little bit more understandable.

Mr. GENE GREEN of Texas. Madam Speaker, I yield 2 minutes to the gentlewoman from California [Ms. WATERS].

Ms. WATERS. Madam Speaker, I thank the gentleman from Texas, [Mr. GENE GREEN] for yielding time to me.

Madam Speaker, let me just try and follow up on the request of the gentleman from North Carolina [Mr. WATT] about delaying or pulling out this provision. This is very, very sensitive. As a matter of fact, the work of many, many civil rights organizations went into the development of the Voting Rights Act, and that which covers all of the States. All of those States that are covered under the Voting Rights Act are covered for very specific reasons.

So we have to be very careful about doing anything that would alleviate the responsibility for data and information and voting patterns and voter registration without knowing what we are doing.

This kind of request for repeal, in my estimation, would have to be circulated among those organizations, including the NAACP and SCLC, NACLU, and all of the organizations who put so much time and effort into developing legislation that would give us a measure of protection and help to shine the light on those practices that would eliminate participation in the process in ways that we have solved historically.

So, Madam Speaker, I think the gentleman from North Carolina [Mr. WATT] really does make a serious request, and it is not understood by those of us who try and watch this kind of thing why, in fact, you would be repealing something that you want to request the Census Bureau to do. If it is the same thing, why not leave it intact and not mess with it?

As a matter of fact, it may even look innocent, but I submit to you that it may not be that innocent.

Mr. WATT of North Carolina. Madam Speaker, will the gentlewoman yield?

Ms. WATERS. I yield to the gentleman from North Carolina.

Mr. WATT of North Carolina. Madam Speaker, it appears to me that I have been handed just a summary of what this particular bill does, which is repeal this particular section, rather than having been handed some duplicative provision, as the gentleman from Pennsylvania [Mr. CLINGER] has indicated.

I would have to say to the gentleman that unless I can be satisfied that there is, in fact, in place a provision in the law, I will have to vote against the bill.

Mr. CLINGER. Madam Speaker, I yield myself 1 minute, basically to respond to the gentleman.

As I say, I come somewhat fresh to this issue, because we had understood, at least, that it had been pretty carefully vetted to ensure that we were not going to be undercutting or in any way affecting the collection of very vital, I would agree, very vital and important data.

MODIFICATION TO AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. CLINGER

Mr. CLINGER. Madam Speaker, because of the concerns that the gentleman has raised, I ask unanimous consent that section 1021(A) of subtitle B of the proposed legislation be deleted.

The SPEAKER pro tempore. The Clerk will report the modification.

The Clerk read as follows:

Modification to amendment in the nature of a substitute offered by Mr. CLINGER: In the proposed amendment strike subsection (a) of Sec. 1021 in Subtitle B (Page 12, strike lines 20–22).

□ 1215

Mr. GENE GREEN of Texas. Madam Speaker, we have no objection.

The SPEAKER pro tempore (Mrs. MYRICK). Is there objection to the modification offered by the gentleman from Pennsylvania [Mr. CLINGER]?

There was no objection.

Mr. GENE GREEN of Texas. Madam Speaker, I yield back the balance of my time.

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

The SPEAKER pro tempore. Pursuant to the rule, the previous question is ordered on the amendment in the nature of a substitute, as modified, and the bill.

The question is on the amendment in the nature of a substitute, as modified, offered by the gentleman from Pennsylvania [Mr. CLINGER].

The amendment in the nature of a substitute, as modified, was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and (three-fifths having voted in favor thereof) the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. CLINGER. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on S. 790, the Senate bill just passed.

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

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. KOLBE). 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 a rollcall vote, if postponed, will be taken after the veto message from the President is disposed of.

ENFORCEMENT OF PUBLIC DEBT LIMIT AND PROTECTION OF SOCIAL SECURITY AND OTHER FEDERAL TRUST FUNDS AND ACCOUNTS

Mr. ARCHER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2621) to enforce the public debt limit and to protect the Social Security trust funds and other Federal trust funds and accounts invested in public debt obligations.

The Clerk read as follows:

H.R. 2621

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

SECTION 1. APPLICABILITY OF PUBLIC DEBT LIMIT TO FEDERAL TRUST FUNDS AND OTHER FEDERAL ACCOUNTS.

(a) PROTECTION OF FEDERAL FUNDS.—Notwithstanding any other provision of law—

(1) no officer or employee of the United States may—

(A) delay the deposit of any amount into (or delay the credit of any amount to) any Federal fund or otherwise vary from the normal terms, procedures, or timing for making such deposits or credits, or

(B) refrain from the investment in public debt obligations of amounts in any Federal fund,

if a purpose of such action or inaction is to not increase the amount of outstanding public debt obligations, and

(2) no officer or employee of the United States may disinvest amounts in any Federal fund which are invested in public debt obligations if a purpose of the disinvestment is to reduce the amount of outstanding public debt obligations.

(b) PROTECTION OF BENEFITS AND EXPENDITURES FOR ADMINISTRATIVE EXPENSES.—

(1) IN GENERAL.—Notwithstanding subsection (a), during any period for which cash benefits or administrative expenses would not otherwise be payable from a covered benefits fund by reason of an inability to issue further public debt obligations because of the applicable public debt limit, public debt obligations held by such covered benefits fund shall be sold or redeemed only for the purpose of making payment of such benefits or administrative expenses and only to the extent cash assets of the covered benefits fund are not available from month to month for making payment of such benefits or administrative expenses.

(2) ISSUANCE OF CORRESPONDING DEBT.—For purposes of undertaking the sale or redemption of public debt obligations held by a covered benefits fund pursuant to paragraph (1), the Secretary of the Treasury may issue corresponding public debt obligations to the public, in order to obtain the cash necessary for payment of benefits or administrative expenses from such covered benefits fund, notwithstanding the public debt limit.

(3) ADVANCE NOTICE OF SALE OR REDEMPTION.—Not less than 3 days prior to the date on which, by reason of the public debt limit, the Secretary of the Treasury expects to undertake a sale or redemption authorized under paragraph (1), the Secretary of the Treasury shall report to each House of the Congress and to the Comptroller General of the United States regarding the expected sale or redemption. Upon receipt of such report, the Comptroller General shall review the extent of compliance with subsection (a) and paragraphs (1) and (2) of this subsection and shall issue such findings and recommendations to each House of the Congress as the Comptroller General considers necessary and appropriate.

(c) PUBLIC DEBT OBLIGATION.—For purposes of this section, the term "public debt obligation" means any obligation subject to the public debt limit established under section 3101 of title 31, United States Code.

(d) FEDERAL FUND.—For purposes of this section the term "Federal fund" means any Federal trust fund or Government account established pursuant to Federal law to which the Secretary of the Treasury has issued or is expressly authorized by law directly to issue obligations under chapter 31 of title 31, United States Code, in respect of public money, money otherwise required to be deposited in the Treasury, or amounts appropriated.

(e) COVERED BENEFITS FUND.—For purposes of subsection (b), the term "covered benefits fund" means any Federal fund from which cash benefits are payable by law in the form of retirement benefits, separation payments, life or disability insurance benefits, or dependent's or survivor's benefits, including (but not limited to) the following:

(1) the Federal Old-Age and Survivors Insurance Trust Fund;

(2) the Federal Disability Insurance Trust Fund;

(3) the Civil Service Retirement and Disability Fund;

(4) the Government Securities Investment Fund;

(5) the Department of Defense Military Retirement Fund;

(6) the Unemployment Trust Fund;

(7) each of the railroad retirement funds and accounts;

(8) the Department of Defense Education Benefits Fund and the Post-Vietnam Era Veterans Education Fund; and

(9) the Black Lung Disability Trust Fund.

SEC. 2. CONFORMING AMENDMENTS.

Subsections (j), (k), and (l) of section 8348 of title 5, United States Code, and subsections (g) and (h) of section 8438 of such title are hereby repealed.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. ARCHER] will be recognized for 20 minutes, and the gentleman from Florida [Mr. GIBBONS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. ARCHER].

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

Mr. Speaker, I hope we can limit the debate on the purpose of this bill. It is very specific. It relates to how we handle the management of our financial affairs during the time that the debt ceiling issue is not settled.

Yesterday the President vetoed the temporary debt limit sent to him by the Congress. One of his stated reasons for rejecting that bill was that it limited the Treasury's statutory power to manage the Federal debt.

That issue, however, is not about debt management. It is about avoiding the debt limit. Avoiding the debt limit is what the Clinton administration is preparing to do, and may intend to tap retiree trust funds to accomplish it.

H.R. 2621 simply does one thing: It prohibits the kind of manipulation that Treasury is about to undertake, by requiring Federal trust funds and similar accounts to be fully invested in Government securities, and surplus income cannot be held in cash to avoid hitting the debt limit. Furthermore, funds cannot be disinvested unless it is done to pay authorized benefits.

Mr. Speaker, this bill does not raise the debt limit level. It only provides protection of Social Security and other trust funds and assures that Social Security and other trust fund payments to individual beneficiaries will continue uninterrupted.

If this bill were law today, Treasury would not be disinvesting the civil service retirement fund and failing to reinvest the G Fund in order to avoid exceeding the debt limit tomorrow. Ironically, Treasury has seized on a provision in current law designed to pay back lost interest to these funds as a license for raiding them. Furthermore, Treasury says that these funds are among other funds that could be affected, but that this week only the Federal retirement fund will be affected.

What does that mean? What is the Treasury telling us when it says "among other funds"? What will the Treasury do next week? What about Social Security, which has no protections from disinvestment under current law? Are these funds next?

Only this legislation will protect them. The debt games the administration is playing make the public angry and confused and frighten the retirees. They know the President is continuing to run up Federal debt while refusing to even talk about balancing the budget.

We are determined, Mr. Speaker, to prevent increasing debt even in a backdoor way, such as the Treasury contemplates, without a balanced budget. We wish the President would negotiate with us on a balanced budget.

The Social Security fund, as I mentioned, is not protected. The 43 million Social Security recipients who paid their taxes and now rely on those benefits expect us to stand behind their investments. We need to pass this bill to assure those receiving benefits will be paid regardless of the status of the debt limit.

Mr. Speaker, this bill should pass overwhelmingly if this Congress truly wishes to protect benefits, preserve trust funds, and enforce the lid on the Federal debt.

When the President said "no" to protection for Social Security and other trust funds with his veto, most Americans probably wondered why a President would object to protecting their retirement and other benefit investments. Let us show today that we intend to shield those funds and the individuals who rely on those benefit payments from Treasury's debt limit games.

I urge a vote for H.R. 2621 and the integrity of the trust funds.

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

Mr. GIBBONS. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, this is another charade that is being pulled today. It has nothing to do with the truth. I want to read a statement issued by the White House this morning that puts all of this to rest, if there is any reason to put it to rest.

Frankly, I do not believe anybody has got the authority to invade the Social Security trust fund to pay anything other than Social Security benefits. That has been the law ever since I have been here. It has not been changed, and I have been here 33 years.

In fact, Mr. Speaker, I do not think there is anybody in the sound of my voice that has got more money invested in the Social Security trust fund than do I. I have been paying for these benefits since 1937, and I have been fortunate enough to always pay at the maximum rate. I am interested in the Social Security trust fund, I do not want it squandered, and nobody has got a bigger investment in it than I have.

This is a statement by the President dated today, issued from the White House. He says:

> I want to assure the American people that the Social Security Trust Fund will not be used for any purpose other than to pay benefits to recipients. Under current law, the Secretary of Treasury is not authorized to use the fund for any purpose other than to pay benefits to recipients. There will be no exceptions under my watch. None. Not ever.

That is the statement the President issued today. It is not necessary, but in the hysteria that is being generated here trying to cover the Republicans' inability to govern and their squandering of time and of effort, you can expect almost anything to happen.

The only thing that really affects the Social Security trust fund is the legislation that the gentleman from Texas [Mr. ARCHER] is proposing here. He would tie the hands of the President so that he could not pay the Social Security benefits because he would have no employees to pay the benefits. He would not be able to redeem the bonds that are in the Social Security trust fund. He could not do anything.

Mr. Speaker, the legislation of the gentleman from Texas [Mr. ARCHER] is dangerous. It is just a part of the charade to try to force the President into default.

Mr. Speaker, the thing that is important here to understand is that the Republicans are trying to force the President to agree to their agenda. Their agenda calls for a balanced budget and a big tax cut at the expense of the sick, the old, the infants, the children, and the working poor, and that is not an acceptable plan for balancing the budget.

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume, simply to correct the record as to what the gentleman said.

Mr. Speaker, he is well aware that in this bill there is a provision for the administrative costs so that the checks can be issued to Social Security recipients and a guarantee that they will continue to go out. He just flat misstated that. I am disappointed in the gentleman from Florida.

Second, as to whether we can rely on the President, it was this President who said he would end welfare as we know it and did nothing to push it. It was this President that said he would give American middle-income taxpayers relief and he did not do it. We never know where this President is going to be, and the country knows that you cannot rely on what he says to being operative at any time in the future.

Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. PORTMAN].

Mr. PORTMAN. I thank the gentleman for yielding.

Mr. Speaker, I am glad to see we are talking about the facts. As you know, last Saturday we sent the President a bill that would extend the debt limit, and at the same time protect the Social Security, Medicare, and civil service trust funds. The bill says that the funds cannot be disinvested during this debt crisis period.

Unfortunately, the President decided to veto the bill. Among the reasons for vetoing it was because it would have prevented the Secretary of the Treasury from using these trust funds to artificially extend the debt limit. I think this is unacceptable.

That is why we are here today with this legislation, H.R. 2621, a bill to enforce the debt limit and to protect the trust funds. It focuses on that issue.

Among other things, this bill tells the 43 million Americans who get Social Security and the 140 million workers that pay into it that it is not OK to play games with the $483 billion in assets of the trust funds. It tells the President that it is not OK to play games with the $30 billion in payroll taxes that workers pay each month and that retirees rely on to finance their benefit checks.

It is helpful to review history here. What we do not want, Mr. Speaker, is a repeat of 1985, when in fact there was a gaming of the trust funds. As a result, the Social Security trust funds lost $382 million in interest, and long-term bonds were cashed in early.

It is correct that Congress did pass legislation to restore the lost interest and to reconstruct the bond portfolio, but no legislation could ever restore the public confidence that was lost during that period. What we are considering today is not just about protecting the trust funds. It is also about protecting public confidence in those trust funds.

Simply put, without this bill, there are no laws to prevent a repeat of what happened in 1985.

It was difficult for many of us to vote to extend the debt limit last week. But, having done that, Congress should also take action to restore public confidence in these trust funds. We have a chance to do that today.

I urge my colleagues to support this bill.

Mr. GIBBONS. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Speaker, I would like to reply to the gentleman from Ohio. He was right part of the way.

In 1985 this situation was faced. The Secretary of the Treasury then did take money out of the Social Security funds, and we passed a law so he could not do it anymore. What this bill before us does, it does away with that law that we passed to protect Social Security.

Mr. Speaker, I would think this was so clever, to bring this bill here before us today under suspension. If you raise the danger of hurting the Social Security fund, of course people rush to the floor to vote for it.

□ 1230

But the second half of this bill is dangerous, and it is wrong to do it in this fashion. The Social Security Trust Fund is not in jeopardy now at this moment, because Social Security is an entitlement. Beneficiaries will get their benefits.

The bill does not change that. Withdrawals are made from the Social Security Trust Fund to pay Social Security benefits, period.

What this bill does in the second half, because that is a spurious argument, in the second half, what the bill does is take away the trust fund's, or the ability of the Secretary of the Treasury, to deal with the cash of these United States, our whole reputation at stake.

It is absolutely wrong to bring this forward today, say Social Security is going to be hurt. It is not.

What is going to be hurt is the possibility that we lose the full faith and credit of this country because this bill in front of us today means default would happen even more than it would happen under these awful circumstances we are dealing with.

Mr. Speaker, I have to tell you this is dangerous. This is wrong, and I am surprised at the majority for bringing it forward under this fashion, under this guise.

Mr. ARCHER. Mr. Speaker, will the gentlewoman yield?

Mrs. KENNELLY. I yield to the gentleman from Texas.

Mr. ARCHER. Mr. Speaker, I say to the gentlewoman I also thought the Social Security trust funds were protected before we got into this issue several weeks ago, but they are not protected under the law. That has been carefully researched. There is nothing that prohibits the Secretary of the Treasury from either failing to invest or disinvesting the Social Security trust funds under law today, and that is the reason why this bill is before us.

Mrs. KENNELLY. I would first say, under technical legislative facts of life we deal with, there is no authorization. I do think we still can believe when the President says, "There will be no exceptions under my watch, none, not

ever. I will for no purpose take from the Social Security fund." I would hope we have faith in the President of the United States.

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume to say to the gentlewoman I wish we could accept this President's word at face value also, but we know from experience that we cannot.

Mr. Speaker, I yield 2½ minutes to the gentleman from Michigan [Mr. SMITH].

Mr. SMITH of Michigan. Mr. Speaker, let me say first of all that this bill has everything to do with the truth. You know, despite its importance, the debt held by the public is not the most familiar measure that we have in the Federal debt. That distinction belongs to the debt subject to the debt limit often referred to as the gross Federal debt. The gross Federal debt is now $4.9 trillion—$3.5 trillion is debt, marketable debt, that we owe to the public and $1.4 trillion is the debt owed to the trust funds.

Now, the President has effectively declared that he will not abide by congressional oversight of how much the Federal Government can borrow. Since the founding of this country, Congress has had the authority over this Government's ability to issue more debt. Prior to the First World War, Congress approved every debt issuance. Since that time, the Second Liberty Bond Act has allowed Treasury to borrow up to a certain limit set by Congress.

Tomorrow, Treasury will effectively overcome the statutory limit, making a mockery of the people's control over the Federal borrowing and, in large, the Federal debt.

The manner in which this has been done, I think, is insidious. Treasury will now begin to disinvest the trust funds. This means they will begin to tear up the IOU's that bear interest.

But here is the point I am trying to make: In taking such action, the President is increasing the public debt of this country without the authority of Congress. The first to go is going to be the thrift savings of Federal employees. Next will be the retirement trust fund. The precedent that is now being set by this President would allow a future President to say that the precedent was set in 1995 and now we can go into the Medicare trust fund, now we can go into the Social Security trust fund.

The fact is that from now on, if we allow this to happen and do not pass this bill, Presidents will be able to add more than $1 trillion to our existing debt without the review or consent of Congress.

There is only one way to stop this scheme and return to the Congress and the citizens of this country authority over the debt issuance of this Government. That is to pass H.R. 2621, which will make it against the law for the Treasury to further destroy the trust funds through this disinvestment process. In fact, we need to develop policies to have the major trust funds invest in marketable Treasury securities. If we stand by, then the President can add $200 billion per year to our national debt for the next 5 years. I have spoken many times of the need to rein in our national debt. This bill is vital to accomplishing our goal of returning America to fiscal stability. I urge support of H.R. 2621.

I hope this Congress will do it. We need to develop policies that protect those trust funds.

Mr. GIBBONS. Mr. Speaker, I yield 30 seconds to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Speaker, I made reference to a statement by the President of the United States made this morning, and I really feel, to question the integrity of the President of the United States at a time when workers are being furloughed and worrying about their mortgages, at a time when the world markets are looking at us whether we can pay our bills, really is a disservice to the United States of America and should end at this moment.

Mr. GIBBONS. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. BONIOR], the Democratic whip.

Mr. BONIOR. Mr. Speaker, this bill does exactly, exactly the opposite of what the Republicans say it does. This bill makes it more likely that the U.S. Government would default for the first time in history.

Nothing could be more damaging to the Social Security Trust Fund and the protection of those benefits for our senior citizens than the Gingrich Government default that is projected here if this bill happens.

Social Security benefits are already guaranteed by law, and I would disagree with my friend from Texas who says he disputes that. They are already protected by law, and the President has stated very clearly, and I quote him, "Under current law, the Secretary of the Treasury is not authorized to use the funds for any purpose other than to pay benefits to recipients. There will be no exceptions under my watch, none, none not whatever."

Mr. Speaker, in addition, this bill repeals the current law to authorize the automatic payback of interest on any money borrowed from Federal pensions. There they go again; they are into the pensions of workers. They are doing it again.

The same people who are doubling your Medicare premiums are now trying to say that they are trying to save Social Security. Do not believe it.

The Republicans are playing the most dangerous of all games by threatening a Gingrich Government default, and such a default would put at risk the Social Security Trust Fund, it would raise interest rates on working families and it would undermine the credibility of our Government for years to come.

I would tell my colleagues on this side of the aisle, do your work. You have got one done out of 13 appropriation bills. Do your work. Do your work. Pass a continuing resolution so we can get on with operating this Government and so people all over this country who are not going to work today can go to work and we can do the business that we were elected to do.

Mr. MCCRERY. Mr. Speaker, I yield myself as much time as I may consume.

Once again, the law has been misstated by the other side. We have clear testimony before the Committee on Ways and Means that, in fact, the administration has the ability under current law to utilize the trust funds in times of exigent circumstances, and, in fact, we have already seen examples of this this very week with the administration using other trust funds to get around the debt ceiling.

So it is just not so that the administration does not have this power. They do, and that is what this bill would correct. It would protect the Social Security Trust Fund and other trust funds from being rate raided by the administration in order to circumvent the debt ceiling.

Mr. Speaker, I yield 2 minutes to the gentleman from Texas, Mr. SAM JOHNSON.

Mr. SAM JOHNSON of Texas. Mr. Speaker, you have probably heard the President using senior citizens over the past few days as his excuse to veto the debt limit bill.

Well don't for a minute think that he wants to protect America's seniors. He has his own interests in mind.

You see—the debt limit bill included a provision that prevented the Treasury Secretary from stealing from the Social Security Trust Fund in order to spend more money.

We knew that this provision was the only way to protect the seniors' trust fund from President Clinton's careless spending habits.

And he proved that he has no self discipline when he vetoed the bill.

We owe it to our seniors to protect the money they have paid into Social Security. And the President owes seniors more than a game of scare tactics and misinformation.

So once again today we are going to pass this bill to protect our Federal trust funds.

I urge everyone to take a real and meaningful stand for our Nation's seniors—and send a message to the administration—you cannot steal from Social Security to keep supporting big Government.

Support this bill.

Mr. GIBBONS. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Speaker, while we are all entitled to our own set of opinions, we are not entitled to our own set of facts.

Let me share with you some facts: If this bill before us is passed, the payroll tax that is intended for the Social Security system that comes into the Government and is about $30 billion a month, about a billion dollars a day, it will not earn interest for Social Security recipients, because if the debt ceiling is not extended, and this will not extend the debt ceiling, then Social Security trust funds will lose about $37,000 tomorrow, and over the course of this debate it will lose millions of dollars. That payroll tax will not earn interest.

Second fact: Since the Government has shut down and there is no money to pay people within the Social Security Administration to process applications, new people, eligible, applying for Social Security, will not be able to get their benefits. There is no money to pay for the processing of their applications.

Third fact: Because this bill repeals provisions put into law by the Reagan administration, the thrift savings plan that Government employees have contributed to will lose about $3.5 million each day, beginning tomorrow. But the civil service retirement trust fund that millions of employees have contributed to will lose $10 million tomorrow and $10 million every day this is extended, because this law makes it illegal to reimburse that civil service retirement trust fund and to give it any interest for the money that you take out.

We cannot do this to Federal employees. We cannot do this to this country.

The last fact you need to know: That the credit watch, the European credit rating agency, just now put the United States on a rating watch for possible downgrade that will increase the interest on all of our Treasury bills for years to come. Do not pass this bill.

Mr. McCRERY. Mr. Speaker, I yield myself as much time as I may consume.

I think the gentleman from Virginia has emphatically stated the gist of the situation. The fact is that without specific authority from the Congress to extend more debt, the President frankly will be between a rock and a hard place, and I think the gentleman is correct there, and that is part of what this debate is all about.

Those of us on this side, frankly, want the President to have to choose between more and more debt on the backs of our children and grandchildren or finally facing up to the fact that we cannot afford any longer to spend more than we take in and finally get this Nation's fisc in order.

So I think the gentleman from Virginia stated it very clearly and succinctly and emotionally and did a good job, and that is part of this debate. So, frankly, we are ready to put the President between that rock and a hard place so he will have to choose clearly for the American people to see. We hope that he choose on the side of fiscal responsibility. We hope he chooses on the side of preserving a future not only for today's seniors but for tomorrow's seniors and future generations of this country.

I thank the gentleman from Virginia for making that clear.

Mr. Speaker, I yield 2 minutes to the gentleman from Georgia [Mr. KINGSTON].

Mr. KINGSTON. Mr. Speaker, it seems unbelievable to me that we are sitting here debating whether the President can tap into Social Security trust fund and the civil service retirement fund. I find that almost unbelievable that the Democrat Party, who has been using the senior citizens all over America as their chief pawn, as their shield, to ram or resist any kind of legislation that comes up, now they want to take the money out of the senior citizens' trust fund.

□ 1345

I think it is appalling to me. It is unbelievable. The Treasury Department has announced it intends to divest the civil service retirement trust fund and fail to invest the G fund in order to create room under the debt limit and raise cash to make interest tomorrow, starting November 15. That is to me unbelievable. Those funds, among others, are to be tapped for at least $25 billion. But on November 30, the Treasury Department will again need about $13 billion in cash, so the divesting of this retirement fund could even go on even to a higher limit than that. Well, with Social Security holding $483 billion in Federal securities, and civil service holding $366 billion, the Treasury can tap into these funds and use it to run up more public debt.

Now, this is totally out of hand. What we are debating here should not be the President's or the Treasury Department's intention and ability to tap into these sacred trust funds. What we should be debating is are we going to balance the budget.

When the President was running for office in 1992, June 4 on "Larry King Live," he said, "I am going to balance the budget in 5 years." His only balanced budget proposal is a 10-year plan that does not even balance the budget. In fact, in the year 2002, when the Republican plan has a zero deficit, the Clinton plan has a $209 billion deficit.

Mr. Speaker, the debate here is about balancing the budget. I hope the President does not steal money from the senior citizens for the Federal retirees, and I urge Members to vote for this bill.

Mr. GIBBONS. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. BENTSEN].

Mr. BENTSEN. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, this bill is a childish charade, and the sponsors should be ashamed of themselves. This bill does not protect Social Security; it puts it at risk, along with Medicare and veterans benefits. This bill enhances the chance of default by the U.S. Government, which, if it occurred, would result in eventually no Medicare, no veterans benefits, and no Social Security benefits.

That is right, in a default, we would not make good on our obligations to the Social Security benefits and this bill leads to a default.

Furthermore, this bill calls into question our willingness to pay our debts, because it brings to the U.S. Government the same fiscal insanity of the Orange County, CA, default. It will raise interest rates, home mortgage rates, credit card rates, and all loan rates. It will destroy the quality of credit. It will destroy the quality of U.S. credit as Moody's and Standard & Poor have publicly stated. It is a dangerous political ploy with dire economic consequences for which we will all pay.

Mr. Speaker, this bill is not about protecting Social Security. It is about politics, so Members can go home and say they protected Social Security. But in fact, the opposite will occur, because in a default, we will also default on our obligations to the Social Security system, which is invested in treasury obligations. Since Social Security benefits are invested in these Treasury securities, they carry the force of the full faith and credit of the U.S. Government. That is a guarantee which, in a default, we would violate, and therefore violate that obligation to the Social Security system.

If one wants to protect Social Security, vote no, because a yes vote will ultimately lead to a default on Social Security. Let us put politics aside when it comes to our faith in our Nation's creditworthiness and our commitment to Social Security. Let us defeat this ridiculous bill. Let us get down to business like the American people sent us here for. Let us put some sanity into our fiscal practice, because this, my friends, is not sanity.

Mr. GIBBONS. Mr. Speaker, I yield 1 minute to the gentleman from Virginia [Mr. PAYNE].

Mr. PAYNE of Virginia. Mr. Speaker, I thank my colleague for yielding me time.

Mr. Speaker, I rise in strong opposition to this bill. The administration has stated unconditionally that the Social Security trust fund will not be touched in dealing with debt crisis.

This bill would prohibit Treasury from utilizing the few remaining tools available for managing our debt, virtually guaranteeing an unprecedented default. This is wrong and it is irresponsible.

Both Standard & Poor's and Moody's, two of the world's leading credit-rating agencies, have issued warnings that our Government's triple-A credit rating is at risk, due to the threat of default. IBCA, the European credit rating agency, has placed the United States on rating watch for a possible downgrade of its triple-A foreign and local currency long-term credit ratings.

If these downgradings go into effect, the impact would place a huge additional financial burden on our taxpayers, and would last well beyond the current controversy many years into the future.

Let's defeat the bad bill, pass a clean temporary debt ceiling extension, and get on with the important business of balancing our budget without tax increases in a bipartisan manner.

I urge my colleagues to vote "no."

Mr. GIBBONS. Mr. Speaker, I yield 1½ minutes to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN. Mr. Speaker, I say to the Republican majority, you are really playing games, and it is time to blow the whistle. I want to repeat, there is no authorization under law for the President of the United States to use Social Security funds. None. And he has said in no event would he use Social Security funds.

So, why are you doing this? The gentleman from Louisiana [Mr. MCCRERY] says to put the President between a rock and a hard place. But trying to do that, you are going to put the American economy on the rocks, default, and it is going to hurt everybody in this country, those who use credit cards, those who have adjustable rate mortgages.

Why are you doing this? It is because you look vulnerable on Social Security and Medicare, so you are looking for cover. And to do that, you are going to blow the lid and cause a default? You are trying to cover your fingerprints on legislation that will weaken Medicare and the Social Security COLA. And to do that you are going to tie the hands of the President?

I say to the American people, this cannot happen. We are going to defeat this bill.

Mr. GIBBONS. Mr. Speaker, I yield 1½ minutes to the gentleman from Massachusetts [Mr. NEAL].

Mr. NEAL of Massachusetts. Mr. Speaker, I think that the gentleman from Louisiana [Mr. MCCRERY], who is my friend, summed the issue up very well. He said that their role is to put the President between a rock and a hard place. The truth is today this debate is about the American people; it is not about putting the President between a rock and a hard place. That is the political solution, and that is what makes this option so unpalatable to all of us.

Mr. Speaker, once again we are here on the House floor debating the debt ceiling. And once again, we are not debating the right solution. We ought to be debating a clean debt ceiling extension.

Instead, we are debating legislation that contains provisions that already have been vetoed by the President. We should be using this time to send a bill that the President can sign.

Last week, the Treasury Department issued a statement assuring that the Treasury will not use Social Security trust fund for any purpose other than to assure the payment of benefits to Social Security recipients. These funds will only be used for Social Security.

Treasury has acted responsibly and has taken options to avoid default, because of Congress' failure to act on a clean debt extension. This legislation will make it harder for payments to be made. This bill would stop payments under Medicare, stops payments, under SSI, stop payments to military personnel, and stop payments to other Federal beneficiaries.

Any prioritization scheme would necessarily imply that other obligations of the United States might be defaulted upon. By repealing the debt management provision of current law relating to the civil service retirement and disability fund, this bill would increase the risk of default by severely limiting the ability of the Secretary of the Treasury to assure that crucial Government payments including benefit payments such as Social Security.

A Republican administration was in charge when debt management provisions were enacted into law. The Secretary should always have options to relieve pressure and avert default.

The bottom line is this legislation would push us closer to a default. It is time to stop this game and vote on a clean debt ceiling extension.

Mr. MCCRERY. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts [Mr. TORKILDSEN].

Mr. TORKILDSEN. Mr. Speaker, I rise in support of the resolution. I find it interesting the arguments that have been going back and forth about what is a clean debt extension bill, what is a clean continuing resolution.

If we look back in the last 10 years, virtually every continuing resolution, and I believe most the debt extensions as well, have had extraneous matters attached to them. Yet at the time none of the Members who are now in the minority objected. All of a sudden they think there has to be a clean bill.

In reality, if we are going to extend the debt, we should have certain restrictions on that debt extension. One of those should be to prevent the President from raiding the Social Security trust fund. For me it is a very basic issue. We do have to borrow some money for short-term needs of the Government. However, it should not be a blank check to the White House. We need to pass the extension, but we need to do it with the restrictions there so we do not have runaway spending and we do not have a raid on the Federal trust fund.

Mr. GIBBONS. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Speaker, when someone is in a corner, what do they do? They lash back. The Republican majority is in a corner, and they are trying to come up with the bogus issue of the Social Security trust fund.

Here is a quote from the President:

> I want to assure the American people that the Social Security Trust Fund will not be used for any purpose other than to pay the benefits to recipients. Under current law, the Secretary of Treasury is not authorized to use the fund for any purpose other than to pay benefits to recipients. There will be no exceptions under my watch. None, not ever.

Now, who do you trust more to save your Social Security? Bill Clinton or NEWT GINGRICH?

Mr. GIBBONS. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, the last statement really hit the nail on the head. We are here today going through this charade, because the present Speaker has just totally mismanaged this place. This is business that should have been taken care of in July. Here it is 5 months later, with no budget passed and only 2 of the 13 appropriations bills passed, and he is trying to shut down the Government. All of this problem is brought about by the Speaker's mismanagement of this House and this Congress.

Mr. Speaker, I yield 3 minutes to the gentleman from Missouri [Mr. GEPHARDT], the Democrat leader.

Mr. GEPHARDT. Mr. Speaker, let me first say that a vote for this bill is a vote to bring about default of the Government for the first time in its history. If we take away from the Secretary of the Treasury all of the management opportunities that are now existent in the law, which this bill would do, we simply bring about the greatest possibility that the unthinkable would happen, and that is that we would have a default for the first time in our history.

The result of that is catastrophic for the American people. Adjustable rate mortgage interest will go up, over the years, not just for 6 months or a year. It will go up over the years, more than it ordinarily would or should.

If you are worried about Social Security, as we all are and should be, the worst thing we could do to Social Security would be to bring about a default on the part of the U.S. Government. They would be unable to make payments. Under the Social Security system, they would be unable to invest the money coming in in interest bearing accounts as a result of what would take place under this bill.

Let us talk about the converse. What is being argued is that this bill is needed in order to make sure that the Social Security fund is not disinvested. It

is a red herring. It is simply not true. If that were the real intent of the bill, why does the bill not just deal with that issue alone, even though we do not need to deal with that issue?

It is because the real agenda is to put leverage on the President to sign the budget that has a big increase in Medicare premiums and a big tax break for the wealthy. That is the real agenda that is going on here. That is really what is happening. That is why this bill is being presented, to gain more leverage on the President.

So I urge Members not to be taken in, not to be fooled. The best policy is to not vote for this bill, to not bring about default and make default more certain, to not increase leverage on the President, so that a budget goes through here that hurts Medicare recipients, increases their premium, closes 25 percent of the hospitals in the country, cuts back dramatically on medical education and all the other things bad that will happen to the Medicare system that we have been fighting so hard to try to preserve. This is a bad idea, it is a wrong idea, it is an unneeded idea.

Finally, if you want to make sure that Social Security is secure, vote against this legislation and let us get the budget done, so that we will not have to worry about the debt ceiling anymore, and make sure that all of our Social Security recipients will receive their checks on time, as we have promised through the years.

□ 1300

The SPEAKER pro tempore (Mr. KOLBE). The gentleman from Louisiana [Mr. MCCRERY] has 3½ minutes remaining and is entitled to close the debate.

Mr. MCCRERY. Mr. Speaker, I yield myself my remaining time. Mr. Speaker, let me just clear up a couple of things that have been said by the last few speakers.

My good friend from Massachusetts, Mr. NEAL, said if this bill is passed, Social Security checks will not be able to be paid. Well, that is simply not the case, and if the gentleman would read the bill, which I have right here, he would see very clearly, on page 3 of the printed text of the bill, it is clear that payment of such benefits or administrative expenses may be, in fact, paid.

So my good friend from Massachusetts is just incorrect in asserting that Social Security benefits would not be paid.

Second, my friend, the gentleman from New York [Mr. SCHUMER], asked rhetorically I presume from his perspective who do we trust to protect Social Security, the President or NEWT GINGRICH? While that got a good laugh from his Democratic colleagues, the fact is what we are trying to do today is make it so that we do not have to trust anybody. It will be the law that the President, no matter who he is, cannot violate the Social Security trust fund.

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

Mr. MCCRERY. I yield to the gentleman from New York.

Mr. SCHUMER. Mr. Speaker, my question is, if the Republicans felt so strongly about it, why did they attach all the other provisions to the bill? A simple line that they would just deal with Social Security would pass this place 435 to nothing. In my judgment, there is a game going on here.

Mr. MCCRERY. Mr. Speaker, reclaiming my time, I would submit to the gentleman that the Social Security and Medicare trust funds account for fully half of the total value of the Federal Government's trust funds. So it is very important that we recognize that these two trust funds will be critical in any exigent circumstance if the President wishes to get around the debt ceiling.

So the fact that we have contained in this bill other trust funds should not obscure the fact that in order to protect all of them, including the Civil Service trust fund which the President intends to tap today and the Social Security trust fund, this bill must be passed.

I would say to the gentleman that we do not need to trust the President or NEWT GINGRICH, we need to pass this bill in order to make it law that the President cannot tap the Social Security trust fund.

Mr. COLLINS of Georgia. Mr. Speaker, will the gentleman yield?

Mr. MCCRERY. I yield to the gentleman from Georgia.

Mr. COLLINS of Georgia. Mr. Speaker, I ask my friend, the gentleman from Louisiana, is it not true that what we are trying to do is to make sure that those taxes are deducted from payroll collection and are deposited into the Treasury and that they then, further, are invested into the trust fund and the trust fund can actually invest them into Government securities? But we want to make sure, once deposited into the Treasury, they do not stay in the Treasury, that they are then further transferred into the Social Security trust fund?

The President's statement is actually factual. He will not deal with the trust fund, but he wants to deal with the Treasury while the money is in the Treasury prior to going to the trust fund.

Mr. MCCRERY. Mr. Speaker, the gentleman is correct.

Mr. COLLINS of Georgia. Mr. Spaker, I thank the gentleman for yielding.

Mr. MCCRERY. Mr. Speaker, reclaiming my time, the minority leader tried to couch this argument in terms of giving tax breaks for the rich and all the like. That is once again trying to obscure the issue. The issue is, do we want to protect the Social Security trust fund, the Medicare trust fund from being raided by the executive branch in order to circumvent the debt ceiling, which under the Constitution must be raised by the Congress, by the legislative branch?

I urge all my colleagues to protect the Social Security trust fund and the Medicare trust fund and vote "aye" on this bill.

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

Mr. DEFAZIO. Mr. Speaker, I rise to oppose H.R. 2621, a transparent political gesture by the Republic leadership. This is nothing more than Speaker NEWT GINGRICH and other House Republican leaders trying to blackmail the President into accepting their Medicare premium increase as part of a temporary Government funding bill. Congress under its new leadership has utterly failed to complete its constitutional responsibility to fund the Federal Government this year. Instead of playing high stakes political games with the hopes and fears of Federal employees, retirees, and Social Security and Medicare beneficiaries, Republican leaders would be well advised to finish the work they should have finished more than 1 month ago.

Mr. STOKES, Mr. Speaker, I rise in strong opposition to H.R. 2621, the bill which the Republicans say is to enforce the public debt limit and to protect the Social Security Trust Fund, and other Federal Trust fund accounts invested in public debt obligation. Once again, more Republican smoke and mirrors. Make no mistake about it, H.R. 2621 is the Republicans' measure to force the Government to default on its obligations.

It is appalling for the Republicans to hold the country, and the American people hostage to their politically contrived and premeditated train wreck. Is there no limit to the extreme tactics that the Republicans will use to force a tax cut for the wealthy. The Republicans have forced the Federal Government to shut down; are striving to force the Government to renege on its debts; are bent on forcing seniors to pay more for less health care; are set on forcing poor children and pregnant women to go without critical health care services; and are set on forcing college students to pay more for their college education. Despite the fact the Republicans' budget defies logic and common sense, they want to force the President to agree to their life threatening budget provisions.

Now, they have introduced H.R. 2621 a measure strictly designed to back the country into a corner, and to force the Government to default—all this destruction, just to give a tax cut to the rich. The Republicans' tantrum tactics must end.

Mr. Speaker, a family would not pay off its mortgage in 7 years if it meant that they had to take food out of the mouths of their children. Both food and shelter are a necessity, it is not a one, or the other situation. The Republicans need to take a lesson from families. Families sensibly balance their responsibilities. Families sensibly spread their debt—and their payment for services over time.

The Republican budget measure is not a balanced budget mechanism—it is a measure

that is specifically designed to destroy the quality of life for the most vulnerable in our society—children and the elderly. Those who have entrusted us with their future, and who are most vulnerable to the Republican's assault.

I applaud the President for this strong leadership, and wholeheartedly support his veto of the Republicans' front-loaded continuing resolution, and debt limit measures.

Day after day, we have heard our Republican colleagues refer to Medicaid and Medicare as "socialized programs." We have heard them use phrases like "we have to get on with it," "the pain is not so severe," and "we have to hold the President's feet to the fire." We have also continuously heard the Republicans speak with concern for the unborn children of the future, while showing no compassion for the children who walk among us today—despite the fact that the Republican budget takes food out of mouths of poor children; takes the roof from over the heads of poor seniors; and takes away health care services from pregnant women. These senior's and children's future will be crippled and their very survival jeopardized.

Mr. Speaker, the Republicans have never had any intention of sending the President a clean continuing resolution measure, or a clean debt limit bill. The Republican touted crown jewel in their contract—the tax cut give away for the rich—knows no bounds. As early as April, House Speaker NEWT GINGRICH vowed to create a titanic legislative standoff with the President by adding vetoed bills to must pass debt ceiling legislation. As recently as July, the GOP admitted that default was a major political weapon in their arsenal. The Republican's escalating mean spirited attack is firm evidence that they think that no child's cry is too harsh, and no senior's pain is too bitter to forgo their tax cut give away to the rich.

Over the past 11 months, the Nation has witnessed the unfolding of the Republicans' premeditated assault on the most vulnerable in our society—children and the elderly. Nearly 6 weeks into the new fiscal year, work on 10 of the 13 appropriations bills is still pending. The Republicans are dragging their feet. If Speaker GINGRICH and his cohorts performed their responsibilities in a timely and responsible manner, there would be no need to bring the Federal Government to a halt.

With each day of the Republican-forced shut down of the Federal Government, 20 thousand new Social Security claims will not be processed. With each day of the Republican-forced shut down of the Federal Government, 2,500 to 3,000 veterans' benefits claims will not be processed. The American people must not be held hostage to the GOP's tax cut for the rich.

Again, I applaud President Clinton for vetoing the Republicans' life threatening budget and debt ceiling measures. I commend him for his principled stand to protect the American people. And, I join President Clinton in condemning the Republican leadership for its shameful attempt to blackmail the oval office by holding seniors, children, veterans, and our Nation's economy hostage.

Mr. Speaker, I strongly believe that it is the height of irresponsibility for the Republicans in Congress to force American citizens to suffer inconvenience and hardship simply because they are trying to score political points. I strongly urge my colleagues to vote "no" on H.R. 2621.

The SPEAKER pro tempore. All time has expired.

The question is on the motion offered by the gentleman from Texas [Mr. ARCHER] that the House suspend the rules and pass the bill, H.R. 2621.

The question was taken.

Mr. MCCRERY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

PARLIAMENTARY INQUIRY

Mr. GIBBONS. Mr. Speaker, parliamentary inquiry. Why are we postponing this vote? Can we not vote now?

The SPEAKER pro tempore. The Chair will postpone the vote until after the veto message is disposed of. It is at the discretion of the Chair to do so, and this vote will be postponed.

Mr. GIBBONS. But, Mr. Speaker, we are all here. It is 1 o'clock in the afternoon.

The SPEAKER pro tempore. The gentleman has not stated a parliamentary inquiry.

Mr. GIBBONS. Mr. Speaker, it is an inquiry so that people will know what is going on.

The SPEAKER pro tempore. The vote will be postponed until after the veto message from the President is disposed of.

The point of no quorum is considered withdrawn.

SECOND CONTINUING RESOLUTION FOR FISCAL YEAR 1996—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 104–134)

The Speaker laid before the House the following veto message from the President of the United States:

To the House of Representatives:

I am returning herewith without my approval H.J. 115, the Second Continuing Resolution for fiscal year 1996.

This legislation would raise Medicare premiums on senior citizens, and deeply cut education and environmental protection, as the cost for keeping the government running. Those are conditions that are not necessary to meet my goal of balancing the budget.

If I signed my name to this bill now, millions of elderly couples all across this country would be forced to sign away $264 more in Medicare premiums next year, premium hikes that are not necessary to balance the budget. If America must close down access to quality education, a clean environment and affordable health care for our seniors, in order to keep the Government open, then that price is too high.

We don't need these cuts to balance the budget. And we do not need big cuts in education and the environment to balance the budget. I have proposed a balanced budget without these cuts.

I will continue to fight for my principles: a balanced budget that does not undermine Medicare, education or the environment, and that does not raise taxes on working families. I will not take steps that I believe will weaken our Nation, harm our people and limit our future as the cost of temporarily keeping the Government open.

I continue to be hopeful that we can find common ground on balancing the budget. With this veto, it is now up to the Congress to take the reasonable and responsible course. They can still avoid a government shutdown.

Congress still has the opportunity to pass clean continuing resolution and debt ceiling bills. These straightforward measures would allow the United States Government to keep functioning and meet its obligations, without attempting to force the acceptance of Republican budget priorities.

Indeed, when Congress did not pass the 13 appropriations bills to fund the Government for fiscal year 1996 by September 30, we agreed on a fair continuing resolution that kept the Government operating and established a level playing field while Congress completed its work.

Now, more than six weeks later, Congress still has sent me only three bills that I have been able to sign. Indeed, I am pleased to be signing the Energy and Water bill today. This bill is the result of a cooperative effort between my Administration and the Congress. It shows that when we work together, we can produce good legislation.

We can have a fair and open debate about the best way to balance the budget. America can balance the budget without extreme cuts in Medicare, Medicaid, education or the environment—and that is what we must do.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *November 13, 1995.*

The SPEAKER pro tempore. The objections of the President will be spread at large upon the Journal, and the message and joint resolution will be printed as a House document.

MOTION OFFERED BY MR. LIVINGSTON

Mr. LIVINGSTON. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. LIVINGSTON moves to postpone consideration of the President's veto message on the joint resolution H.J. Res. 115, until Friday, December 1, 1995.

The SPEAKER pro tempore. The gentleman from Louisiana [Mr. LIVINGSTON] is recognized for 1 hour.

GENERAL LEAVE

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that all Members

may have 5 legislative days in which to revise and extend their remarks on the motion to postpone the veto message of the President on the joint resolution, House Joint Resolution 115, and that I may include tabular and extraneous material.

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

There was no objection.

Mr. LIVINGSTON. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Wisconsin [Mr. OBEY], pending which, I yield myself such time as I may consume.

Mr. LIVINGSTON. Mr. Speaker, my motion to postpone handling the message of the President vetoing House Joint Resolution 115, the proposed second continuing resolution to December 1, is a simple, expeditious way to deal with this matter. The votes to override this veto are not there. Postponing handling this matter to December 1 now will remove it from the immediate schedule of the House so that it can get on with more pressing business.

I urge all Members to support this motion, and I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield myself 10 minutes.

Mr. Speaker, first of all, before I start, I want to wish a belated happy anniversary to my distinguished friend from Louisiana. I understand how he felt when last night, in the midst of everything that was happening, he was trying to celebrate his 30th wedding anniversary and a few other things got in the way. I know how that feels.

Let me also say that I think I know my friend from Louisiana well enough to know that he is not very happy with the situation in which we find ourselves. Neither is any other thoughtful Member of this House. Because there is no reason for this impasse to exist on the appropriation bill.

We have two very different discussions going on. One relates to the need to raise the debt ceiling, and that subject is real and ought to be dealt with separately.

In fact, we have three issues. The second issue is what ought to happen in the multiyear budget reconciliation fight, which is occurring now in this Capitol.

Then the third issue is whether or not the Government is simply going to be allowed to conduct its business while we finish the job that we have had given to us of passing all 13 appropriation bills so that we can at least keep the Government functioning in its basic operations.

Mr. Speaker, my remarks are going to be primarily directed at our moderate friends on the Republican side of the aisle because I, frankly, think that they at this point are the only ones who have sufficient leverage to help end this impasse.

The problem that we are faced with now is that, frankly, we are wrapped around the axle; and the Government, because of that, is rapidly falling into disrepute with most Americans. I think that the choice of what happens is largely in the hands of the moderate Republicans who, I think, have a crucial choice to make. I think they have to choose whether or not they are going to continue to show the same kind of statesmanship which they showed on the Stokes amendment on the HUD appropriation bill a few weeks, or a few days ago when they joined with us to jettison 17 extraneous items, or whether or not they are going to continue to make alliance with the 75 most extreme Members of their caucus and, in the process, hold an awful lot of innocent people hostage.

Mr. Speaker, I would point out that this is not the first time that we have had a political impasse associated with appropriation bills. We have had a number of continuing resolutions required in the past. But the fact is that in almost all cases those arguments involved political divisions between the President and the Congress and, in most instances, they involved the failure of a legislative product to be accepted by one branch or another.

□ 1315

That is not what is happening here. What is happening here is that we had the leadership of this House, most especially the Speaker, simply determine that an extraneous matter was going to be brought into the appropriation process, and that it was going to be wedged into that process, in hopes that his agenda could be leveraged through by threatening to hold up the ability of the Government to function, and that issue in Medicare. So we were told over the weekend that we had to buy into the idea that Medicare premiums would be essentially more than doubled and we had to start the process now by dragging it into this appropriation debate.

Then, Mr. Speaker, last night, just when it was clear to most people, I believe, that the majority party was taking a drubbing in the court of public opinion on that matter, then all of a sudden that was cast aside and now the great cause to them has been whether or not somehow people are going to commit to a 7-year balanced budget.

I would say, Mr. Speaker, that that is a very interesting debate, but it does not belong on this bill, it does not belong on this instrument, because what we ought to be doing here is to simply keep the Government open until we have time to finish the appropriations work that so far the Congress has not done.

The Congress institutionally has no business trying to blackmail the President into buying into someone else's vision on an entirely different cluster of issues simply in order to make up for the fact that the Congress has not yet finished its appropriation business, as this chart demonstrates.

What this chart demonstrates is that only three appropriations bills, Military Construction, Agriculture, and Energy and Water, have been passed by the Congress and sent to the President for his signature, and have had the benefit of the President's signature. Agriculture and Energy and Water is at the White House and soon will become law, but all of the rest of the bills are stuck, at this point, not in the White House, but in the Congress, in the legislative process.

The Transportation bill has not yet been finished by the Congress. The Legislative bill on its second round has not been finished by the Congress. Treasury-Post Office has been hung up for almost 60 days by an extraneous matter, the Istook amendment. The Interior Department appropriation bill has been hung up again on extraneous matters, including how much of a political favor this Congress is going to continue to give to mining companies.

Mr. Speaker, Foreign Operations is tied up because of the abortion issue; it is tied up again in the Congress. VA, HUD, and Independent Agencies, they have been held up for eons, it seems, because of those 17 environmental riders that were attached by the majority party. The Defense bill at this point is hung up on a combination of arguments over spending levels and the abortion issue.

The District of Columbia bill has barely made it through the starting gate in this House. Commerce, Justice, State and the Judiciary has not even met yet in conference, and the Labor-HHS bill passed the House in such extreme form that the Republican chairman of the subcommittee himself is embarrassed by it, and it is clearly the case that the Republican majority in the Senate is so embarrassed by that extremism that they will not even take the bill up, and they cannot even agree to pass it on a voice vote with no one being on record because that bill is so bad.

Now, there is only one way out of this, and the way out of this is not to have the President cave in to the Speaker's extraneous demands. The way out of it is to simply extend the ability of Government to do its business and serve our constituents, I would hope for 1 month at a time, but if that cannot be done, then it ought to be extended 1 day at a time.

Mr. Speaker, I am perfectly happy to stand here all day today and tomorrow or for as long as it takes and continue to offer that motion in the hopes that at some time sanity will prevail and the leadership of this House will recognize that the entire Government of the United States should not be held hostage to the whims of one political leader with an extreme agenda.

That is why, Mr. Speaker, I would suggest that rather than debating all of these extraneous issues, even if we have deep partisan divisions on all of the other issues remaining, there should not be a partisan issue between us on the issue of whether or not the Government performs its basic duties on a day-to-day basis. That is why, again, I would urge our moderate friends on the Republican side of the aisle to join with us, not to adopt any agenda that we have, not to reject any agenda that your leadership might have, but simply to perform the ministerial function of keeping the Government open, keeping it running while we have these other debates for as long as they take.

In the end, the President is not being held hostage; the American people are being held hostage. That should not be allowed to continue, and I would urge our friends on that side of the aisle to reconsider the action that they have been taking by allowing this impasse to continue. I thank the House for its attention.

Mr. LIVINGSTON. Mr. Speaker, I yield myself 30 seconds, and I thank the gentleman from Wisconsin [Mr. OBEY] for his nice remarks regarding my wedding anniversary and acknowledging that I see him more than I see my wife.

Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. STEARNS].

Mr. STEARNS. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, let me just say to the gentleman from Wisconsin [Mr. OBEY] and others on this side of the aisle, since 1979 we have had 55 continuing resolutions, and in 1987 and 1988 we ran this whole place on continuing resolutions. So for the gentleman from Wisconsin to get up and hue and cry about how we are running this place on continuing resolutions when the Democratic Party ran this place for years and years on continuing resolutions is just not stating the facts correctly.

So I want to clear the air and say, God bless his soul, I know what he is talking about, but the bottom line is, in 1987 and 1988 they ran this whole place, because they were so disorganized they could not even get one appropriations bill passed, and the bottom line is 55 continuing resolutions were pushed by that party.

So what we are doing this year is we are trying to bring it all together much more quickly than the historical perspective we have seen from the Democrats.

Mr. Speaker, I rise today to point out something else to my colleagues, and this is some form of the bill of the gentleman from Texas [Mr. ARCHER], the chairman of the Committee on Ways and Means, which will ensure that the Clinton administration does not try to circumvent the Congress when the Government reaches the Federal debt limit, especially at a time when the Federal debt, as of noon today, was $4 trillion, 986 billion, and on and on and on cents. This turns out to be about $18,908.01 of each citizen's share of the debt.

Mr. Speaker, without the provisions in this bill, the Clinton administration will dip into supposedly safe Federal trust funds such as the social security trust fund, the Medicare trust fund and the Federal retiree trust fund.

Mr. Speaker, this is wrong and unacceptable. Yesterday the President vetoed this bill because we refused to let the administration raid the Social Security, Medicare, and Federal retiree trust funds, yet this President also claims that he is the one trying to protect the seniors.

What he does not say is that he will spend their hard-earned dollars to prolong this budgetary crisis. These trust funds should not see their assets reduced, even temporarily, as it sets a bad precedent of encouraging the Treasury Department to raid these funds. Without this bill that the gentleman from Texas [Mr. ARCHER] has provided, the money paid into these funds would be diverted to pay for other services.

This is not why the American people paid into these trust funds. The American people have placed their trust in us to manage their Government and to protect their investments.

Mr. Speaker, we cannot let them down. The Archer bill will protect these funds, enforce the limits that this Congress has already set. I urge my colleagues to pass this bill and also to pass a balanced budget plan that will eliminate the need for such legislation in the future.

Mr. OBEY. Mr. Speaker, I yield myself 1 minute, just to point out to the gentleman that he has pointed out certain factors of history, and I would like to point out some rather more recent history.

Last year, when I chaired the Committee on Appropriations, we had 13 appropriations bill, and all 13 of them passed on time. There was no need to pass a continuing resolution because of the failure of a single appropriations bill, and the reason that happened is because we determined on this side of the aisle not to follow an ideological agenda, but we determined, and I decided as my first act as chairman, that I would simply step across the aisle and talk to the ranking Republican and work out a bipartisan division of funds between all 13 bills.

Mr. Speaker, we did that, we had a bipartisan product and we had a bipartisan finish, and as a result, the entire House was able to finish its work product.

The gentleman from Louisiana [Mr. LIVINGSTON], I am sure, had he been left to his own devices would have done the same, but the fact is he has been given a different set of marching orders, and I understand that. However, I do think if the gentleman is going to talk about ancient history, I think he ought to talk about recent history as well, and I simply want to bring that to the gentleman's attention.

Mr. STEARNS. Mr. Chairman, will the gentleman yield?

Mr. OBEY. Mr. Speaker, despite the fact that the gentleman would not yield to me, yes, I will yield to the gentleman from Florida.

Mr. STEARNS. Mr. Speaker, I commend the gentleman from Wisconsin [Mr. OBEY] for what he did last year, but is it not true that under your party since 1979, we have had 55 continuing resolutions?

Mr. OBEY. Mr. Speaker, reclaiming my time, it is true that we have had a number of them, although I do not know what the specific number is.

All I would say to the gentleman is that the issue is not the past, the issue is what should we do now and what are we going to do to make tomorrow better. We are not going to make tomorrow better by standing here and holding our breath. We need to keep the Government open.

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

Mr. OBEY. Mr. Speaker, I yield 5 minutes to the gentleman from Missouri [Mr. GEPHARDT], the distinguished minority leader.

Mr. GEPHARDT. Mr. Speaker, Members of the House, I urge Members to vote against this motion. I strongly believe that we should vote today on whether or not we are going to override this veto so that we can clear the decks to begin talking about what kind of a continuing appropriation we can put in place.

The issue is today, and the issue is what happens to real people, because as we stand here locked in a disagreement over the budget, which is a disagreement we ultimately have to deal with, in the meantime, real Americans are being affected negatively by our inability to even pass a continuing resolution to keep the Government operating.

Now, a lot of people have said well, the essential services will be taken care of, and I guess yes, the airplanes will still be able to fly, because we are going to have air controllers out there working today, and the aircraft carriers will be in the water because they are essential. I assume the meat inspectors will be on the job so that we do not get some bad hamburger or chicken.

However, you need to understand that on a typical day like today, 20,000 Americans apply for Social Security, retirement and survivors' benefits, or disability insurance, but because Social Security Administration employees are furloughed, 20,000 Americans every day, including today, will be denied their ability to get these benefits.

There is simply not going to be an office open for them to go to.

Also on a typical day like today, anywhere between 2,000 and 3,000 veterans apply for veterans' compensation and veterans' pensions, but because the Department of Veterans Affairs' employees are furloughed today, several thousand veterans who have served their country will be greeted by closed doors when they go to get their benefits.

Mr. Speaker, again, this is not necessary. This is happening, as the gentleman from Wisconsin [Mr. OBEY] said, because the Speaker wants to use the Government being closed or open as leverage to get the President to agree to something with regard to the budget. It is leverage the Speaker does not need.

□ 1330

The President is committed to balancing the budget. There is an argument over the details of how that is done and how fast it is done and what the elements of it are, but he is agreeing with the Speaker that we ought to try to balance the budget, and he is willing to do that. But we are hurting innocent American taxpayers who have paid their taxes and fought our wars and now simply want to be treated as they were promised to be treated.

I have asked the ranking member, the gentleman from Wisconsin [Mr. OBEY], to get up today, maybe on a couple of occasions, and offer a resolution that he has already put in that would simply extend the continuing appropriation for 24 hours. I cannot understand how anyone could not want to extend the continuing appropriation for 24 hours.

Let us keep the veterans' offices open for 24 more hours, so that we can continue the dialog over the budget. If we have not completed it by tomorrow at this time, let us do another 24 hours. When we had the budget summit in 1990, we did a number of 48-hour continuing appropriations. There is no reason we cannot do that today.

I plead with the majority in this Congress, and I plead with the Speaker. Let us use common sense and common decency. Let us do a 24-hour continuing appropriation.

The gentleman from Wisconsin will be on his feet today, maybe on a number of occasions, and will be back here every day on a number of occasions to offer, if we are allowed to do it, a 24-hour continuing appropriation. Let us not take this out on the American people. Let us do what is decent and right. Let us do 24-hour continuing appropriations so that the Government can continue and we can continue trying to do what we were sent here to do, which is to balance the budget on sensible terms.

Mr. LIVINGSTON. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. THOMAS], the distinguished chairman of the Subcommittee on Health of the Committee on Ways and Means.

Mr. THOMAS. Mr. Speaker, the minority leader from Missouri asked a reasonable question: Why not 24 hours? Donna Washington used to sing about 24 little hours. The name of that song was "What a Difference a Day Makes." Because frankly what the Democrats are trying to do in terms of playing politics is now, thank goodness, completely out in the open.

We have talked about our problems and the difficulty of trying to explain to the American people why we had to place holding the line on the Medicare premium in the continuing resolution, and the Democrats have said, "Well, gee, why do we have to do this? Why don't we just drop it?" Now their plea is just 24 hours, just 1 day.

In today's Wall Street Journal, for those who do not receive it, it lays out completely why the Democrats have been doing what they are doing. Initially it had been to pander to seniors: "We don't want to have you to have to pay more for Medicare, that in fact we believe it should be lower."

In the Wall Street Journal today an administration official, quote, involved in the budget deliberations privately concedes that keeping Medicare premiums at the current level, quote, would not be the worst thing in the world in the context of an overall balanced budget package.

In fact, everyone, either publicly Republicans or privately Democrats, agree that the premium structure is part of the solution for seniors. As a matter of fact, the American Association of Retired Persons said, and this is John Rother, their legislative director, "What we have said is that we recognize that seniors need to be part of the solution," he says. "Sacrifice is better borne by premium increases rather than through higher deductibles and copayments which affect the sickest beneficiaries the most."

House Republicans have opposed the other side's plan to increase deductibles and to increase co-pays. We only are dealing with the premium. Why in the world would Republicans then put a premium on a continuing resolution and make that the issue?

Very simply. The President has said they are going to go ahead and reprogram the computers in the Social Security Administration tomorrow.

Notwithstanding the fact this would affect the checks in January, notwithstanding the fact that the administration knows part of a reasonable agreement is the premium, they are going to reprogram those computers tomorrow so that when an agreement is made, the seniors will see their checks go down and then their checks go back up when everybody agrees the premium is the solution. But when will the seniors see their checks change? In February and March, in the high season of politics, in the campaign for the Presidency, the President will say, "Republicans made me do it."

So we took a defensive measure. We said, "No, let's argue the CR now and the premium rate now."

If the President will offer a gentleman's agreement that we will hold off on reprogramming the computers, our problem is solved. Guess what? We cannot get a gentleman's agreement out of the President. He wants to scare seniors for political reasons. He wants to argue we are trying to destroy Medicare, and he is going to stand in the way of stopping us, notwithstanding the fact everyone over here honestly knows the premium rate is part of the solution.

This is, shocked if you may be, all about politics, and the ability of the President to posture himself as a savior notwithstanding his understanding that the solution is the premium. If we had gotten a gentleman's agreement out of the President to do the right thing, hold off on reprogramming the computers even until the end of the week, so that our reconciliation bill can be debated, we would not have done what we did.

Why are they now standing here saying they want a clean CR for 24 hours? Because that is the right thing to do? Because it is the appropriate thing to do? No, it is politics. Because in 24 hours, they can then reprogram the computers. A clean CR for 24 hours gives them a political point-scoring debate in April and May.

We knew what they were going to do. We said that is unacceptable. We said let's make sure that part of the solution is not part of the political problem.

That is why Republicans put holding the line on the beneficiaries' part of the part B premium on the continuing resolution, to stop the President from this kind of political game playing. They will tell you it is for good and worthy purposes. It is for down-in-the-dirt gutter politics, and you people are going to pay.

Mr. OBEY. Mr. Speaker, I demand the gentleman's words to be taken down.

The SPEAKER pro tempore (Mr. COMBEST). The Clerk will report the words.

□ 1340

Mr. OBEY. Mr. Speaker, under the procedures triggered by my request, is the gentleman supposed to be discussing this directly with the Parliamentarian?

The SPEAKER pro tempore (Mr. COMBEST). The gentleman is correct on the question. The gentleman from California [Mr. THOMAS] should be seated.

The Clerk will report the words.

The Clerk read as follows:

We said let us make sure that part of the solution is not part of the political problem.

That is why the Republicans put holding the line on the beneficiaries' part of the part B premium on the continuing resolution, to stop the President from this kind of political game playing. They will tell you it is for good and worthy purposes. It is for down-in-the-dirt gutter politics, and you people are going to pay.

The SPEAKER pro tempore. In the opinion of the Chair, it does not appear that this is a personal reference to any Member or to the President.

The Chair would caution all Members to show proper respect to the Members of the Congress and to the President.

Mr. OBEY. Mr. Speaker, I yield myself 1 minute.

I will not challenge the ruling of the Chair in the interest of comity, but I do want to observe that when the gentleman says that something was done for reasons of down-and-dirty gutter politics and then he points his finger over here and says. "You will pay," there is no doubt in my mind who he is talking about. He told me privately that he was not talking about us. He was talking about the President of the United States. I do not believe that the rules of the House ought to allow anyone's motives to be impugned, whether they are a Member of the House or the President of the United States.

I hope the gentleman will not deny that statement.

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

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

Mr. THOMAS. I appreciate his at least being honest, indicating that I told you privately and this gentleman certainly appreciates the way in which you honor private conversations, and it will be remembered.

Mr. OBEY. I did not consider that to be a private conversation. I considered it to be a conversation made on the floor of the peoples' House.

Mr. THOMAS. Why did you characterize it as that?

Mr. OBEY. Get your own time.

Mr. THOMAS. Why did you characterize it as that?

Mr. OBEY. Get your own time. Once today you ought to follow the rules.

The SPEAKER pro tempore. The gentleman from Louisiana [Mr. LIVINGSTON].

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

Mr. OBEY. Mr. Speaker, I yield myself 1 minute.

It is not my purpose, and I am not going to get suckered into a personal exchange with the gentleman. All I can say is when the gentleman tells me, without benefit of microphone, that he meant to impugn the motives of the President of the United States, I think that that is the kind of conduct that deserves the attention of the House, and I make no apology whatsoever in making that comment public.

Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Speaker, why are we engaged in this heated debate? Why have we shut down the Federal Government? The answer is on this chart. It needs to be updated in this respect: Three of the thirteen appropriations bills have been passed by the Gingrich-led Congress.

As a result, 10 of these appropriations bills which keep the Government functioning have not even been submitted by the Republicans in the House and the Senate for the President's approval. They are literally 6 weeks late in their statutory obligation to pass appropriations bills, to keep the Government running.

What they are saying today is that they want to postpone this process even longer.

Remember, just a few short months ago when Mr. GINGRICH and his group of revolutionaries came in and said there will be a new day in the House of Representatives? Well, now we know what it is; it is Government shutdown, it is mismanagement, it is a waste of Federal taxpayers' dollars. For all of the arguments made on the other side, this chart tells that story. In 10 out of 13 cases, the Gingrich-led Congress failed to lead.

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

I keep looking at that chart over there they keep pulling up, and I noticed it is in error. He forgot Energy and Water has been signed into law. It does not reflect that.

Mr. OBEY. If the gentleman would yield, that is what the gentleman from Illinois just said.

Mr. LIVINGSTON. It shows you how much I listen.

Mr. Speaker, look, the military construction bill has been signed into law. The agriculture bill has been signed into law. Now we know that the energy and water development bill has been signed into law, as the gentleman from Illinois evidently acknowledged. The transportation bill will be signed into law presumably within days. The legislative branch bill went down to the President, and for no reason at all he vetoed it just to show that he could. Maybe he needed some exercise for his pen hand. I am not sure. But he vetoed it.

In that bill we would cut the cost of doing business in the U.S. Congress by 9 percent compared to last year. To this day, over 5 or 6 weeks since he vetoed it, I have not heard the first good, valid, reasonable explanation of why it was vetoed.

My friends who have gotten up and expounded about the slowness of the process fully understand that this has happened before. In fact, over the last 15 years, we have operated under 55 continuing resolutions. This was to be our second this year. That is not unusual. We have had 15 separate budget confrontations, much like we are having today, in the last 15 years. So this is not unusual. In fact, it was not an uncommon way of doing business for the Democrats when they were the majority party to operate under continuing resolution. In 1988 all 13 appropriations bills and in 1987, as well, were included in a continuing resolution for the full year.

Now we keep hearing that we are late, we are late, we are not getting our work done. Look, when the President gratuitously vetoes a bill, obviously we have to have some hesitation about keeping on sending bills down, after going through all the process of hearings and subcommittees and full committees, passing them on the floor; the same thing in the Senate; finally getting to conference. If you finally send the bill down to the President, and he says, "I do not like it today. I got up on the wrong side of the bed. I will veto this bill." That is not the traditional process, and it seems to me that my friends on the Democrat side know that we have had legitimate disputes about one or two issues in the foreign operations bill. We have had legitimate differences about a single issue in the Treasury-Postal bill. We have had two or three issues in the Interior bill where there have been legitimate disputes between the House position and the Senate position; one issue in the national security bill; a difference in funding levels between Commerce, Justice, and the State Departments bill; and in the VA-HUD bill, well, you have got some real differences of opinion between the House and the Senate and between Members of both parties in the VA-HUD bill, and that one has taken longer.

For the District of Columbia bill, likewise, there has been a lot of discussion, a lot of dissension about this bill, and the Labor-Health bill, frankly, has not even passed the other body. That is not because of the majority. I understand that it is primarily because of the minority conducting a filibuster on the Labor-Health bill.

Now, Mr. Speaker, the fact is the American people know we have passed every one of these bills. There is not one of these bills we have not passed. The House has taken its normal traditional action on all of these bills, and now they are working their way through conference, and within the next couple of weeks, the date the continuing resolution that just got vetoed by the President would have expired, frankly, we could have finished this business. We could have concluded.

But, you know, I think it is really ironic that were talking about the failure of the appropriations process to work its will when the other party, the minority party, when it was the majority, acted so grossly in excess of anything that we have done so far. It is pathetic.

But, the real issue seems to be the fact that the folks on the other side of the aisle do not want to face up to the fact that this new majority, for the first time in 60 years, is headed down the path toward fiscal responsibility and is determined to put the United States of America on a fiscally strong footing by balancing the budget and thereby providing huge benefits to every citizen in America.

We are going to bring down interest rates. The cost of housing, of education, of retirement is all going to come down because we are going to finally balance the budget for the first time in I do not know how many years. We have only balanced the budget three times since World War II. We are going to put this country back on a track toward a balanced budget because we are going to get spending in line with revenues.

I think that that is a good thing. Our friends on the other side should be standing up and cheering for what we are doing, but all we hear is criticism. We also see them hiding behind the President's statement in his veto message in which he says, "We do not need the cuts in this continuing resolution to balance the budget. We do not need big cuts in education and environment to balance the budget." He said, "I have proposed a balanced budget without these cuts and without others."

The fact is the President's proposal, the only really significant proposal that he gave us in February when he submitted the budget to Congress, had no balanced budget; $200 billion of deficits this year, the next year, the year after that, no balanced budget for as far as the eye could see. And yet he says he has got a plan to balance the budget.

Whre is it? It was not in his campaign when he said he could balance the budget in 5 years. It was not in his February budget when he said he could not balance the budget. It was not 2 years ago when he raised taxes on the American people by the greatest amount in the history of the country. It is not in his mid-year review which CBO still scared $200 billion a year to beyond 2005—his 10-year balance.

Now where is the balanced budget, Mr. President? He has indicated he has got a plan. The only thing I have seen is about 2 pages long that is not a plan at all. But he can carp at ours. He can criticize ours. He can veto our legislative branch bill. He can veto our continuing resolution. He can veto our debt ceiling. He can veto maybe all of the other bills that we send him.

But, Mr. President, you cannot just say "no." You have got to say "yes" to something. Where is the plan, Mr. President? Where is the beef?

Mr. Speaker, I have heard a lot of rhetoric over the last few days. I have heard so many speeches. I just cannot believe that the American people really understand what is going on, because they have been filled with fluff. But when it gets right down to it, who really has that plan to put America back on track to fiscal sanity? We do. And we are going to implement it with or without the other side.

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

Mr. OBEY. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Speaker, I have a slightly different spin on the last speaker, the distinguished chairman of the committee, and I take no affront to most of what you said, I say to the gentleman from Louisiana [Mr. LIVINGSTON].

But, you know, the problem we have is when the 55 CRs were being discussed on this side, I oppose my leadership on that just as I wished you were opposing your leadership on why we are here today.

The issue today is not Social Security. It is not Medicare. It is not balancing the budget. The issue before us is as to whether we are going to have Government continue while we do our work. No matter how you spin it, the bottom line of this particular resolution and this particular argument, Congress has not completed but three of our legislative appropriation bills.

If we had all 13, we would not be here. The Department of Agriculture is functioning today because we did our work. The legislative appropriations, I voted against it, I say to the gentleman from Louisiana [Mr. LIVINGSTON]. Why? Because we did not cut ourselves as much. I thought we ought to cut Congress as much as we did the executive branch. We did not do it. I voted "no." I was glad the President vetoed it. I was disappointed he did not make the same point I did.

I got criticized by folks on your side of the aisle for doing that.

You know, we have not done our work. That is the bottom line. The President cannot get involved until we do ours.

We have 68 Democrats who have already said we are for balancing the budget. If you want to deal with these peripheral issues, let us get on with doing our work. Let us put us all on the line.

But that is not what we are talking about today. Why cannot we do our work? Why can we not send 13 appropriation bills to the President? Why have we brought the Government down because we have not done our work and tried to blame the President because we have not done our work?

Now, "we" means me, because I am getting tarred by the same thing the majority is refusing to do. But I am tired of taking it, and I would like to have the blame for this particular bill go where it belongs. The majority has not don it's work.

□ 1400

Mr. LIVINGSTON. Mr. Speaker, I yield 3 minutes to the gentleman from Louisiana [Mr. MCCRERY], a distinguished member of the Committee on Ways and Means.

Mr. MCCRERY. Mr. Speaker, just in response to my good friend from Texas, who has been a valiant warrior for a balanced budget for this country, and I commend him on his efforts, I think the gentleman has failed to properly characterize the work ethic of this Congress.

With all due respect to the gentleman's comments, this Congress, certainly this House of Representatives, has passed more legislation than any in my memory, and probably than any Congress since the first term of FDR. So to say that we have failed to do our work I do not think appropriately characterizes this House's work.

The gentleman is correct that we have failed to timely pass all of our appropriations bills; that is to say, we have failed to pass all 13 appropriations bills before the October 1 beginning of the fiscal new year. And that is regrettable. However, the gentleman knows full well that for the first time in 40 years, this Congress enjoys a new majority, a new leadership, and we hoped a new direction for the country. And in an effort to change the direction of this country, we had to necessarily take up a good part of the first part of this year in passing legislation that we thought and we hoped would start the country in a new, better direction.

Consequently, we were put behind somewhat on the appropriations process. But the gentleman knows well that that can be remedied very easily by adopting a continuing resolution, which is what we did. The President has now vetoed that for his own reasons, and we must now try to pass another continuing resolution eventually, so that this Government can continue to operate.

I just wanted to take issue with the gentleman's comments about the work ethic of this House.

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

Mr. MCCRERY. I yield to the gentleman from Texas.

Mr. STENHOLM. Mr. Speaker, I did not cast any dispersions intentionally on the work ethic of the Congress. I readily concur with the gentleman's statement.

My only point was it seems to me that the business as usual that you have rightfully complained about, and I have joined you with, is now being perpetuated at a level of which we have not seen in a long time on one particular issue, and that is the continuing.

If we could just send a clean continuing resolution, get on with doing our work and allow a little more bipartisanship in it, I believe we would all do better.

My only point today was we are blaming the President for doing something that we have not done, regardless of the merits. We have taken 318 days to get to this point. We spent the last four debating this. Why have we not been sending the appropriation bills down to the President so he can sign them? That is my only point.

Mr. McCRERY. Mr. Speaker. reclaiming my time, the gentleman knows that the President has already vetoed one of the appropriations bills that we sent to him, and has threatened to veto other appropriations bills. But we will get that work done. We have done our work in this House. We are waiting on the other body to complete its work. We will get the work done.

Mr. OBEY. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I know my chairman likes this chart, so I put it back up. I am the ranking member on one of these subcommittees, the Subcommittee on Treasury, Postal Service, and General Government. What we are about is laying off employees, furloughing employees today. On this Treasury-Postal bill, we cover 192,000 Federal employees. Of that, approximately 95,000 of them were at 11 o'clock today told to go home.

I do not question the work ethic; I question the work smartness. This bill, as my chairman so well knows, should have passed 60 days ago. But because, very frankly, 100 of our most zealotry Members, what an awful word that is, want to pass an amendment that cannot pass the Senate, forget about the President, cannot pass the Senate, the Istook-Ehrlich amendment, which was rejected by the U.S. Senate on the continuing resolution, because they cannot pass that, this bill sits here for that reason alone.

As of September 13, it was ready to be passed through this House and be signed by the President of the United States. So, because of that extreme commitment to one unrelated appropriation issue, this bill stands mired in a political morass, and 95,000 people were sent home.

Mr. Speaker, I ask my reasonable colleagues on the Republican side of the aisle and on the Democrat side of the aisle, let us join together and do what we know makes sense, and that is provide for the operations of these departments, which everybody wants to do. Let us do the reasonable thing and provide for the operation of government, and then, as the public expects us to do, argue, contend, on the issues of difference between us and follow the regular process.

This is not the right thing to do. This is not the smart thing to do. This is not in the best interests of America or the American public.

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

Mr. HOYER. I yield to the gentleman from North Carolina.

Mr. HEFNER. Mr. Speaker, I would like to ask a question I have been asking around here for the past 2 days: Is there anything that is put in this CR and the debt extension that could not be done through the regular channels in this House?

Mr. HOYER. Mr. Speaker, reclaiming my time, the answer to that is nothing, and the Treasury-Postal bill could pass right now if the chairman would ask unanimous consent that it come to the floor. We could pass it right now, Mr. Speaker, and send it to the President. I believe without the Istook-Ehrlich, the President would sign it, and 95,000 people can come back to work for the American people.

Mr. LIVINGSTON. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Massachusetts [Mr. TORKILDSEN].

Mr. TORKILDSEN. Mr. Speaker, I thank the chairman for yielding me time.

Mr. Speaker, in case there was some confusion with some of the words just spoken, the Istook amendment was not in the continuing resolution. I was one of the Republicans who opposed the Istook amendment. I am glad it is not there. It was not in the continuing resolution.

Mr. HOYER. Mr. Speaker, if the gentleman will yield, I misspoke. It was on the debt extension.

Mr. TORKILDSEN. Mr. Speaker, the whole point that many Members in the minority have made, that we cannot pass a continuing resolution because there are these riders on it, just does not hold water. If you go back and look to the time when the Democrats were in the majority, time and time again there were riders on the continuing resolutions.

In fiscal 1988, the continuing resolutions that year had the Agricultural Aid and Trade Mission Act, the Nuclear Waste Policy Amendments Act, the Indo-Chinese Refugee Resettlement Act, the Food Security Act Amendments. Over and over again there have been riders. So for someone to get up and say, "Well, there has to be a clean bill," that person is just not dealing with reality.

I think that the chairman's position is well founded. We need to negotiate something to keep the Government open, but there should be strings, there should be legitimate riders attached. For any Member to get up and say there can be no riders, I think that person is being unrealistic.

I would hope the President would come back to the negotiating table. I would point out to individuals, and people who read the paper this morning will know this, the Speaker offered the President a deal where Medicare would be withdrawn, where there would not be language dealing with the Medicare Program, in exchange for the President to committing to balancing the budget in 7 years. The President did not accept that as a legitimate offer.

I think people should know that indeed the Members of this House who are serious about keeping the Government open and balancing the budget at the same time, have been willing to negotiate in good faith. All we are asking for is the President do the same thing.

Mr. LIVINGSTON. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I want to commend the gentleman for making an excellent point. In the 55 continuing resolutions that took place over the last 15 years when the Democrats were in control of this body, and during the 15 budget confrontations that took place, there were lots and lots of riders attached to these various legislative vehicles. As a matter of fact, one of the most significant that kept this House hog-bound, hog-tied, for weeks, months, and years actually, because there were investigations on top of investigations, was the Boland amendment, which was the amendment passed by the majority back in those days to give comfort to the people who turned out to be the Communist insurgents and the Communists that dominated Nicaragua. This rider virtually assisted those people, led to endless debate, investigations of the President of the United States and all sorts of groundless accusations. That Boland amendment was included on a continuing resolution at least once. It was a rider. It was a rider, the very same nature of which has been complained about by my friends on the other side of the aisle.

So do not tell us it has never been done before. It was always done before. In fact, it was done with incredible excess under their leadership. The Boland amendment is an incredibly vivid example of how they used to do this stuff. We have had a few riders, but we withdrew the Istook amendment because it was so controversial. Now we have just a plain old continuing resolution, with a lot of nominal stuff that the President has reached into the bottom of the barrel and scraped up a reason why he should veto it.

The fact of the matter is, the President just does not want to balance the budget, and that is the plain truth.

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

Mr. OBEY. Mr. Speaker, I yield 1 minute to the distinguished gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, earlier the minority leader suggested that we have a short-term resolution, and the gentleman from Wisconsin [Mr. OBEY] has offered a short-term resolution to this. And the reason is this: Right now CNN is reporting the President is about to go live that the Republicans and the White House have agreed to try and

agree, to set aside their differences and agree to try and agree.

As the gentleman from Texas [Mr. STENHOLM] points out, why would we shout down the Government in the face of that? What is wrong with a 24-hour or 48-hour continuing resolution, so the Committee on Appropriations can continue to do its work, so it can send the transportation bill from the Senate?

But this is ridiculous, to start sending people home, calling them back, and sending them home, when in fact the principals now to this agreement have decided they will try and reach an agreement, which is a far different situation than we had an hour ago and we had yesterday.

So the point is this: That we do not have to inflict either the cost or the pain on the recipients, the Social Security recipients, the veterans recipients, that the minority leader referenced earlier. We ought to do this and get on with the business of this House and the Congress and finish our work.

Mr. OBEY. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. BENTSEN].

Mr. BENTSEN. Mr. Speaker, this is nonsense. It is no way to run a company, and certainly no way to run a nation. We were sent here to do the people's business, but the fact is that the leadership of this House has failed to meet well-known and statutory deadlines. So, now, rather than act responsibly, we are engaging in a political shouting match on the American people's time and the American people's money. That is irresponsible.

The Republican majority controls both houses, and yet it has only passed 4 of 13 appropriations bills, 3 of which have been signed into law. They did not even send him this bill until a few hours before the last deadline. They are asking the President to negotiate on bills that their majority has not even passed and sent to the White House. Their leadership has failed the test of process, not to mention policy.

Today we fight to the death over a short-term measure. What happens next? Now we are going to engage in a symbolic exercise of shutting down the Government and throwing a temper tantrum. My children do that. They were not elected to serve the people's interests.

Mr. Speaker, I call on my colleagues on the other side to reject this nonsense, to get some business sense, to get some common sense. Let us bring a clean bill we can pass, and let us get back to doing the people's business we were sent here to do.

□ 1415

Mr. OBEY. Mr. Speaker, I yield 1 minute to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, I thank the gentleman from Wisconsin for his leadership in this. I think we are at a very, very clear and critical crossroad. We have over 800,000 Americans being sent home at this moment because we have not finished the bills, all these many, many days after the due date.

We now understand that there is an agreement between the President and the Republicans to try to meet and work out these agreements, their differences. We also understand that there is a letter from the Speaker saying to these 800,000-plus people who are being sent home that they are going to be paid anyway.

Now, why do we not adopt the gentleman from Wisconsin's resolution for a 24-hour clean continuing; and then if something falls apart with the President we do not have to do it tomorrow, but let us keep it going. Why are we sending home people when we are going to pay them anyway? I want them to be paid, but that is crazy. Adopt the gentleman's resolution.

Mr. LIVINGSTON. Mr. Speaker, we have only one remaining speaker, and I will reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield 1 minute to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, sometimes it's a good idea to go outside the beltway to get a better understanding of what is happening here in Washington. In yesterday's USA Today, a letter to the editor from Joann Rossall of Snohomish, WA, hit the nail on the head when it comes to the Government shutdown.

It reads:

> It seems to me if Gingrich and his troops had done the job that I and every other citizen in this country pay them to do, they would have presented a finished budget over six weeks ago.
>
> Republicans knew the budget was due by Oct. 1—they've had elephants and clowns at the Capital, they've had wild animals parading up the halls, but they haven't done the job they were hired to do.

Joann Rossall hit the nail right on the head. If it weren't for the Gingrich public relations extravaganza of the first 100 days, we wouldn't be in this mess.

Stop whining and do your job.

Mr. OBEY. Mr. Speaker, I yield 1 minute to the gentleman from Maine [Mr. BALDACCI].

Mr. BALDACCI. Mr. Speaker, I voted for a balanced budget over 7 years, and I support that because I support fiscal responsibility. This is not fiscal responsibility. This is a continuing resolution that Congress needs to pass because it has not finished its work. For Congress then to add items to it that are unrelated to the financial matters at hand is really compounding the problem.

We need to have a clean continuing resolution, we need to have a clean debt limit, because we have not really done our job. It is not the President's responsibility, because the Congress has not even come together with its own budget. I want to work together with my friends on the other side of the aisle to do what is right for America, not what is right for the Republican party or the Democratic party but what we have to do for all the people.

We need to pass a clean continuing resolution. We do not need to compound it with language that is extraneous to the budget matter, and I think that most Americans feel that way, so that we can work in a bipartisan way for America's interests.

Mr. OBEY. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Speaker, I, too, want to say this is a game we are playing because the Republicans wanting to stick this measure and that measure and this doodad and that doodad on this bill is atrocious. It should not be a game. It has a real effect on people.

In my area of New York, 30,000 Federal workers are furloughed; 57,000 veterans may not get their checks; the Statue of Liberty closed, even though hundreds of thousands have come to see it. This is real, and it is completely against the grain of what is right, to try to beat in the street the schoolyard bully, as the other side is doing, and say do it my way or no way.

We should pass a clean, plain vanilla CR, a clean, plain vanilla debt ceiling and then get on and negotiate with the people's business.

Mr. LIVINGSTON. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. COX].

Mr. COX of California. Mr. Speaker, I thank the chairman.

Mr. Speaker, I have been listening to the debate, and I have to agree with much of what I have heard. It is very important that the Congress pass a continuing resolution and that we get on with the major business at hand, which is, of course, wrapping up all of our work here so that Congress can adjourn and we can get on with the fiscal year that has already commenced on October 1.

A couple of points need to be made, though, because they are missing from the debate. We all recall we worked very, very hard here to pass all of our appropriations bills before we adjourned for August. This body has been doing a responsible job, and I want to congratulate the chairman for that effort.

Second, insofar as people saying that doodads are being stuck on the bill or extraneous matters, I do not know whether anyone considers it to be an extraneous matter that both the Senate and the House have passed a plan for a 7-year balanced budget and that the administration, the Clinton administration, and the President himself have refused to accept this overall principle. If we had agreement at that

level, then I think all the rest of this could be quickly negotiated. But the great difficulty here is that, for the first time, certainly in my lifetime, we have a President who is vetoing a congressional spending plan because it does not spend enough money.

When Leon Panetta was at the Congress I was working at the White House, and at that time President Reagan had to veto a continuing resolution with all the things stuck on to it because Congress wanted to spend too much money. Now, this President is vetoing a continuing resolution because the Congress, in his view, is not spending enough money.

This Congress is different. It is the first Republican majority Congress in 40 years; and if our mandate is nothing else, it is to make sure that we change this pattern of endless deficits. The President's plan, finally having agreed to a balanced budget in principle, would have a deficit of $200 billion in the year 2005. We want to bring these deficits to an end, and that is the task at hand. Let us agree to the principle of a balanced budget and do it now.

Mr. OBEY. Mr. Speaker, does the gentleman from Louisiana have only one remaining speaker?

Mr. LIVINGSTON. Yes, Mr. Speaker, and I reserve the right to close.

Mr. OBEY. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE. Mr. Speaker, in keeping with the reasonable consensus of getting on with the American people's business, I ask my colleagues not to delay a vote on any continuing resolution so that the Congress can move forward on behalf of the American people. I will vote no on any delaying vote on the continuing resolution. The Congress needs to vote for a clean continuing resolution.

Mr. OBEY. Mr. Speaker, Members can make their debating points on any bill they want except this one. The fact is that there will be 20,000 people a day who will apply for Social Security assistance. That means about 40 in each congressional district. There will be about 3,000 veterans who will apply for help on any given day, about 6 in each district. Those may seem like small numbers, but they are not small to the people involved.

We ought to get on with our business, stop the debating points. That is why I will, whenever I can today, offer a motion for a clean CR, whether it is 1 month or 1 day, whatever the powers that be in this House will allow, so that we do not wind up hurting innocent people while we continue to debate other issues that should be settled on other legislation in other places.

Mr. Speaker, I urge Members to support my request of the Speaker that he allow for a clean CR for whatever length of time that the Speaker would be happy to entertain.

Mr. LIVINGSTON. Mr. Speaker, I yield myself the balance of my time.

Mr. MCCRERY. Mr. Chairman, will the gentleman yield?

Mr. LIVINGSTON. I yield to the gentleman from Louisiana.

Mr. MCCRERY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I just wanted to point out that with respect to the question of the Medicare premiums that have been talked about a lot here on this floor today, my friend from California, Mr. THOMAS, made a remark that gained some attention. While we may not all characterize either the President's actions or the Democratic minority's actions the way the gentleman from California [Mr. THOMAS] did, I think it is worth pointing out that Robert Reischauer, the Director of the Congressional Budget Office, when the Democrats were in the majority, is quoted in today's Wall Street Journal as saying, "I think, in a sense, the President is defending the low ground on this question of the Medicare premium."

Certainly I would agree with Mr. Reischauer, or Dr. Reischauer, that the President is defending the low ground on the question of the Medicare premiums. No one in his right mind would conclude that with escalating health care costs we should reduce the premium that seniors pay for that program.

I just wanted to point that out, and I thank the gentleman for yielding.

Mr. LIVINGSTON. Mr. Speaker, I thank the gentleman for his comments, and I think that the gentleman's comments highlight the hysteria that has been put out for press consumption over the last few days about the potential train wreck that we have heard so much about over the last few months.

We are going through this legislative process, and it is not pleasant. It is perhaps the ugliest portion of the legislative process. But the important thing to understand is that it is part of the legislative process.

I have pointed out several times to the other party that when they were in control of the House of Representatives and the other body they had 55 continuing resolutions, they had 15 separate budget confrontations. There were some work-stop instances because we could not reach an accommodation with the President, who then, at that time, was a Republican when we had Democratic-controlled Congresses. This has gone on before, and it will go on from now on.

I worry about the hysteria. I think that it is unfortunate when leaders of either side resort to language, frankly, that simply inflames the attitudes and the approaches of the press in order to win the hearts and minds of the American people.

We have heard references, Mr. Speaker, that one side said the other side wanted old people to die to solve the Social Security problem. We have heard our Members called radical extremists. The Vice President himself used the term "terrorism." The President's Chief of Staff says we put a gun to the President's head, and he uttered those words only 3 days after the funeral of Prime Minister Rabin.

Mr. Speaker, this is ridiculous. These words hurt. Somebody here on the floor today talked about animals running loose in the halls or people throwing tantrums or attaching doodads to the bills like schoolyard bullies.

Look, this is the legislative process. Two bills have been passed in the last week, a continuing resolution and an effort to raise the debt ceiling. Now, if Members do not like everything included in these bills, get the votes to reverse it, but do not label it terrorist tactics by extremists.

The fact is, this is the legislative process. Both bills passed with a majority of the House and the Senate. Just as rightfully, they went to the White House, and the President exerted his privilege under the Constitution of the United States, and he vetoed them.

Now, we are kind of at an impasse, and it will take us a few days to work it out but, folks, the process will work. And if we do not resort to this fence-building and all this name calling, we will come together, we will work through this process, and the nonessential Government workers, ultimately, will get back to work, and government will get back to normal.

The SPEAKER pro tempore. All time has expired.

Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore (Mr. COMBEST). The question is on the motion offered by the gentleman from Louisiana [Mr. LIVINGSTON].

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. LIVINGSTON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 229, nays 199, not voting 4, as follows:

[Roll No. 790]

YEAS—229

Allard	Barton	Bonilla
Archer	Bass	Bono
Armey	Bateman	Brownback
Bachus	Bereuter	Bryant (TN)
Baker (CA)	Bilbray	Bunn
Baker (LA)	Bilirakis	Bunning
Ballenger	Bliley	Burr
Barr	Blute	Burton
Barrett (NE)	Boehlert	Buyer
Bartlett	Boehner	Callahan

Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—199

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
Davis
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Forbes
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hayes
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn

NOT VOTING—4

Fields (LA)
Tucker
Waldholtz
Yates

□ 1448

Mr. MOORHEAD changed his vote from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REQUEST TO DISCHARGE COMMITTEE ON APPROPRIATIONS FROM FURTHER CONSIDERATION OF HOUSE JOINT RESOLUTION 119, FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1996

Mr. OBEY. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations be discharged from further consideration of House Joint Resolution 119, a clean continuing resolution through midnight tomorrow, and ask for its immediate consideration in the House.

The SPEAKER pro tempore (Mr. COMBEST). Under the guidelines consistently issued by successive Speakers, and procedures recorded on page 534 of the House Rules Manual, the Chair is constrained not to entertain the gentleman's request until it has been cleared by the bipartisan floor and committee leaderships.

Mr. OBEY. Mr. Speaker, I would urge the Speaker to clear such a motion. It obviously needs to be done.

ENFORCEMENT OF PUBLIC DEBT LIMIT AND PROTECTION OF SOCIAL SECURITY AND OTHER FEDERAL TRUST FUNDS AND ACCOUNTS

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 2621.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. ARCHER] that the House suspend the rules and pass the bill, H.R. 2621.

The question was taken.

RECORDED VOTE

Mr. MCCRERY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 247, noes 179, not voting 6, as follows:

[Roll No. 791]

AYES—247

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doggett
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Peterson (MN)
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad

Regula	Skeen	Traficant
Riggs	Skelton	Upton
Roberts	Smith (MI)	Vucanovich
Rogers	Smith (NJ)	Walker
Rohrabacher	Smith (TX)	Walsh
Ros-Lehtinen	Smith (WA)	Wamp
Roth	Solomon	Watts (OK)
Roukema	Souder	Weldon (FL)
Royce	Spence	Weldon (PA)
Salmon	Stearns	Weller
Sanford	Stockman	White
Saxton	Stump	Whitfield
Scarborough	Talent	Wicker
Schaefer	Tate	Wolf
Schiff	Tauzin	Wynn
Seastrand	Taylor (MS)	Young (AK)
Sensenbrenner	Taylor (NC)	Young (FL)
Shadegg	Thomas	Zeliff
Shaw	Thornberry	Zimmer
Shuster	Tiahrt	
Sisisky	Torkildsen	

NOES—179

Abercrombie	Gonzalez	Olver
Ackerman	Gordon	Ortiz
Andrews	Green	Orton
Baesler	Gutierrez	Owens
Baldacci	Hall (OH)	Pallone
Barcia	Hamilton	Pastor
Barrett (WI)	Harman	Payne (NJ)
Becerra	Hastings (FL)	Payne (VA)
Beilenson	Hefner	Pelosi
Bentsen	Hilliard	Peterson (FL)
Berman	Hinchey	Pickett
Bevill	Hoyer	Pomeroy
Bishop	Jackson-Lee	Poshard
Bonior	Jacobs	Rahall
Borski	Jefferson	Rangel
Boucher	Johnson (SD)	Reed
Brown (CA)	Johnson, E.B.	Richardson
Brown (FL)	Johnston	Rivers
Brown (OH)	Kanjorski	Roemer
Bryant (TX)	Kaptur	Rose
Cardin	Kennedy (MA)	Roybal-Allard
Clay	Kennedy (RI)	Rush
Clayton	Kennelly	Sabo
Clyburn	Kildee	Sanders
Coleman	Kleczka	Sawyer
Collins (IL)	Klink	Schroeder
Collins (MI)	LaFalce	Schumer
Conyers	Lantos	Scott
Costello	Levin	Serrano
Coyne	Lewis (GA)	Shays
Danner	Lincoln	Skaggs
de la Garza	Lofgren	Slaughter
DeFazio	Lowey	Spratt
DeLauro	Luther	Stark
Dellums	Maloney	Stenholm
Deutsch	Manton	Stokes
Dicks	Markey	Studds
Dingell	Martinez	Stupak
Dixon	Mascara	Tanner
Dooley	Matsui	Tejeda
Doyle	McCarthy	Thompson
Durbin	McDermott	Thornton
Edwards	McHale	Thurman
Engel	McKinney	Torres
Eshoo	McNulty	Torricelli
Evans	Meehan	Towns
Farr	Meek	Velazquez
Fattah	Menendez	Vento
Fazio	Mfume	Visclosky
Filner	Miller (CA)	Volkmer
Flake	Minge	Ward
Foglietta	Mink	Waters
Ford	Moakley	Watt (NC)
Frank (MA)	Mollohan	Waxman
Frost	Moran	Williams
Furse	Murtha	Wilson
Gejdenson	Nadler	Wise
Gephardt	Neal	Woolsey
Geren	Oberstar	Wyden
Gibbons	Obey	

NOT VOTING—6

Fields (LA)	Lewis (CA)	Waldholtz
Kasich	Tucker	Yates

□ 1509

Messrs. CHAPMAN, SKELTON, SISISKY, and CRAMER changed their vote from "nay" to "yea."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

ICC TERMINATION ACT OF 1995

Mr. QUILLEN. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 259 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 259

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2539) to abolish the Interstate Commerce Commission, to amend subtitle IV of title 49, United States Code, to reform economic regulation of transportation, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill for failure to comply with section 302(f) or 308(a) of the Congressional Budget Act of 1974 are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Transportation and Infrastructure. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Transportation and Infrastructure now printed in the bill. The committee amendment in the nature of a substitute shall be considered by title rather than by section. The first section and each title shall be considered as read. Points of order against the committee amendment in the nature of a substitute for failure to comply with clause 5(a) of rule XXI or section 302(f) of the Congressional Budget Act of 1974 are waived. Before consideration of any other amendment, it shall be in order without intervention of any point of order to consider the amendment caused by the chairman of the Committee on Transportation and Infrastructure to be printed in the portion of the Congressional Record designated for the purpose in clause 6 of rule XXIII. That amendment may be offered only by the chairman of the Committee on Transportation and Infrastructure or his designee, shall be considered as read, shall be debatable for ten minutes equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. If that amendment is adopted, the bill, as amended, shall be considered as the original bill for the purpose of further amendment. During further consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for the purpose in clause 6 of the rule XXIII. Amendments so printed shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Tennessee [Mr. QUILLEN] is recognized for 1 hour.

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

□ 1515

Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the distinguished ranking member of the Rules Committee, the gentleman from Massachusetts [Mr. MOAKLEY], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 259 is an open rule providing for the consideration of H.R. 2539, the ICC Termination Act of 1995. The rule provides 1 hour of general debate divided equally between the chairman and ranking minority member of the Committee on Transportation and Infrastructure.

The rule waives section 302(f)—prohibiting consideration of legislation providing new entitlement authority in excess of a committee's allocation—and section 308(a)—requiring a CBO cost estimate in the committee report on legislation containing new entitlement, spending, or budget authority, or a change in revenues—of the Congressional Budget Act of 1974 against consideration of the bill.

The bill creates the position of director of the transportation adjudication panel and prescribes the rate of pay for this position. This would be considered an entitlement and, therefore, requires these Budget Act waivers.

The rule makes in order the Committee on Transportation and Infrastructure amendment in the nature of a substitute now printed in the bill as an original bill for the purpose of amendment. Section 302(f) of the Congressional Budget Act and clause 5(a) of rule XXI—prohibiting appropriations in a legislative bill—are waived against the committee amendment in the nature of a substitute.

These waivers are necessary to protect provisions which authorize the Secretary of Transportation to collect registration fees and use them to cover costs of operations relating to the registration system without further appropriation.

Mr. Speaker, the rule further provides for the consideration of a manager's amendment printed in the CONGRESSIONAL RECORD of November 13, 1995, which is considered as read, not subject to amendment or to a division of the question, and is debatable for 10 minutes equally divided between the

proponent and an opponent of the amendment. If adopted, the amendment is considered as part of the base text for the purpose of further amendment.

Under the rule, the Chair may accord priority in recognition to members who have preprinted their amendments in the CONGRESSIONAL RECORD. Finally, the rule provides one motion to recommit, with or without instructions.

Mr. Speaker, H.R. 2539 provides for the immediate elimination of the Interstate Commerce Commission. The bill repeals many motor carrier and rail laws and regulations and reforms and transfers the remaining functions of the ICC to the Department of Transportation.

The House provided no funding for the ICC in the fiscal year 1996 transportation bill, and this measure will complete the formal elimination of the ICC.

This bill is just one step in the long climb to reduce the size and scope of the Federal Government. This open rule will allow all Members to fully participate in the amendment process, and I urge my colleagues to support the rule and the bill.

Mr. Speaker, I insert the following material into the RECORD on the amendment process under special rules reported by the Committee on Rules, 103d Congress versus 104th Congress:

THE AMENDMENT PROCESS UNDER SPECIAL RULES REPORTED BY THE RULES COMMITTEE,[1] 103D CONGRESS V. 104TH CONGRESS

[As of November 10, 1995]

Rule type	103d Congress		104th Congress	
	Number of rules	Percent of total	Number of rules	Percent of total
Open/Modified-open [2]	46	44	53	68
Modified Closed [3]	49	47	19	24
Closed [4]	9	9	6	8
Total	104	100	78	100

[1] This table applies only to rules which provide for the original consideration of bills, joint resolutions or budget resolutions and which provide for an amendment process. It does not apply to special rules which only waive points of order against appropriations bills which are already privileged and are considered under an open amendment process under House rules.

[2] An open rule is one under which any Member may offer a germane amendment under the five-minute rule. A modified open rule is one under which any Member may offer a germane amendment under the five-minute rule subject only to an overall time limit on the amendment process and/or a requirement that the amendment be preprinted in the Congressional Record.

[3] A modified closed rule is one under which the Rules Committee limits the amendments that may be offered only to those amendments designated in the special rule or the Rules Committee report to accompany it, or which preclude amendments to a particular portion of a bill, even though the rest of the bill may be completely open to amendment.

[4] A closed rule is one under which no amendments may be offered (other than amendments recommended by the committee in reporting the bill).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS

[As of November 10, 1995]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 38 (1/18/95)	O	H.R. 5	Unfunded Mandate Reform	A: 350–71 (1/19/95).
H. Res. 44 (1/24/95)	MC	H. Con. Res. 17	Social Security	A: 255–172 (1/25/95).
		H.J. Res. 1	Balanced Budget Amdt	
H. Res. 51 (1/31/95)	O	H.R. 101	Land Transfer, Taos Pueblo Indians	A: voice vote (2/1/95).
H. Res. 52 (1/31/95)	O	H.R. 400	Land Exchange, Arctic Nat'l. Park and Preserve	A: voice vote (2/1/95).
H. Res. 53 (1/31/95)	O	H.R. 440	Land Conveyance, Butte County, Calif	A: voice vote (2/1/95).
H. Res. 55 (2/1/95)	O	H.R. 2	Line Item Veto	A: voice vote (2/2/95).
H. Res. 60 (2/6/95)	O	H.R. 665	Victim Restitution	A: voice vote (2/7/95).
H. Res. 61 (2/6/95)	O	H.R. 666	Exclusionary Rule Reform	A: voice vote (2/7/95).
H. Res. 63 (2/8/95)	MO	H.R. 667	Violent Criminal Incarceration	A: voice vote (2/9/95).
H. Res. 69 (2/9/95)	O	H.R. 668	Criminal Alien Deportation	A: voice vote (2/10/95).
H. Res. 79 (2/10/95)	MO	H.R. 728	Law Enforcement Block Grants	A: voice vote (2/13/95).
H. Res. 83 (2/13/95)	MO	H.R. 7	National Security Revitalization	PQ: 229–100; A: 227–127 (2/15/95).
H. Res. 88 (2/16/95)	MC	H.R. 831	Health Insurance Deductibility	PQ: 230–191; A: 229–188 (2/21/95).
H. Res. 91 (2/21/95)	O	H.R. 830	Paperwork Reduction Act	A: voice vote (2/22/95).
H. Res. 92 (2/21/95)	MC	H.R. 889	Defense Supplemental	A: 282–144 (2/22/95).
H. Res. 93 (2/22/95)	MO	H.R. 450	Regulatory Transition Act	A: 252–175 (2/23/95).
H. Res. 96 (2/24/95)	MO	H.R. 1022	Risk Assessment	A: 253–165 (2/27/95).
H. Res. 100 (2/27/95)	O	H.R. 926	Regulatory Reform and Relief Act	A: voice vote (2/28/95).
H. Res. 101 (2/28/95)	MO	H.R. 925	Private Property Protection Act	A: 271–151 (3/2/95).
H. Res. 103 (3/3/95)	MO	H.R. 1058	Securities Litigation Reform	
H. Res. 104 (3/3/95)	MO	H.R. 988	Attorney Accountability Act	A: voice vote (3/6/95).
H. Res. 105 (3/6/95)	MO			A: 257–155 (3/7/95).
H. Res. 108 (3/7/95)	Debate	H.R. 956	Product Liability Reform	A: voice vote (3/8/95).
H. Res. 109 (3/8/95)	MC			PQ: 234–191 A: 247–181 (3/9/95).
H. Res. 115 (3/14/95)	MO	H.R. 1159	Making Emergency Supp. Approps	A: 242–190 (3/15/95).
H. Res. 116 (3/15/95)	MC	H.J. Res. 73	Term Limits Const. Amdt	A: voice vote (3/28/95).
H. Res. 117 (3/16/95)	Debate	H.R. 4	Personal Responsibility Act of 1995	A: voice vote (3/21/95).
H. Res. 119 (3/21/95)	MC			A: 217–211 (3/22/95).
H. Res. 125 (4/3/95)	O	H.R. 1271	Family Privacy Protection Act	A: 423–1 (4/4/95).
H. Res. 126 (4/3/95)	O	H.R. 660	Older Persons Housing Act	A: voice vote (4/6/95).
H. Res. 128 (4/4/95)	MC	H.R. 1215	Contract With America Tax Relief Act of 1995	A: 228–204 (4/5/95).
H. Res. 130 (4/5/95)	MC	H.R. 483	Medicare Select Expansion	A: 253–172 (4/6/95).
H. Res. 136 (5/1/95)	O	H.R. 655	Hydrogen Future Act of 1995	A: voice vote (5/2/95).
H. Res. 139 (5/3/95)	O	H.R. 1361	Coast Guard Auth. FY 1996	A: voice vote (5/9/95).
H. Res. 140 (5/9/95)	O	H.R. 961	Clean Water Amendments	A: 414–4 (5/10/95).
H. Res. 144 (5/11/95)	O	H.R. 535	Fish Hatchery—Arkansas	A: voice vote (5/15/95).
H. Res. 145 (5/11/95)	O	H.R. 584	Fish Hatchery—Iowa	A: voice vote (5/15/95).
H. Res. 146 (5/11/95)	O	H.R. 614	Fish Hatchery—Minnesota	A: voice vote (5/15/95).
H. Res. 149 (5/16/95)	MC	H. Con. Res. 67	Budget Resolution FY 1996	PQ: 252–170 A: 255–168 (5/17/95).
H. Res. 155 (5/22/95)	MO	H.R. 1561	American Overseas Interests Act	A: 233–176 (5/23/95).
H. Res. 164 (6/8/95)	MC	H.R. 1530	Nat. Defense Auth. FY 1996	PQ: 225–191 A: 233–183 (6/13/95).
H. Res. 167 (6/15/95)	O	H.R. 1817	MilCon Appropriations FY 1996	PQ: 223–180 A: 245–155 (6/16/95).
H. Res. 169 (6/19/95)	MC	H.R. 1854	Leg. Branch Approps. FY 1996	PQ: 232–196 A: 236–191 (6/20/95).
H. Res. 170 (6/20/95)	O	H.R. 1868	For. Ops. Approps. FY 1996	PQ: 221–178 A: 217–175 (6/22/95).
H. Res. 171 (6/22/95)	O	H.R. 1905	Energy & Water Approps. FY 1996	A: voice vote (7/12/95).
H. Res. 173 (6/27/95)	C	H.J. Res. 79	Flag Constitutional Amendment	PQ: 258–170 A: 271–152 (6/28/95).
H. Res. 176 (6/28/95)	MC	H.R. 1944	Emer. Supp. Approps	PQ: 236–194 A: 234–192 (6/29/95).
H. Res. 185 (7/11/95)	O	H.R. 1977	Interior Approps. FY 1996	PQ: 235–193 D: 192–238 (7/12/95).
H. Res. 187 (7/12/95)	O	H.R. 1977	Interior Approps. FY 1996 #2	PQ: 230–194 A: 229–195 (7/13/95).
H. Res. 188 (7/12/95)	O	H.R. 1976	Agriculture Approps. FY 1996	PQ: 242–185 A: voice vote (7/18/95).
H. Res. 190 (7/17/95)	O	H.R. 2020	Treasury/Postal Approps. FY 1996	PQ: 232–192 A: voice vote (7/18/95).
H. Res. 193 (7/19/95)	C	H.J. Res. 96	Disapproval of MFN to China	A: voice vote (7/20/95).
H. Res. 194 (7/19/95)	O	H.R. 2002	Transportation Approps. FY 1996	PQ: 217–202 (7/21/95).
H. Res. 197 (7/21/95)	O	H.R. 70	Exports of Alaskan Crude Oil	A: voice vote (7/24/95).
H. Res. 198 (7/21/95)	O	H.R. 2076	Commerce, State Approps. FY 1996	A: voice vote (7/25/95).
H. Res. 201 (7/25/95)	O	H.R. 2099	VA/HUD Approps. FY 1996	A: 230–189 (7/25/95).
H. Res. 204 (7/28/95)	MC	S. 21	Terminating U.S. Arms Embargo on Bosnia	A: voice vote (8/1/95).
H. Res. 205 (7/28/95)	O	H.R. 2126	Defense Approps. FY 1996	A: 409–1 (7/31/95).
H. Res. 207 (8/1/95)	MC	H.R. 1555	Communications Act of 1995	A: 255–156 (8/2/95).
H. Res. 208 (8/1/95)	O	H.R. 2127	Labor, HHS Approps. FY 1996	A: 323–104 (8/2/95).
H. Res. 215 (9/7/95)	O	H.R. 1594	Economically Targeted Investments	A: voice vote (9/12/95).
H. Res. 216 (9/7/95)	MO	H.R. 1655	Intelligence Authorization FY 1996	A: voice vote (9/12/95).
H. Res. 218 (9/12/95)	O	H.R. 1162	Deficit Reduction Lockbox	A: voice vote (9/13/95).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS—Continued

[As of November 10, 1995]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 219 (9/12/95)	O	H.R. 1670	Federal Acquisition Reform Act	A: 414–0 (9/13/95).
H. Res. 222 (9/18/95)	O	H.R. 1617	CAREERS Act	A: 388–2 (9/19/95).
H. Res. 224 (9/19/95)	O	H.R. 2274	Natl. Highway System	PQ: 241–173 A: 375–39–1 (9/20/95).
H. Res. 225 (9/19/95)	MC	H.R. 927	Cuban Liberty & Dem. Solidarity	A: 304–118 (9/20/95).
H. Res. 226 (9/21/95)	O	H.R. 743	Team Act	A: 344–66–1 (9/27/95).
H. Res. 227 (9/21/95)	O	H.R. 1170	3-Judge Court	A: voice vote (9/28/95).
H. Res. 228 (9/21/95)	O	H.R. 1601	Internatl. Space Station	A: voice vote (9/27/95).
H. Res. 230 (9/27/95)	C	H.J. Res. 108	Continuing Resolution FY 1996	A: voice vote (9/28/95).
H. Res. 234 (9/29/95)	O	H.R. 2405	Omnibus Science Auth	A: voice vote (10/11/95).
H. Res. 237 (10/17/95)	MC	H.R. 2259	Disapprove Sentencing Guidelines	A: voice vote (10/18/95).
H. Res. 238 (10/18/95)	MC	H.R. 2425	Medicare Preservation Act	PQ: 231–194 A: 227–192 (10/19/95).
H. Res. 239 (10/19/95)	C	H.R. 2492	Leg. Branch Approps	PQ: 235–184 A: voice vote (10/31/95).
H. Res. 245 (10/25/95)	MC	H. Con. Res. 109	Social Security Earnings Reform	PQ: 228–191 A: 235–185 (10/26/95).
		H.R. 2491	Seven-Year Balanced Budget	
H. Res. 251 (10/31/95)	C	H.R. 1833	Partial Birth Abortion Ban	A: 237–190 (11/1/95).
H. Res. 252 (10/31/95)	MO	H.R. 2546	D.C. Approps.	A: 241–181 (11/1/95).
H. Res. 257 (11/7/95)	C	H.J. Res. 115	Cont. Res. FY 1996	A: 216–210 (11/8/95).
H.Res. 258 (11/8/95)	MC	H.R. 2586	Debt Limit	A: 220–200 (11/10/95).
H. Res. 259 (11/9/95)	O	H.R. 2539	ICC Termination Act	

Codes: O-open rule; MO-modified open rule; MC-modified closed rule; C-closed rule; A-adoption vote; D-defeated; PQ-previous question vote. Source: Notices of Action Taken, Committee on Rules, 104th Congress.

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

GENERAL LEAVE

Mr. QUILLEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Resolution 259.

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

There was no objection.

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

Mr. Speaker, I thank my colleague, my dear friend from Tennessee [Mr. QUILLEN], for yielding me the customary half hour.

Mr. Speaker, I am glad to see this open rule come to the floor today. This bill has some serious antiworker provisions that have to be fixed, and this open rule makes that a very real possibility. Without an open rule, Mr. Speaker, we would be unable to make sure that employees of class 2 and class 3 railroads are given the same worker protection as employees of class 1 railroads.

If the worker protection amendment passes the House this afternoon, I may just vote for the bill, and all because we have been given an open rule, one that we have been fighting for since this Congress started. So, despite the Government shutdown, Capitol Hill has not completely gone to the dogs. Not yet.

So I urge my colleagues to support this open rule.

Mr. Speaker, I include for the RECORD the floor procedure in the 104th Congress, compiled by the Democrats on the Committee on Rules:

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 1*	Compliance	H. Res. 6	Closed	None.
H. Res. 6	Opening Day Rules Package	H. Res. 5	Closed; contained a closed rule on H.R. 1 within the closed rule	None.
H.R. 5*	Unfunded Mandates	H. Res. 38	Restrictive; Motion adopted over Democratic objection in the Committee of the Whole to limit debate on section 4; Pre-printing gets preference.	N/A.
H.J. Res. 2*	Balanced Budget	H. Res. 44	Restrictive; only certain substitutes	2R; 4D.
H. Res. 43	Committee Hearings Scheduling	H. Res. 43 (OJ)	Restrictive; considered in House no amendments	N/A.
H.R. 2*	Line Item Veto	H. Res. 55	Open; Pre-printing gets preference	N/A.
H.R. 665*	Victim Restitution Act of 1995	H. Res. 61	Open; Pre-printing gets preference	N/A.
H.R. 666*	Exclusionary Rule Reform Act of 1995	H. Res. 60	Open; Pre-printing gets preference	N/A.
H.R. 667*	Violent Criminal Incarceration Act of 1995	H. Res. 63	Restrictive; 10 hr. Time Cap on amendments	N/A.
H.R. 668*	The Criminal Alien Deportation Improvement Act	H. Res. 69	Open; Pre-printing gets preference; Contains self-executing provision	N/A.
H.R. 728*	Local Government Law Enforcement Block Grants	H. Res. 79	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 7*	National Security Revitalization Act	H. Res. 83	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 729*	Death Penalty/Habeas	N/A	Restrictive; brought up under UC with a 6 hr. time cap on amendments	N/A.
S. 2	Senate Compliance	N/A	Closed; Put on Suspension Calendar over Democratic objection	None.
H.R. 831	To Permanently Extend the Health Insurance Deduction for the Self-Employed.	H. Res. 88	Restrictive; makes in order only the Gibbons amendment; Waives all points of order; Contains self-executing provision.	1D.
H.R. 830*	The Paperwork Reduction Act	H. Res. 91	Open	N/A.
H.R. 889	Emergency Supplemental/Rescinding Certain Budget Authority	H. Res. 92	Restrictive; makes in order only the Obey substitute	1D.
H.R. 450*	Regulatory Moratorium	H. Res. 93	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 1022*	Risk Assessment	H. Res. 96	Restrictive; 10 hr. Time Cap on amendments	N/A.
H.R. 926*	Regulatory Flexibility	H. Res. 100	Open	N/A.
H.R. 925*	Private Property Protection Act	H. Res. 101	Restrictive; 12 hr. time cap on amendments; Requires Members to pre-print their amendments in the Record prior to the bill's consideration for amendment, waives germaneness and budget act points of order as well as points of order concerning appropriating on a legislative bill against the committee substitute used as base text.	1D.
H.R. 1058*	Securities Litigation Reform Act	H. Res. 105	Restrictive; 8 hr. time cap on amendments; Pre-printing gets preference; Makes in order the Wyden amendment and waives germaneness against it.	1D.
H.R. 988*	The Attorney Accountability Act of 1995	H. Res. 104	Restrictive; 7 hr. time cap on amendments; Pre-printing gets preference	N/A.
H.R. 956*	Product Liability and Legal Reform Act	H. Res. 109	Restrictive; makes in order only 15 germane amendments and denies 64 germane amendments from being considered.	8D; 7R.
H.R. 1158	Making Emergency Supplemental Appropriations and Rescissions	H. Res. 115	Restrictive; Combines emergency H.R. 1158 & nonemergency 1159 and strikes the abortion provision; makes in order only pre-printed amendments that include offsets within the same chapter (deeper cuts in programs already cut); waives points of order against three amendments; waives cl 2 of rule XXI against the bill, cl 2, XXI and cl 7 of rule XVI against the substitute; waives cl 2(e) od rule XXI against the amendments in the Record; 10 hr time cap on amendments. 30 minutes debate on each amendment.	N/A.
H.J. Res. 73*	Term Limits	H. Res. 116	Restrictive; Makes in order only 4 amendments considered under a "Queen of the Hill" procedure and denies 21 germane amendments from being considered.	1D; 3R
H.R. 4*	Welfare Reform	H. Res. 119	Restrictive; Makes in order only 31 perfecting amendments and two substitutes; Denies 130 germane amendments from being considered; The substitutes are to be considered under a "Queen of the Hill" procedure; All points of order are waived against the amendments.	5D; 26R.
H.R. 1271*	Family Privacy Act	H. Res. 125	Open	N/A.
H.R. 660*	Housing for Older Persons Act	H. Res. 126	Open	N/A.
H.R. 1215*	The Contract With America Tax Relief Act of 1995	H. Res. 129	Restrictive; Self Executes language that makes tax cuts contingent on the adoption of a balanced budget plan and strikes section 3006. Makes in order only one substitute. Waives all points of order against the bill, substitute made in order as original text and Gephardt substitute.	1D.
H.R. 483	Medicare Select Extension	H. Res. 130	Restrictive; waives cl 2(1)(6) of rule XI against the bill; makes H.R. 1391 in order as original text; makes in order only the Dingell substitute; allows Commerce Committee to file a report on the bill at any time.	1D.
H.R. 655	Hydrogen Future Act	H. Res. 136	Open	N/A.

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS—Continued

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 1361	Coast Guard Authorization	H. Res. 139	Open; waives sections 302(f) and 308(a) of the Congressional Budget Act against the bill's consideration and the committee substitute; waives cl 5(a) of rule XXI against the committee substitute.	N/A.
H.R. 961	Clean Water Act	H. Res. 140	Open; pre-printing gets preference; waives sections 302(f) and 602(b) of the Budget Act against the bill's consideration; waives cl 7 of rule XVI, cl 5(a) of rule XXI and section 302(f) of the Budget Act against the committee substitute. Makes in order Shuster substitute as first order of business.	N/A.
H.R. 535	Corning National Fish Hatchery Conveyance Act	H. Res. 144	Open	N/A.
H.R. 584	Conveyance of the Fairport National Fish Hatchery to the State of Iowa.	H. Res. 145	Open	N/A.
H.R. 614	Conveyance of the New London National Fish Hatchery Production Facility.	H. Res. 146	Open	N/A.
H. Con. Res. 67	Budget Resolution	H. Res. 149	Restrictive; Makes in order 4 substitutes under regular order; Gephardt, Neumann/Solomon, Payne/Owens, President's Budget if printed in Record on 5/17/95; waives all points of order against substitutes and concurrent resolution; suspends application of Rule XLIX with respect to the resolution; self-executes Agriculture language.	3D; 1R.
H.R. 1561	American Overseas Interests Act of 1995	H. Res. 155	Restrictive; Requires amendments to be printed in the Record prior to their consideration; 10 hr. time cap; waives cl 2(1)(6) of rule XI against the bill's consideration; Also waives sections 302(f), 303(a), 308(a) and 402(a) against the bill's consideration and the committee amendment in order as original text; waives cl 5(a) of rule XXI against the amendment; amendment consideration is closed at 2:30 p.m. on May 25, 1995. Self-executes provision which removes section 2210 from the bill. This was done at the request of the Budget Committee.	N/A.
H.R. 1530	National Defense Authorization Act FY 1996	H. Res. 164	Restrictive; Makes in order only the amendments printed in the report; waives all points of order against the bill, substitute and amendments printed in the report. Gives the Chairman en bloc authority. Self-executes a provision which strikes section 807 of the bill; provides for an additional 30 min. of debate on Nunn-Lugar section; Allows Mr. Clinger to offer a modification of his amendment with the concurrence of Ms. Collins.	36R; 18D; 2 Bipartisan.
H.R. 1817	Military Construction Appropriations; FY 1996	H. Res. 167	Open; waives cl. 2 and cl. 6 of rule XXI against the bill; 1 hr. general debate; Uses House passed budget numbers as threshold for spending amounts pending passage of Budget.	N/A.
H.R. 1854	Legislative Branch Appropriations	H. Res. 169	Restrictive; Makes in order only 11 amendments; waives sections 302(f) and 308(a) of the Budget Act against the bill and cl. 2 and cl. 6 of rule XXI against the bill. All points of order are waived against the amendments.	5R; 4D; 2 Bipartisan.
H.R. 1868	Foreign Operations Appropriations	H. Res. 170	Open; waives cl. 2, cl. 5(b), and cl. 6 of rule XXI against the bill; makes in order the Gilman amendments as first order of business; waives all points of order against the amendments; if adopted they will be considered as original text; waives cl. 2 of rule XXI against the amendments printed in the report. Pre-printing gets priority (Hall) (Menendez) (Goss) (Smith, NJ).	N/A.
H.R. 1905	Energy & Water Appropriations	H. Res. 171	Open; waives cl. 2 and cl. 6 of rule XXI against the bill; makes in order the Shuster amendment as the first order of business; waives all points of order against the amendment; if adopted it will be considered as original text. Pre-printing gets priority.	N/A.
H.J. Res. 79	Constitutional Amendment to Permit Congress and States to Prohibit the Physical Desecration of the American Flag.	H. Res. 173	Closed; provides one hour of general debate and one motion to recommit with or without instructions; if there are instructions, the MO is debatable for 1 hr.	N/A.
H.R. 1944	Recissions Bill	H. Res. 175	Restrictive; Provides for consideration of the bill in the House; Permits the Chairman of the Appropriations Committee to offer one amendment which is unamendable; waives all points of order against the amendment.	N/A.
H.R. 1868 (2nd rule)	Foreign Operations Appropriations	H. Res. 177	Restrictive; Provides for further consideration of the bill; makes in order only the four amendments printed in the rules report (20 min each). Waives all points of order against the amendments; Prohibits intervening motions in the Committee of the Whole; Provides for an automatic rise and report following the disposition of the amendments.	N/A.
H.R. 1977 *Rule Defeated*	Interior Appropriations	H. Res. 185	Open; waives sections 302(f) and 308(a) of the Budget Act and cl 2 and cl 6 of rule XXI; provides that the bill be read by title; waives all points of order against the Tauzin amendment; self-executes Budget Committee amendment; waives cl 2(e) of rule XXI against amendments to the bill; Pre-printing gets priority.	N/A.
H.R. 1977	Interior Appropriations	H. Res. 187	Open; waives sections 302(f), 306 and 308(a) of the Budget Act; waives clauses 2 and 6 of rule XXI against provisions in the bill; waives all points of order against the Tauzin amendment; provides that the bill be read by title; self-executes Budget Committee amendment and makes NEA funding subject to House passed authorization; waives cl 2(e) of rule XXI against the amendments to the bill; Pre-printing gets priority.	N/A.
H.R. 1976	Agriculture Appropriations	H. Res. 188	Open; waives clauses 2 and 6 of rule XXI against provisions in the bill; provides that the bill be read by title; Makes Skeen amendment first order of business, if adopted the amendment will be considered as base text (10 min.); Pre-printing gets priority.	N/A.
H.R. 1977 (3rd rule)	Interior Appropriations	H. Res. 189	Restrictive; provides for the further consideration of the bill; allows only amendments preprinted before July 14th to be considered; limits motions to rise.	N/A.
H.R. 2020	Treasury Postal Appropriations	H. Res. 190	Open; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; provides the bill be read by title; Pre-printing gets priority.	N/A.
H.J. Res. 96	Disapproving MFN for China	H. Res. 193	Restrictive; provides for consideration in the House of H.R. 2058 (90 min.) And H.J. Res. 96 (1 hr). Waives certain provisions of the Trade Act.	N/A.
H.R. 2002	Transportation Appropriations	H. Res. 194	Open; waives cl. 3 Of rule XIII and section 401 (a) of the CBA against consideration of the bill; waives cl. 6 and cl. 2 of rule XXI against provisions in the bill; Makes in order the Clinger/Solomon amendment waives all points of order against the amendment (Line Item Veto); provides the bill be read by title; Pre-printing gets priority. ***RULE AMENDED***	N/A.
H.R. 70	Exports of Alaskan North Slope Oil	H. Res. 197	Open; Makes in order the Resources Committee amendment in the nature of a substitute as original text; Pre-printing gets priority; Provides a Senate hook-up with S. 395.	N/A.
H.R. 2076	Commerce, Justice Appropriations	H. Res. 198	Open; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; Pre-printing gets priority; provides the bill be read by title.	N/A.
H.R. 2099	VA/HUD Appropriations	H. Res. 201	Open; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; Provides that the amendment in part 1 of the report is the first business, if adopted it will be considered as base text (30 min); waives all points of order against the Klug and Davis amendments; Pre-printing gets priority; Provides that the bill be read by title.	N/A.
S. 21	Termination of U.S. Arms Embargo on Bosnia	H. Res. 204	Restrictive; 3 hours of general debate; Makes in order an amendment to be offered by the Minority Leader or a designee (1 hr); If motion to recommit has instructions it can only be offered by the Minority Leader or a designee.	ID.
H.R. 2126	Defense Appropriations	H. Res. 205	Open; waives cl. 2(l)(6) of rule XI and section 306 of the Congressional Budget Act against consideration of the bill; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; self-executes a strike of sections 8021 and 8024 of the bill as requested by the Budget Committee; Pre-printing gets priority; Provides the bill be read by title.	N/A.
H.R. 1555	Communications Act of 1995	H. Res. 207	Restrictive; waives sec. 302(f) of the Budget Act against consideration of the bill; Makes in order the Commerce Committee amendment as original text and waives sec. 302(f) of the Budget Act and cl. 5(a) of rule XXI against the amendment; Makes in order the Bliely amendment (30 min) as the first order of business, if adopted it will be original text; makes in order only the amendments printed in the report and waives all points of order against the amendments; provides a Senate hook-up with S. 652.	2R/3D/3 Bipartisan.
H.R. 2127	Labor/HHS Appropriations Act	H. Res. 208	Open; Provides that the first order of business will be the managers amendments (10 min), if adopted they will be considered as base text; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; waives all points of order against certain amendments printed in the report; Pre-printing gets priority; Provides the bill be read by title.	N/A.
H.R. 1594	Economically Targeted Investments	H. Res. 215	Open; 2 hr of gen. debate. makes in order the committee substitute as original text	N/A.
H.R. 1655	Intelligence Authorization	H. Res. 216	Restrictive; waives sections 302(f), 308(a) and 401(b) of the Budget Act. Makes in order the committee substitute as modified by Govt. Reform amend (striking sec. 505) and an amendment striking title VII. Cl 7 of rule XVI and cl 5(a) of rule XXI are waived against the substitute. Sections 302(f) and 401(b) of the CBA are also waived against the substitute. Amendments must also be pre-printed in the Congressional record.	N/A.
H.R. 1162	Deficit Reduction Lock Box	H. Res. 218	Open; waives cl 7 of rule XVI against the committee substitute made in order as original text; Pre-printing gets priority.	N/A.

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS—Continued

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 1670	Federal Acquisition Reform Act of 1995	H. Res. 219	Open; waives sections 302(f) and 308(a) of the Budget Act against consideration of the bill; bill will be read by title; waives cl 5(a) of rule XXI and section 302(f) of the Budget Act against the committee substitute. Pre-printing gets priority.	N/A.
H.R. 1617	To Consolidate and Reform Workforce Development and Literacy Programs Act (CAREERS).	H. Res. 222	Open; waives section 302(f) and 401(b) of the Budget Act against the substitute made in order as original text (H.R. 2332), cl. 5(a) of rule XXI is also waived against the substitute. provides for consideration of the managers amendment (10 min.) If adopted, it is considered as base text.	N/A.
H.R. 2274	National Highway System Designation Act of 1995	H. Res. 224	Open; waives section 302(f) of the Budget Act against consideration of the bill; Makes H.R. 2349 in order as original text; waives section 302(f) of the Budget Act against the substitute; provides for the consideration of a managers amendment (10 min) If adopted, it is considered as base text; Pre-printing gets priority.	N/A.
H.R. 927	Cuban Liberty and Democratic Solidarity Act of 1995	H. Res. 225	Restrictive; waives cl 2(L)(2)(B) of rule XI against consideration of the bill; makes in order H.R. 2347 as base text; waives cl 7 of rule XVI against the substitute; Makes Hamilton amendment the first amendment to be considered (1 hr). Makes in order only amendments printed in the report.	2R/2D.
H.R. 743	The Teamwork for Employees and managers Act of 1995	H. Res. 226	Open; waives cl 2(l)(2)(b) of rule XI against consideration of the bill; makes in order the committee amendment as original text; Pre-printing get priority.	N/A.
H.R. 1170	3-Judge Court for Certain Injunctions	H. Res. 227	Open; makes in order a committee amendment as original text; Pre-printing gets priority	N/A.
H.R. 1601	International Space Station Authorization Act of 1995	H. Res. 228	Open; makes in order a committee amendment as original text; pre-printing gets priority	N/A.
H.J. Res. 108	Making Continuing Appropriations for FY 1996	H. Res. 230	Closed; Provides for the immediate consideration of the CR; one motion to recommit which may have instructions only if offered by the Minority Leader or a designee.	
H.R. 2405	Omnibus Civilian Science Authorization Act of 1995	H. Res. 234	Open; self-executes a provision striking section 304(b)(3) of the bill (Commerce Committee request); Pre-printing gets priority.	N/A.
H.R. 2259	To Disapprove Certain Sentencing Guideline Amendments	H. Res. 237	Restrictive; waives cl 2(l)(2)(B) of rule XI against the bill's consideration; makes in order the text of the Senate bill S. 1254 as original text; Makes in order only a Conyers substitute; provides a senate hook-up after adoption.	1D.
H.R. 2425	Medicare Preservation Act	H. Res. 238	Restrictive; waives all points of order against the bill's consideration; makes in order the text of H.R. 2485 as original text; waives all points of order against H.R. 2485; makes in order only an amendment offered by the Minority Leader or a designee; waives all points of order against the amendment; waives cl 5© of rule XXI (⅗ requirement on votes raising taxes).	1D.
H.R. 2492	Legislative Branch Appropriations Bill	H. Res. 239	Restrictive; provides for consideration of the bill in the House	N/A.
H.R. 2491	7 Year Balanced Budget Reconciliation	H. Res. 245	Restrictive; makes in order H.R. 2517 as original text; waives all pints of order against the bill; Makes in order only H.R. 2530 as an amendment only if offered by the Minority Leader or a designee; waives all points of order against the amendment; waives cl 5© of rule XXI (⅗ requirement on votes raising taxes).	1D.
H. Con. Res. 109	Social Security Earnings Test Reform			
H.R. 1833	Partial Birth Abortion Ban Act of 1995	H. Res. 251	Closed	N/A.
H.R. 2546	D.C. Appropriations FY 1996	H. Res. 252	Restrictive; waives all points of order against the bill's consideration; Makes in order the Walsh amendment as the first order of business (10 min); if adopted it is considered as base text; waives cl 2 and 6 of rule XXI against the bill; makes in order the Bonilla, Gunderson and Hostettler amendments (30 min); waives all points of order against the amendments; debate on any further amendments is limited to 30 min. each.	N/A.
H.J. Res. 115	Further Continuing Appropriations for FY 1996	H. Res. 257	Closed; Provides for the immediate consideration of the CR; one motion to recommit which may have instructions only if offered by the Minority Leader or a designee.	N/A.
H.R. 2586	Temporary Increase in the Statutory Debt Limit	H. Res. 258	Restrictive; Provides for the immediate consideration of the CR; one motion to recommit which may have instructions only if offered by the Minority Leader or a designee; self-executes 4 amendments in the rule; Solomon, Medicare Coverage of Certain Anti-Cancer Drug Treatments, Habeas Corpus Reform, Chrysler (MI); makes in order the Walker amend (40 min) on regulatory reform.	5R.
H.R. 2539	ICC Termination	H. Res. 259	Open; waives section 302(f) and section 308(a)	
H.J. Res. 115	Further Continuing Appropriations for FY 1996	H. Res. 261	Closed; provides for the immediate consideration of a motion by the Majority Leader or his designees to dispose of the Senate amendments (1 hr).	N/A.
H.R. 2586	Temporary Increase in the Statutory Limit on the Public Debt	H. Res. 262	Closed; provides for the immediate consideration of a motion by the Majority Leader or his designees to dispose of the Senate amendments (1 hr).	N/A.

*Contract Bills, 67% restrictive; 33% open. **All legislation, 55% restrictive; 45% open. ***Restrictive rules are those which limit the number of amendments which can be offered, and include so called modified open and modified closed rules as well as completely closed rules and rules providing for consideration in the House as opposed to the Committee of the Whole. This definition of restrictive rule is taken from the Republican chart of resolutions reported from the Rules Committee in the 103rd Congress. ****Not included in this chart are three bills which should have been placed on the Suspension Calendar. H.R. 101, H.R. 400, H.R. 440.

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

Mr. QUILLEN. Mr. Speaker, I would like to advise the gentleman from Massachusetts that I have no requests for time.

Mr. MOAKLEY. Mr. Speaker, I thank the gentleman from Tennessee. I would like to tell the gentleman from Tennessee that I have two requests, and at this time I yield 1 minute to the gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Speaker, I thank the former chairman for yielding me time. It is good to see the gentleman back here. I am so happy to see the gentleman looking so well and so fit back in this Chamber, where we need you.

I take this time simply to say that I appreciate the Committee on Rules granting an open rule as we requested, so that we can have full and open debate, 1 hour of general debate and then open debate on any amendments that may be offered. There will be relatively few amendments. One will be of very great significance, and we will dispose of that issue at the time that it is offered.

I would say to my colleagues on the Democratic side that I would hope the rule will pass without a recorded vote, and that we can get quickly to the business at hand under the ICC legislation. So I urge voice vote support of this very fair and appropriate open rule.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Speaker, I, too, rise in support of the rule. I want to thank the gentleman from Pennsylvania [Mr. SHUSTER], committee chairman, and the gentlewoman from New York [Ms. MOLINARI], the subcommittee chairman, as well as the gentleman from Minnesota [Mr. OBERSTAR], the ranking member.

Much of this bill is a bipartisan bill. Many of the provisions affect Members on both sides of the aisle. They have been worked out with a lot of negotiation and fairness. The bill does permit the areas where there are differences to have full and open debate. I look forward to that.

No matter how people feel about the bill as it is later shaped, I think it is important to acknowledge this is an open rule, and we ought to be supporting it. I urge support of the rule.

Ms. PRYCE. Mr. Speaker, I am pleased to rise in support of this open rule for the consideration of H.R. 2539, the ICC Termination Act.

Under the terms of this very fair rule, the House will have ample opportunity to debate the major issues surrounding the closure of the Interstate Commerce Commission. First, we will consider the managers amendment, which, if adopted, will become part of the base text.

Then, through the open amendment process, any Member can be heard on any germane amendment to the bill, as long as it is consistent with the standing rules of the House. As we have done in the past, this rule also accords priority in recognition to Members who have preprinted their amendments in the CONGRESSIONAL RECORD.

H.R. 2539 abolishes the ICC while preserving its most important functions within an independent panel at the Department of Transportation. This Congress has already determined that the Interstate Commerce Commission, which was created in 1887 to regulate interstate commerce, is no longer needed. The ICC will run out of money in December, and without this needed legislation, the Interstate

Commerce Act will still be on the books without an agency to administer it. There are several functions of the ICC which are essential and must be transferred, including authority over line sales, mergers, abandonments, maximum rate regulation, and interchange agreements.

Failure to pass this legislation would be extremely detrimental for the 600 cases pending at the ICC. Shippers, carriers, and States will be ill-served if this happens.

This legislation reduces many of the burdensome regulations on shipping, truck, and rail companies. Retained regulatory functions are transferred to a three member independent board within the Department of Transportation.

Terminating the ICC and transferring its remaining functions to the Department of Transportation is critical to our efforts to downsize and streamline the Federal Government. A year ago, we pledged to the American people that we would reduce the size and cost of Government, and this legislation brings us a step closer to a smaller, more effective Federal Government.

Mr. Speaker, this fair, open rule was reported unanimously by the Rules Committee last week. I urge my colleagues to give it their full support, and to pass this important legislation without any delay.

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

Mr. QUILLEN. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to House Resolution 259 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2539.

□ 1523

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2539) to abolish the Interstate Commerce Commission, to amend subtitle IV of title 49, United States Code, to reform economic regulation of transportation, and for other purposes, with Mr. KINGSTON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Pennsylvania [Mr. SHUSTER] will be recognized for 30 minutes, and the gentleman from Minnesota [Mr. OBERSTAR] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. SHUSTER].

Mr. SHUSTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of this legislation, the ICC Termination Act of 1995. This is a very important piece of legislation which will eliminate the oldest regulatory agency in the Federal Government, the Interstate Commerce Commission. This bill in fact is the final chapter in a long history behind the termination of the ICC. The ICC has gone from about 2,000 employees and a $60 million a year budget down to 400 employees today and about a $30 million a year budget. And with this elimination of the ICC and the transference of residual functions to the Department of Transportation, it means that we will have about 120 employees and a budget of $7.9 million over in the Department of Transportation to handle the residual functions of both rail and motor carrier.

It is essential that we move very quickly with this legislation. In fact, many of us would have liked to have had more time. However, the transportation appropriations bill which has cleared both bodies cuts out the funding of all funding for the ICC by December 31 of this year. That means that under Federal Government personnel regulations, the ICC, if we do not have in place this authorizing legislation to transfer residual functions, if we do not have it in place by December 5, signed into law, then the ICC must RIF, that is eliminate, its entire work force, and send out those notices by that time. This would create chaos in the transportation industry.

For example, if the ICC were to shut down without this authorizing legislation transferring remaining functions, it would be impossible for the railroads to record liens on purchase of new rolling stock. That is the equivalent of telling a car dealer that he can sell new cars, but there is nowhere he can go to transfer the title to the car. So it is absolutely crucial that we move quickly with this legislation.

Now, the rail part of this legislation repeals and reduces numerous regulatory requirements. It eliminates the tariff filing with a requirement that the railroads must notify shippers of changes in rates. It repeals the separate rate regime for recyclable commodities. The bill focuses remaining regulation of rail transportation on the minimum necessary backstop of agency remedies to address problems involving rates, access to facilities, and the restructuring of the industry.

The bill also includes provisions to facilitate the transfer of lines that would otherwise be abandoned, so another carrier can keep them in service, something of extreme importance to rural America.

The bill also, in order to ensure fairness, provides that any proceeding that is begun before this bill is enacted, could be continued under the law in effect before enactment.

Th bill continues the basic structure of the Staggers Act under which the freight railroad industry has seen remarkable recovery, primarily due to the benefits of deregulation.

The most controversial issue in the bill relates to labor reforms on small railroad transactions. I want to emphasize as strongly as I can that it is essential to preserve rail service as provided in this legislation. The class 1 railroads are entering a new round of consolidation, that is the big railroads, and thousands of miles of track, whether we like it or not, are going to be abandoned. Without these reforms that reduce the cost of purchasing these lines by small operators, that is to say the class 2 operators and the class 3 operators, the smaller railroads, this rail service is going to be lost forever.

I would strongly urge opposition to any amendment that weakens the reforms in this bill, because if we impose labor protection on the small railroads, and we have no problem with the labor protection on the class 1, the large railroads, but if we impose labor protection on the small railroads in this bill, the effect is going to be massive abandonment of rail lines in rural America. So it is very important that we preserve the provisions in this bill.

Another area of controversy relates to the protection of shippers, primarily grain shippers. We have made substantial compromises in this bill, and we are very concerned that the delicate balance between the various groups might be weakened by amendment and could disrupt the balance that we have crafted here.

So for all these reasons, we are very hopeful and we strongly urge support for the rail provisions in this bill.

With regard to the motor carrier provisions, the bill eliminates numerous unnecessary motor carrier functions, such as tariff filing and substantial rate regulation, except for household goods.

The bill transfers the remaining motor carrier functions to the Department of Transportation, where they will be absorbed for the most part without any additional funding and will be within current personnel caps.

The bill represents actually the fourth major motor carrier deregulation bill that Congress has passed in the last few years, including the Negotiated Rates Act of 1993, the preemption of State regulation of trucking, and the Trucking Industry Regulatory Reform Act of 1994.

□ 1530

In conclusion, Mr. Chairman, this is a good bill; it is a necessary bill; it is an urgent bill that reduces regulation, reduces government personnel and cost to the taxpayer. It is another step in a 15-year effort to modernize the rail and motor carrier industries.

I might say that we do indeed expect to have further hearings next year to study further the question of further

modernization. I urge all Members to support this bill.

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

Mr. OBERSTAR. Mr. Chairman, I yield myself 4 minutes.

I want to compliment our full committee chairman, the gentleman from Pennsylvania [Mr. SHUSTER], and the gentlewoman from New York [Ms. MOLINARI], the Chair of the Subcommittee on Railroads, and the gentleman from Wisconsin [Mr. PETRI], Chair of the Subcommittee on Surface Transportation, and, on our side, the gentleman from West Virginia [Mr. RAHALL], our ranking member on the Subcommittee on Surface Transportation, the gentleman from West Virginia [Mr. WISE], the ranking member on the Subcommittee on Railroads, and the gentleman from Illinois [Mr. LIPINSKI], who spent so much of his time as previous ranking member on the Subcommittee on Railroads helping to shape this legislation.

This is an item long in the coming, an issue whose incubation period has been years, not days or weeks; but the actual shape of the bill itself has come very recently, after very long negotiations and discussions.

Mr. Chairman, it is important legislation that will ensure continuation of very important, one could even say critical, safety and economic regulation of trucks and rails when the ICC, by action of the Committee on Appropriations, closes its doors in December.

Like the gentleman from Pennsylvania [Mr. SHUSTER], I support this bill, mostly. I want to say to my good friend from Pennsylvania, we have worked very close, very hard. We spent a lot of time in frank, free, and open discussions trying to come to a resolution. We have reached agreement on most issues, but there is one of overriding significance, for me and I think for many on our side, that keeps us from coming to closure on the bill as a whole.

Apart from the question of labor protective provisions, this has been a bipartisan bill; and I really appreciate the cooperation we have had on the Republican side, working with our Democratic minority Members to craft a bill that responds to important policy considerations.

The bill, unfortunately, does take away severance pay benefits, which the law now provides for workers when they lose their job because of rail mergers or sale of rail lines. It also gives the ICC's successor the power to terminate severance pay and other job protections in collective bargaining agreements which employees and rail companies have freely negotiated.

Mr. Chairman, my father was a founder of the steelworkers union in the iron ore mining country in northern Minnesota. He taught me from my very youth that an individual needed to respect family, faith, and the union contract. Ten years ago, when he died, he was buried with his steelworkers' contract in his hand. No legislative body should ever take that way from anybody, and I will not support any legislation that operates to that objective, ever.

Now, there is a lot in this bill that we can and do support, and there will be an amendment offered by the gentleman from Kentucky [Mr. WHITFIELD] which I urge all Members on our side to support, and I hope a good number of free-thinking, open-minded, thinking Members on the Republican side will support as well. If that happens and that amendment passes, then this is a bill we can support on our side and will support. But if it fails, should the Whitfield amendment not pass, Mr. Chairman, then it is a bill that we cannot support and must oppose.

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

Mr. SHUSTER. Mr. Chairman, I yield 5 minutes to the distinguished gentlewoman from New York [Ms. MOLINARI], chairwoman of the Subcommittee on Railroads.

Ms. MOLINARI. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I rise in very strong support of this extremely significant bill. It embodies a broad, bipartisan effort to delete obsolete and unnecessary regulation, to avoid the extra cost imposed by having an independent ICC, and to focus any remaining regulation on the essential safety net or backstop role to which it was properly relegated by the Staggers Act.

Since 1980, the rail industry has come back from the verge of bankruptcy and possible nationalization to sound, private-sector health. This is due mostly to the deregulation of rail rates and other economic matters in the Staggers Act. Once the marketplace was allowed to operate in most rail matters, the industry prospered, and rail service was preserved.

Not only are far more service options available to shippers today, but the rates the shippers pay have actually fallen by 50 percent on average since 1980 in constant dollars. Against this background, our task was to retain the successful attributes of the Staggers Act, while further pruning regulations that have since become obsolete.

A few of these new deletions are the complete elimination of paper tariffs; eliminating all forms of entry, exit, and fare regulation; streamlining the process for approval of mergers and abandonments; and establishing clear, defined ground rules for the start-up and expansion of small railroads who can keep otherwise marginal rail lines in service.

There are many, many more good illustrations of how comprehensive our review of this 108-year-old law has been. We have consulted in this process with shippers, with carriers and other concerned citizens. We have also held extensive hearings. Most of all, we have continued to refine this legislation to reflect continuing comment and input from interested parties.

Let me just state one misrepresentation that has gone on. This bill does not terminate collective bargaining agreements in any way, shape, or form. In fact, the bill retains exactly the same standard that has been in merger statutes for decades: That agency approval of a merger displaces any other laws "to the extent necessary to implement the merger."

This does not abrogate contracts, but the Whitfield amendment does alter laws. I will go into more detail when this is offered, but listen to me very clearly so everyone can understand what they are doing. The Whitfield amendment gives labor the power to halt the implementation of approved mergers involving smaller railroads. That is an amazing power we are giving.

The amendment forbids work reassignments and shifts of work from a union work force. This directly contravenes existing law.

Finally, Mr. Chairman, I want to stress the absolute necessity for quick enactment of ICC terminating legislation. Given the end of ICC funding on December 31, as the chairman has said, the agency would have to terminate its entire work force on December 5 unless it has an enacted law delineating exactly which functions must be transferred to the Department of Transportation.

Although this bill may not be perfect, and there are still concerns, it surely represents a consensus efforts to fashion modern, market-oriented regulation for the railroad industry; and I believe it strongly deserves the support of all Members.

Mr. OBERSTAR. Mr. Chairman, I yield 3 minutes to the gentleman from West Virginia [Mr. RAHALL], the ranking member of the Subcommittee on Surface Transportation.

Mr. RAHALL. Mr. Chairman, I thank the distinguished ranking member for yielding me time.

Mr. Chairman, it is, in a sense, appropriate that we consider legislation to complete the process of abolishing the oldest Federal regulatory agency today in an atmosphere where the Federal Government is unable to conduct its daily business due to a lack of appropriations.

The Interstate Commerce Commission, created to combat the railroad robber barons, will be no longer with the enactment of the pending bill. The process of terminating the ICC, while Republican inspired, began last year under a Democratic majority in the Congress.

It has been a thoughtful process, undertaken through both appropriations

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and authorizations over the course of the last year, culminating on this day with our consideration of H.R. 2539.

This is, as such, not a meat ax approach to knocking off a Federal agency as some this year have proposed as part of their philosophical or economic jihad to make Government smaller.

To be sure, there are essential functions at stake here, and this legislation transfers those ICC functions—both motor carrier and rail—to the Department of Transportation with many of them being vested with a new Transportation Adjudication Panel.

In my capacity last year as the chairman of the Subcommittee on Surface Transportation, and this year as its ranking Democrat, I have sought to insure that this legislation causes the least disruption to the trucking industry, its employees, and the general public.

The Trucking Industry Regulatory Reform Act of 1994 not only began the process of downsizing the ICC's responsibilities, but further deregulated the motor carrier industry.

In that law, as with this bill, however, we preserve regulatory regimes where they are necessary to promote the public interest.

The area of household goods carriers, for example, will continue under some regulation.

In addition, certain motor carrier practices, which well serve the industry and its customers, such as commodity classifications and ratemaking for intermodal shipments and joint lines, are maintained as well.

Mr. Chairman, there is one other item, in this bill that should be noted. Last year, inadvertently, the Congress preempted the ability of local governments to regulate the tow truck industry. This was a mistake.

The Congress did not intend to do this, and in fact, has no business intruding in this intrastate and local matter.

The pending legislation would restore the local authority to engage in regulating the prices charged by tow trucks in nonconsensual towing situations.

These are situations where the owner of the auto is unable to consent to it being towed, such as in cases of a severe accident.

Finally, while my primary responsibility on this legislation is in the motor carrier area, I want to make note that its rail provisions have been modified to maintain the captive shipper protections contained in the Staggers Rail Act of 1980.

These protections are especially necessary for shippers of bulk commodities, such as coal, iron ore and gain, who often have no viable transportation alternative but a single rail line.

They are, as such, captive to that railroad, and could be subject to monopolistic pricing practices without the protections afforded them by the Staggers act, and now, this legislation.

Mr. Chairman, while no fan to abolishing the ICC, under the circumstances, this legislation represents the best course of action to take and I urge it be adopted.

Mr. SHUSTER. Mr. Chairman, I yield myself such time as I may consume to say that I appreciate the distinguished ranking member of the Subcommittee on Surface Transportation expressing his support for this legislation.

Mr. Chairman, I yield 5 minutes to the gentleman from Wisconsin [Mr. PETRI], the distinguished chairman of the Subcommittee on Surface Transportation.

Mr. PETRI. Mr. Chairman, the motor carrier provisions in the ICC Termination Act of 1995 continue the economic deregulation of this industry which began in 1980 and was followed by various other deregulation initiatives, including three major bills just last Congress. It is important to note, in reviewing this bill, that substantial deregulation of the motor carrier industry has already been accomplished.

This bill before us will abolish the ICC and eliminate many of the Commission's remaining motor carrier functions that are no longer appropriate in today's current competitive motor carrier industry.

Functions and responsibilities which do remain are transferred to either the Department of Transportation—which primarily will oversee registration and licensing—or the Transportation Adjudication Panel—which primarily will be responsible for the limited remaining rate regulation and tariff filings, final resolution of undercharge claims, and approval and oversight of agreements for antitrust immunity. Much of the regulation that remains has been streamlined and reformed, such as limiting agreements for antitrust immunity to 3-year periods.

While we have provided for continued deregulation in this bill, I do believe we could have gone further. In the interests of working in a bipartisan and timely fashion, the bill does contain many compromises, and so many interested groups are not totally satisfied, just as I am not. Those groups which were looking for more significant reforms should know that opportunities for further reform do exist in the future.

The committee intends to closely monitor the status of the industry and the need to retain those remaining functions that are transferred to the Department and to the panel. This bill should not be considered as the final word on these matters.

It is imperative that we complete our work on this bill today since the ICC is funded only through the end of this year.

The bill before us will not only terminate the ICC, but will also achieve significant reforms in the motor carrier industry, and I ask for the support of the Members of the House for the bill as it is brought before us.

□ 1545

Mr. OBERSTAR. Mr. Chairman, I yield 3½ minutes to the gentleman from West Virginia [Mr. WISE], the ranking member on the Subcommittee on Railroads.

Mr. WISE. Mr. Chairman, I am not quite sure how I am rising right now. I am rising in support of the process, and definitely in favor of the Whitfield amendment. We will see at the end of the day whether I am supporting the bill.

Mr. Chairman, I do think the Whitfield amendment is that important in the bill. I do think that the gentleman from Pennsylvania [Mr. SHUSTER] and the gentlewoman from New York [Ms. MOLINARI], the subcommittee chair, have done an excellent job. I also want to thank the gentleman from Illinois [Mr. LIPINSKI], former ranking member, for his help and assistance and advice in making this transition as I move to the ranking membership. The gentleman has been great to work with.

Mr. Chairman, this bill undertakes to do a lot that is important. There is clearly a need to address the situation with the Interstate Commerce Commission. It is my understanding the bill needs to be enacted into law by December 5, in order to avoid the layoff of all ICC employees on that date.

So, many of the issues that are of concern to all Members, abandonment, captive shipping situations, common carrier, have been addressed in a bipartisan way. For that, I am grateful to the gentleman from Pennsylvania, the full committee chair, and to the gentlewoman from New York, the subcommittee chair.

Mr. Chairman, let us talk for a minute about what is, I think, going to be a main bone of contention on this bill, and that is the Whitfield amendment. Some Members would say why would there be any labor protection at all? I think it is important to understand the delicate balance that exists in the rail industry.

Mr. Chairman, the rail industry has a situation where collective bargaining agreements can be overridden by the ICC. Well, the quid pro quo for that is labor protection. If we are able to override somebody's collective bargaining agreement, then at the same time we need to give them some kind of protection. That is the purpose of labor protection.

Indeed, the Whitfield amendment kind of surprised me, to be honest with my colleagues, because I think it is not as strong as I would have liked from a labor protection standpoint. But I think it is a fair and reasonable compromise, and I know the gentleman from Kentucky has worked very hard on that.

Mr. Chairman, there is another way we can go on this if Members want. If we do not want labor protection, then let us not also have the constraints on labor either. Permit them to truly operate in the marketplace. That means that strikes can be called at any moment; that means that the Class 1 railroads can face a shutdown, as opposed to the 6 days of shutdown that we have seen across the country since 1980 and the enactment of the Staggers Deregulation Rail Act. There is another way we can go on this.

If Members really like the free market, they can have a belly full of it, but I do not think that is what people want and certainly this Congress has tried to craft a delicate balance.

So, Mr. Chairman, I would urge Members to remember that as they consider this. The labor protection provisions have provided labor peace. I think it is important to note in the Whitfield amendment in several cases we go from 6 years to 1 year in many of the situations, and that is a significant concession I feel as well.

Mr. Chairman, I would urge support of that amendment, and hopefully, if that passes, I can urge support of the bill.

Mr. SHUSTER. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from California [Mr. KIM], a member of the committee.

Mr. KIM. Mr. Chairman, I rise in strong support of this ICC Termination Act, and urge my colleagues to support the bill.

Mr. Chairman, this legislation is a major step on the road to government deregulation and downsizing. Many of us were sent to Congress this year with a clear purpose: End the burdensome regulations, eliminate wasteful spending, and downsize the Federal Government. This bill does all of those.

The ICC is a perfect example of an agency that has outlived its usefulness and become obsolete. The ICC was created back in the 1800's when railroads carried most cargo and passenger traffic in the country. Entire communities depended on one mode of transportation and many towns were dependent upon one railroad company. Back then, the railroad had tremendous monopoly power and we needed the ICC to regulate and control the monopoly industry.

But, Mr. Chairman, times have changed. Today we have cars, trucks, trains, ships, and airplanes to move cargo and passengers. Transportation is a competitive industry now and we do not need a huge bureaucracy to regulate the competition. The ICC has become obsolete and it is time for it to go.

Mr. Chairman, when my committee first held hearings on the ICC, many of us felt that we could simply eliminate ICC overnight. We quickly realized that is not possible. Before we can eliminate the ICC, we have to do something about all the mandates, the regulations of the Interstate Commerce Act, mandates and regulations that, by the way, have been piling up since way back in the 1800's. Just eliminating the ICC will create chaos for the companies required by the law to follow these mandates.

Mr. Chairman, let me give just one example of what will happen if we cut off the ICC without changing these mandates. The railroads are required by law to file liens on their equipment with the ICC. Without a place to file their liens, they would not be able to go to the bank and borrow money for equipment.

Mr. Chairman, to avoid this hardship, our committee went through the Interstate Commerce Act and reviewed all the mandates and requirements. Then our committee wrote a bill that eliminated obsolete and unnecessary provisions. Then we consolidated what was left into a minimum safety net for the consumers, workers, shippers, and carriers. Then we transferred these regulations to the Department of Transportation, where they can be handled with a minimum number of personnel and minimum amount of money.

By doing this, we keep the bureaucracy and regulatory costs at the lowest possible level. Our bill eliminates the ICC in a responsible and orderly manner. We eliminate the burdensome regulation and cut Government spending by $21 million a year and reduce the bureaucracy. Mr. Chairman, this bill yields tremendous benefits.

Mr. OBERSTAR. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Illinois [Mr. LIPINSKI], former ranking member of the Subcommittee on Railroads, who has contributed so much to the shaping of the legislation that we bring to the floor today.

Mr. Chairman, I compliment the gentleman on the time that he has spent and the effort he has made and the original ideas contributed to the splendid piece of legislation before us.

Mr. LIPINSKI. Mr. Chairman, H.R. 2539 will eliminate the Interstate Commerce Commission, the Nation's oldest independent Federal agency. I think we can all agree this is consistent with the direction Congress has been moving with substantial deregulation of the railroad and motor carrier industries in the past 15 years.

Although many Members, including me, have opposed elimination of the ICC in years past, we recognize that the time has come to take this action. As the ranking member of the Subcommittee on Railroads, a position which I held for the first 10 months of this Congress, I had the opportunity to consider the functions of the ICC in great detail through hearings our subcommittee held last winter. On the majority of issues contained in this legislation, both the Republicans and the Democrats worked together to craft legislation we can all support. I want to commend Chairman SHUSTER and Chairwoman MOLINARI and their staffs for the bipartisan manner in which we began the drafting of this measure and for their attempts to resolve the remaining issues of difference.

However, despite our best cooperative efforts, there is one provision currently contained in H.R. 2539 which prevents me from supporting the legislation in its current form. In its present form, H.R. 2539 contains a hostile provision that destroys the longstanding rights of certain rail workers. I understand that our colleague from Kentucky, Mr. WHITFIELD, will be offering an amendment to correct this injustice. I urge support of that amendment.

Elimination of the Interstate Commerce Commission is something we should all support. Abrogating contracts between railroads and their employees is something we should not. Vote for the Whitfield amendment, and if it passes, vote for this bill.

If the amendment fails, I urge every Member of this body to oppose H.R. 2539, and stand up for the American working men and women.

Mr. SHUSTER. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Colorado [Mr. HEFLEY].

Mr. HEFLEY. Mr. Chairman, I want to thank the gentleman from Pennsylvania for yielding the time, and also for his tremendous work on this piece of legislation. Also, I would like to extend my thanks to the gentlewoman from New York [Ms. MOLINARI] for her work as well.

Mr. Chairman, as you know I have been introducing legislation, amendments to appropriations bills, and so forth, over the past 7 or 8 years to abolish our Nation's oldest regulatory agency, the Interstate Commerce Commission. When I first started doing that, we were almost laughed out of the Chamber. Then, the next year we got a few more votes.

Mr. Chairman, I remember the year that it almost passed in this House Chamber. I sat over there on that front row with the gentleman from Michigan [Mr. DINGELL], who was a very articulate spokesman in favor of keeping the ICC. I said, "We did not get it this year, but we are going to get it. We ought to sit down in a reasonable way and figure out how to phase this agency out."

Mr. Chairman, that is exactly what the gentleman from Pennsylvania [Mr. SHUSTER] has done. The gentleman has produced a bill that will reasonably begin to phase this agency out. When several of my colleagues and I started this, like the gentleman from Texas [Mr. DELAY] and the gentleman from California [Mr. COX], who is here and will speak on it today, we thought it

was almost a losing battle. Now, the day has come and I am very proud of that day.

Mr. Chairman, I do still have some concerns about this legislation. If I might, I would like to engage the gentleman from Pennsylvania in a colloquy just for a moment.

Mr. Chairman, I think my biggest concern with the legislation is that it still leaves in place a lot of regulation that could and should probably continue to be scaled down or eliminated. I would like to encourage the gentleman to hold hearings in 1996 concerning further deregulation of the transportation industry. I believe the gentleman indicated earlier that that is what his plans were.

Mr. SHUSTER. Mr. Chairman, if the gentleman would yield, I want to assure the gentleman that that is exactly what our plans are and we will be holding hearings next year.

Mr. HEFLEY. Mr. Chairman, reclaiming my time, I would further request that the workload of the adjudication panel, and I have some concerns about the adjudication panel, but that workload be closely monitored. After several issues are resolved over the next year or two, the role of the panel, I think, should naturally decrease. If that does happen, I would ask that the funding levels be reconsidered and reduced accordingly for 1997 and 1998.

Mr. SHUSTER. Mr. Chairman, if the gentleman would continue to yield, I would say to the gentleman that we certainly intend to look at it very closely.

Mr. HEFLEY. Mr. Chairman, again reclaiming my time, finally I appreciate the willingness of the gentleman from Pennsylvania to include several changes in the manager's amendments which were brought up by myself and the gentleman from Texas [Mr. DELAY].

The changes regarding the panel's authority over partial line abandonments help give rail carriers authority to conduct their business as the market dictates and not as the Federal Government dictates. Removing the language allowing the adjudication panel to conduct investigations at their initiative would assure that the panel does not assume an investigative power that Congress does not intend for it to have.

Mr. Chairman, with these changes and promises for the future, I am happy to stand here and support the bill which will eliminate the ICC.

Mr. OBERSTAR. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Tennessee [Mr. CLEMENT].

Mr. CLEMENT. Mr. Chairman, I rise to enter into a colloquy with the distinguished chairman of the Committee on Transportation and Infrastructure.

Mr. Chairman, as we dismantle the Interstate Commerce Commission and transfer its functions to the Department of Transportation and the States, I believe that it is important that we declare our intent not to burden the State with any unfunded mandates. Moreover, I believe it is important to declare our positive intent to preserve State revenues.

My concern is with a section 13908 of H.R. 2539 entitled "Registration and Other Reforms," which directs the Secretary of Transportation to replace four existing motor carrier information systems, including the Single State Registration System, with a single Federal system.

Mr. Chairman, last year Tennessee collected $4.4 million in Single State Registration System fees, which went to pay for 51 percent of their truck and bus safety program. Nationwide, a total of $90 million in revenues are collected by the States under the Single State Registration System. These fees in no way affect our efforts to reduce Federal spending.

Mr. Chairman, I would like to receive the assurance of the gentleman from Pennsylvania [Mr. SHUSTER] that these discretionary State funds would not be jeopardized by the rulemaking called for in this section of the bill.

Mr. SHUSTER. Mr. Chairman, if the gentleman would yield, I thank the gentleman for his concern. The bill strikes a compromise between those who wanted to eliminate the Single State Registration System because it was burdensome and alleged to be costly, and the States who wanted to keep the program intact.

In conducting his review, the Secretary will determine whether to replace the existing Single State Registration System with a new system, and as well consider the safety and the funding needs of the States. The States are also to be fully involved in this process, I would say to my friend.

Mr. CLEMENT. Mr. Chairman, reclaiming my time, I thank the gentleman for participating in this colloquy with me. The gentleman has resolved a lot of problems that might otherwise have existed.

Mr. Chairman, I also stand in support of the Whitfield amendment. It is a good amendment and it ought to be passed.

□ 1600

Mr. SHUSTER. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from California [Mr. COX].

Mr. COX of California. Mr. Chairman, I thank the chairman for yielding time to me.

Mr. Chairman, the closest thing to eternal life on earth, Ronald Reagan once said, is a government agency. If that is true, then the ICC, the Interstate Commerce Commission, should at least be cannonized. It has been around an awfully long time.

How old is the ICC? It is so old that during Grover Cleveland's second term it was then the oldest Government regulatory agency. That is because it was formed by Congress in 1886 in Grover Cleveland's first term. It was put together by Congress with a single purpose, to regulate railroad rates, but like Government agencies so often do, it expanded its mission and grew so that eventually it covered not only railroads but also buses, trucks, household movers and on and on.

In its salad days before bipartisan congressional majorities clipped its wing, the ICC was a regulatory terror. It became the textbook example of mindless regulation. Liberal consumer groups, free market conservatives alike opposed it. And as a result of this consensus, the ICC's overregulation was trimmed back by Democrats and Republicans, first in 1908, with the passage of three deregulatory bills: the Staggers Act; the Motor Carrier and Household Goods Transportation Act; then in 1982, the Congress passed the Bus Regulatory Reform Act. And last year Congress eliminated the requirement that 90 percent of trucking rates be filed with the ICC.

Together these bills have effectively deregulated all surface transportation in America, and they cut the number of ICC employees to 80 percent. But the ICC continues to live on.

What incidentally has been the effect of all of the deregulation? It has been a boon to consumers. Railroad rates, which rose during the decade prior to the 1980 cutback, have since decreased by 25 percent. That has reduced the cost of items ranging from cars and trucks to electricity, which after all is powered by coal shipped on rail.

According to the Department of Transportation, ICC deregulation has saved consumers $20 billion since 1980. The ICC remains, however, a relic of the 19th century. Even though it is a shell of its former self, it still is alive and kicking.

Despite the dramatic decline in its authority and its operations, the ICC continues to impose unnecessary regulatory burdens that require Federal approval, for example, just to operate a trucking company, or that require common carriage rates, prices, in the rail industry to be filed with Federal authorities even though the Federal authorities no longer have control over those very rates.

Mr. Chairman, enough is enough. We are supposed to be running a government, not an antique collection. By accomplishing the long overdue termination of the ICC, legislation that I have long sponsored, Republicans in Congress will finish the job and demonstrate our firm commitment to eliminating Government waste and needless bureaucracy.

Mr. OBERSTAR. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Minnesota [Mr. VENTO], a gentleman who has been an

indefatigable advocate for working men and women, especially the organized labor movement.

Mr. VENTO. Mr. Chairman, I thank the gentleman for his kind comments and for his work on the committee and for the chairman and their work.

This is, after all, the way that the measure should be dealt with, on the authorizing basis. While the underlying measure reinvents the ICC as the Transportation Adjudication Panel [TAP] and seems necessary finally because of the funding cut off to the ICC. This is the right way to do it through the authorizing law. However, the bill, H.R. 2539, raises many concerns for our country's working men and women and working families. Embedded into the measure is an unnecessary assault by this new Congress on working men and women. As a result of the Republican leadership's control of this House, the working people of our Nation are facing tax increases to pay for an upper-class tax break, efforts to repeal Davis-Bacon, proposals to gut OSHA, and a refusal to budge on an updated minimum wage. Now, the majority wants to take away the right of employees to collectively bargain contracts.

Mr. Chairman, I object to the provisions in H.R. 2539 which would allow the successor to the ICC to abrogate, through merger, longstanding employee protections which were collectively bargained. That is why I support the Whitfield amendment to be offered later this day. Without such an amendment to this measure, any transaction involving class II and class III railroads, which includes all railroads with up to $250 million of annual revenue, could disregard important employee rights. This is unfair and unacceptable. Mergers and acquisitions should not use the workers as the grease for the gears of such combinations. Such business transactions should preserve the sanctity of labor contracts and stand on their business merit, not destroy railroad labor employee protections.

Under current law, railroad employees who lose their jobs because of a merger are eligible for up to 6 years of severance pay. Under this bill, they will get only a 60-day notice of layoff. Again, this is unfair and unacceptable. The purpose of this protection is not to reward someone for not working, but rather to ensure that jobs are preserved—and in fact, that is what happens. This provision works and workers remain employed because of it. Furthermore, this provision has been achieved in good faith bargaining by labor and management and the law or regulators ought to respect such an agreement.

Mr. Chairman, recently we have learned anew the profound impact a merger and acquisition may have upon hundreds of jobs in Minnesota. The Burlington Northern-Santa Fe merger this year has confused and clouded important labor employee contract provisions that have been in place for over three decades. Hundreds of long-time Burlington Northern workers do not know today whether they will keep their jobs, or even have the opportunity to move 600–700 miles to a new community to maintain a job. This is not fair; this is not equitable. These large railroad mergers are not stalled or impaired by employee protection provisions, in fact through attrition and an ordered reorganization, employee protections can be maintained. Finally, the Rail Labor Act provides for collective bargaining and affords the full opportunity to resolve issues by a management-labor agreement—the law and the regulators should be neutral. Mergers, acquisitions, modernization of the railroads are not being held up by labor or employees. The law should not intrude and mandate criteria. Let's leave the essential employee protections in place. Let's support the Whitfield amendment today.

The Whitfield amendment attempts to repair the damage this legislation would inflict on U.S. railworkers. The amendment would preserve the integrity of collective bargaining, and ensure labor protections for employees of small and medium rail carriers in case of acquisition or merger. This is fair, this is equitable, and we should signal to rail management and labor our support for their contractual accords.

I urge my colleagues to support the Whitfield amendment and put some equity and dignity back in this bill for the workers of America.

Mr. SHUSTER. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Texas [Mr. BARTON].

Mr. BARTON of Texas. Mr. Chairman, I rise in opposition to the Whitfield amendment for the following reasons: The Whitfield amendment would create, would mandate a 1-year labor protection for workers of class 2 and 3 railroads. A class 2 railroad has operating revenues between $20 and $250 million. The class 3 railroads have operating revenues of less than $20 million. So class 2 and 3 railroads are very small railroads. We do not need to mandate in Federal law 1-year labor buy-out agreements.

The bill before us, H.R. 2539, does create a safe harbor. I want to thank the chairman for creating the safe harbor from some of these expensive mandates. It would give representatives of the labor unions and representatives of the railroads an opportunity to go before the Department of Transportation and hear both sides of the argument and then determine whether and what type of labor protection should be required.

The bill before us retains existing law that gives agency approval of a merger and then requires, as I just said, the DOT to hear the case in terms of labor protection.

We do not need to mandate a 1-year labor protection in this by accepting the Whitfield amendment.

I do want to commend the gentleman from Kentucky [Mr. WHITFIELD] and the supporters of their amendment though because they have backed down from 5 years to 1 year, and that is at least moving in the right direction. So I would hope that we would oppose the amendment and keep the bill as is.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, I thank the gentleman for yielding to me.

I want to emphasize that there is nothing in here which would prohibit the class 2 railroads and labor from entering into negotiations for labor protection. They can have 1 year, 5 years, 10 years. All this does is say that the small railroads, the Federal Government will not mandate that they must have labor protection.

Mr. BARTON of Texas. Mr. Chairman, reclaiming my time, I point out that the American Short Line Railroad Association strongly opposes the Whitfield amendment.

Mr. OBERSTAR. Mr. Chairman, I yield 4 minutes to the gentleman from New York [Mr. NADLER], who has played a very important role in the shaping of this legislation.

Mr. NADLER. Mr. Chairman, I am not a great fan of deregulation. I do not believe we should abolish the ICC. I am not a great fan of this bill.

But I rise today to thank the gentleman from Pennsylvania [Mr. SHUSTER], the chairman, and his staff for working with me in addressing some particular major concerns I had with a number of provisions of the bill.

The bill as originally drafted would have terminated the feeder line development program. Many railroads are the only carriers of goods to and from certain areas of the country. Because of this monopoly, there must be an ability to protect shippers and residents of such areas from decisions by a railroad, perhaps after a merger, by a railroad that enjoys the local monopoly status to eliminate service to an area.

This program has provided for many years that, if a railroad does not provide service on a line it owns, it can be compelled to sell that portion of the line to a railroad that will provide service in that area.

This provision has been utilized successfully in many cases, for example, by railroads such as the Northern & Eastern and the Tennessee Central Railroad. These railroads are now profitable, viable, and support their communities' economy, none of which would have been possible without the provisions of current law that are commonly known as the feeder line development program. It is for these reasons

I am pleased that the chairman's en bloc amendments to this bill will preserve these provisions of the law and this program.

The second concern I had was that the common carrier provisions of the law were diluted in the original bill to the point that it would have undermined one of the original purposes of the ICC. That is to protect shippers and the general public from monopolies and to enable commerce to flow freely. Under the existing law a railroad is mandated to provide service to anyone who makes a reasonable request for that service. Many of these requests are from small communities which do not have other viable ways to ship their goods or from small shippers of whom the same is true. Requests can also come from large shippers that rely on one railroad to carry their goods.

In both cases, if a railroad is allowed to deny or minimize services, they are given the power to decide which communities and which businesses will prosper and which will die. In a perfect world, we might let carriers decide who they would service. The reality is that we only have so many rail lines in this country and that it is imperative that we preserve the common carrier provision so that anyone can get service. That is why it was imperative that this provision be amended to more closely resemble the current law.

As I said earlier, I want to thank Chairman SHUSTER for working with me to see that the feeder line development program is included, which it is, and the common carrier provision is still a viable part of the new regulatory body of law that will oversee interstate commerce. I think that, with the chairman's en bloc amendment, it will.

At the same time, I need to express my dismay with the process and the haste with which this bill was brought before us. As a member of the Committee on Transportation and Infrastructure, we received a 280-page bill on Thursday night and were asked to review, evaluate, and vote on amendments in 4 days, 4 days to determine how we were going to restructure a body of law that had taken 100 years to develop. It is my understanding that the reason we had to do a bill in such haste is that the Committee on Appropriations had not provided funding for the ICC, and we had to amend the law accordingly and quickly.

I hope that in the future we will take more deliberate speed in amending such a major body of law. But again, I wanted to thank the chairman and his staff for working out what I believe to be a satisfactory resolution of the two problems, the common carrier doctrine and of the feeder line development program.

Mr. SHUSTER. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. Mr. Chairman, I thank the chairman for yielding time to me.

Wise men have said that the nearest thing to eternal life or immortality is to be a Federal agency or a Federal commission. I guess it is true. Today we are debating the demise of the Interstate Commerce Commission founded in 1887. That is 108 years ago. In 1887 railroads did have an iron grip on how products were sent to market, but that has been a long time ago. Congressional Members who wish to continue this commission and who want to save it after 108 years are looking backward. I think we have to look forward. If we are going to release our economy, allow our economy and our businesses to grow, then I think we must get in step with the 21st century. So I am very much in favor of this legislation.

I think the ICC was useful at one time, but it has outlived its usefulness. For example, I know the largest hauler of freight in this country is a 21st century company but yet, stated briefly, the ICC continues to require financial reports of this motor carrier, despite the fact that it no longer has a need for them. It has moved out of the business of regulating years ago, yet all the paperwork required has cost the company hundreds of thousands of dollars.

□ 1615

The ICC claims it needs the reports so that it can in turn, now listen to this, so that it can present an annual report to Congress. What do we need with an annual report? Who reads it? We are so busy doing all of the other things, but Congress keeps the ICC in existence that is, more and more bureaucracy, more and more paperwork. That is why today when the President said the Government was shutdown, only the essential workers had to come to work, 800,000 nonessential employees headed for home. Maybe that is why, we have too much Government, my colleagues, we have got too much redtape.

Let us use some common sense, and let us pass this legislation. Let us bring our country into the 21st century.

Mr. OBERSTAR. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from Missouri [Ms. MCCARTHY].

Ms. MCCARTHY. Mr. Chairman, I rise today to urge support for the Whitfield amendment and, with adoption of that amendment, to recommend support for the bill. Inclusion of the Whitfield language will make this a bill worthy of passage.

One of the functions of the ICC is to evaluate and approve railway mergers. The impacts of such mergers can be wide and far reaching—affecting other railroads, rail passengers, rail employees, farmers, small businesses, and shippers who depend on reliable, affordable rail transit. It is in the national interest to ensure that mergers which take place do not have a deleterious effect on any of these important functions.

It is essential that the new Department of Transportation panel, created under this legislation, be vigilant and thorough in its examination of rail mergers. Only through full and complete consideration of such a merger can all of the potential ramifications be properly examined. It is also important that other appropriate voices, such as that of the Attorney General, be a part of the deliberative process.

We have an obligation, Mr. Chairman, to ensure that the public has access to affordable modes of rail transportation, that small railroads can compete with the larger ones, and that rail employees be treated fairly. I expect the new DOT panel to fully take into account these important issues when considering railroad mergers.

Mr. SHUSTER. Mr. Chairman, I have no further requests for time, and I reserve the balance of my time.

Mr. OBERSTAR. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the labor issue aside, the bill that we are considering does strike a good balance between continuing deregulation of the rail and motor carrier industries while at the same time preserving very important safety and economic regulatory powers needed to protect shippers against abuses that will not be remedied by competition. In the rail arena the legislation eliminates many and modifies other railroad economic regulatory requirements and transfers remaining ICC rail oversight responsibilities to a newly created transportation adjudicatory panel housed within the Department of Transportation. The bill repeals requirements that freight rail carriers file rates with the Federal Government. It repeals prohibitions against transporting commodities produced by the carrier itself or which the carrier owns. It repeals requirements that railroads get Federal rail regulatory approval to issue securities or to assume financial liabilities with respect to other securities. It does, however, maintain, this legislation does, some critical functions that both the rail industry and the shippers agree are necessary: maximum rate standards to protect captive shippers from unreasonably high rates. The common carrier obligation is restated here, the legal duty of a rail carrier to provide transportation on reasonable request, a longstanding provision of American law. It protects requirements or preserves requirements that rail carriers establish rates, classifications, rules, and practices governing rail transportation, and it preserves the authority of the Federal Government to review and to order changes in those items. All of these are necessary to maintain the balance in a rail transportation field that I feel, and many are fearful,

would not be maintained simply by competition alone. This panel that we create, this arbitration or adjudicatory panel rather, will have authority to exempt railroads and rail services from regulatory requirements through administrative action rather than going through the laborious process of lawsuits and through the Justice Department's antitrust suit authority.

We did make progress in the area protecting captive shippers from possible market abuse. That is a longstanding problem in this rail arena, one that goes back into the 19th century and the early part of this century. Captive shippers are particularly a concern in the coal sector where powerplants are so dependent upon coal and upon the one means of bringing coal to their plant. We have got protections in here that are in the interests of all who use electricity produced by coal. Soon our chairman will offer a bill manager's amendment which will further clarify the roles of the Secretary and the Transportation Adjudication Panel.

On the trucking side, the motor carrier side, the bill eliminates virtually all remaining tariff filings. It deregulates significant portions of the household goods market. It eliminates the possibility of future undercharge claims, an issue that we have had to deal with so intensively last year and again this year. It eliminates the Federal role in routine commercial disputes. It retains a limited number of key provisions—uniform commercial rules, and, for small regional carriers that compete with national carriers, provisions of current law that protect those small carriers and provisions of law that protect shippers in the household goods marketplace.

But I do want to come back to the point that disturbs me so greatly, and that is the failure to preserve the safety net that railworkers now have when they lose their jobs due to mergers or line sales. We had labor protective provisions in airline deregulation, and my colleagues know that in the first 5 years after airline deregulation, 1978 to 1983, there were 22 new entrants into the airline business. But within 8 years those 22 new entrants were swallowed up; there are only 5 left, and there is only 1 left today. But not once were the labor protective provisions for airline workers imposed, not once.

Just last night, as I was on my way back to Washington, the Minneapolis-St. Paul airport, I was stopped by a Northwest Airline employee, a baggage handler. He had been an Eastern Airlines employee, and there was anger in his voice, anger in his eyes, over the deregulation, and he talked about this bill that we are taking up today, and he said, "Don't let happen to rail workers what happened to us. We never got any protection. We lost our jobs." This merger swept people away and made huge profits for the big corporate owners, and the little guy got crushed, and that voice still rings in my mind today, my heart today, and I do not want to see that happen, and I urge my colleagues' support for the Whitfield amendment.

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

Mr. SHUSTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to emphasize, in fact empathize as well as emphasize, with what my good friend from Minnesota has just said and the words of that airline captain, "Don't let them do to railroads what was done to the big airlines." We are not letting that happen with the class 1 railroads. That is the important point to be made, Mr. Chairman. We are not touching labor protection as it pertains to the big railroads. The labor protection that is in place stays in place. What we are doing, however, is with the small railroads, the class 2 railroads. We are saying that we are not going to impose mandatory government-imposed labor protection.

Now the class 2 railroads, the management and labor, can negotiate any kind of labor protection they want to negotiate. That is perfectly permissible within this legislation. All we are saying is we are not going to mandate, the Federal Government is not going to mandate, what the labor protection will be, and why not? Because with the small railroads, Mr. Chairman, our major concern is to keep them running, and the problem we face is, if a small railroad is faced with the opportunity to acquire a line or merge in order to keep that line functioning, to keep to keep that little railroad operating, we do not want to be in the position of saying, "You must accept federally mandated labor protection," because the result will be the unintended consequence of that line being abandoned. WE do not want abandonments. We want these small railroads to keep running.

In addition I would say, particularly to my colleagues on both sides of the aisle, "if you're from rural America, and if you have these small railroads in your district, you had better be very, very concerned about the Federal Government mandating labor protection on these small railroads, because the result is going to be the abandonment of those railroads because they simply can't afford to pay the labor protection in many cases."

So we continue to support the full labor protection. We do not touch it as far as the large railroads are concerned, but indeed we say with the small railroads, "Let's be very careful that we don't mandate Federal protection because we want to keep those lines running in the small communities across America." That seems to be the most contentious issue we have outlined and emphasized our reasons for asking support for this bill and opposition to the Whitfield amendment.

Mr. OBERSTAR. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from Minnesota is recognized for 30 seconds.

Mr. OBERSTAR. Mr. Chairman, let me just use my 30 seconds to say when we are talking about these small railroads, let us just remember that the small railroads, the class 2, include Wisconsin Central, which Business Week magazine earlier this year estimated was one of the 1,000 most valuable corporations in the United States with a stock market value of $800 million. That is not small where I come from.

□ 1630

Mr. SHUSTER. Mr. Chairman, I would say to my friend, the class 2 can also be a little railroad with only $21 million a year in revenue.

Mr. Chairman, I yield the balance of my time to the gentleman from Michigan [Mr. SMITH].

Mr. SMITH of Michigan. Mr. Chairman, I chaired the budget working group that recommended we terminate the Interstate Commerce Commission.

Mr. Chairman, it is time for the Interstate Commerce Commission to go. This bureaucracy was created in the 1880's to regulate emerging railroad monopolies. It is only fitting that one of the first agencies that we kill in the first year of the Republican revolution be the oldest independent regulatory agency in the Federal Government.

But the case for eliminating the ICC is much greater than just trophy hunting. Much of what the ICC does has been made unnecessary over the past decade and a half of transportation deregulation. Much of what remains needs to go, too. Tariff filing, probably the most obvious example of why we should kill the ICC, is a boon for bureaucrats, but a burden on trucking companies.

For these reasons, I support the ICC Termination Act. But I wish it could have gone farther and eliminated more. The bill creates an independent Transportation Adjudication Panel. I fear that this ensures that too much of what the ICC does—and who does it—may remain the same.

Currently there are three seats for ICC Commissioners and two are vacant. The adjudication panel created by this bill would consist of three members, and "On the effective date * * * the members of the Interstate Commerce Commission then serving unexpired terms shall become members of the panel." It also allows staff of the current commissioners to transfer.

Are we just changing the name on the door? I would prefer that this panel did not exist and remaining essential regulatory issues be folded into the Department of Transportation.

Also this bill allows rail merger issues to be reviewed by the Transportation Adjudication Panel. I would also prefer that this function be performed by the Department of Justice, which handles mergers for all other industries.

The administration has stated that the President will likely veto this legislation because it "renam[es] the ICC and mov[es] its most burdensome regulatory elements to a new Federal entity." In my view, there is truth to this.

Mr. Chairman, I wish our knife were sharper, and I hope it will be as we cut in the future. I urge a "yes" vote on this bill.

Mr. HAYES. Mr. Chairman, during this budgetary stalemate, at a time when the political rhetoric overshadows the substance and importance of our efforts to streamline the Federal Government, we have a rare opportunity to move forward an issue in which bipartisan support exists. Both the executive branch and Congress have called for the ICC to be abolished. Accordingly, I am confident that the remaining details, although contentious, will be worked out during our debate here today and in conference with the Senate. I especially commend Chairman SHUSTER for his willingness to work with Members to resolve particular problems.

I, therefore, rise to urge the adoption of H.R. 2539. This bill will provide for a prudent and orderly transition of the ICC's vital functions to the independent Transportation Adjudication Board within the Department of Transportation, while getting rid of wasteful and unnecessary tasks. I believe that H.R. 2539 will further ensure that such a transition does not prejudice current market activities or conditions and appropriately accounts for the expectations of the regulated community.

No Federal agency epitomizes the outdated, obsolete mentality of Federal bureaucrats more than the ICC. The ICC's original jurisdiction has been extended over the years across the regulatory spectrum—from railroad and other surface transportation matters to the telegraph, cable, and securities industries. The subsequent creation of specialized oversight agencies, such as the Securities and Exchange Commission, left the ICC with duplicate authority that should have been eliminated long ago. The cumulative impact of deregulation of the railroad, trucking, and intercity bus industries in the 1980's caused the ICC to go from as many as 2,000 employees in the 1970's to the current level of 400 today, underscoring the need to reduce the ICC's regulatory role further.

The ICC was created in 1887 in response to outcries from farmers, small merchants, and shippers to appropriately control the practices of unfair rates and inadequate competition. It is ironic that these concerns, over 100 years later, once again are at the heart of our debate.

I was pleased to see an agreement included in the bill that is intended to guarantee preservation of the captive shipper protection authority of the ICC. Southwest Louisiana's economy depends on the efficient movement of bulk commodities, such as agricultural and petrochemical products. Transferring such protections to the Transportation Adjudication Panel is essential to ensure their access to a competitive transportation market. I thank my colleague NICK JOE RAHALL for his tireless work on this issue.

Additionally, meeting the demand of agricultural producers to get commodities to market at a competitive rate on time during the harvest season is the major problem facing rail grain users, particularly rice farmers in my district. Substantial progress has been made in developing acceptable safeguards to enforce contracts and rates suitably. While all my concerns were not allayed here today, I believe that stronger language akin to the Senate version is needed and will ultimately be approved.

Finally, the en bloc amendment will establish a level playing field that does not upset the present balance of the ICC's obligation to protect the public interest with the need for efficiencies in the marketplace through consolidation and mergers. Potential captive shippers in my district fear that the penchant for mergers could place them at the mercy of rates that limit their ability to compete. I was glad to see that my suggestions were included in the bill to better guarantee such competitive rates without adversely impacting railroads seeking to improve their own competitive position.

I urge my colleagues to approve this measure and look forward to resolving the outstanding issues in a thoughtful and amicable fashion.

Mr. POMEROY. Mr. Chairman, I rise in strong opposition to H.R. 2539, the Interstate Commerce Commission Termination Act.

North Dakota is a leading producer of many agricultural commodities such as wheat, durum, barley, canola, and sunflowers. A large portion of these commodities are shipped to processing facilities beyond our borders. The farmers and grain elevators in my State fit the classic definition of the captive shipper lacking access to effective alternative means of transportation. We do not enjoy access to any waterways and trucks are not considered a viable alternative to rail transportation. In fact, the North Dakota Public Service Commission estimates that it would take 650,000 long-haul trucks to move 1 year's harvest to market. That's more trucks than we have people in my State.

Because North Dakota's economy depends on moving our commodities to market by rail, it is critical for us to have access to affordable and reliable rail service. I have concerns about several provisions of this bill, but one affects my State directly.

H.R. 2539 deletes a provision in current law which has been critical in maintaining rail service in North Dakota. Commonly known as the "Andrews amendment," this law prohibits the wholesale abandonment of railroads in North Dakota by Burlington Northern [BN].

In the early 1980's, BN planned to abandon over 20 percent of its railroad miles in my State. Such a wholesale abandonment would have been devastating to the farmers and small grain elevators who depended on those lines to get their commodities to market. The Andrews amendment originally allowed BN to abandon 350 miles in North Dakota. Subsequent legislation allowed BN to pursue abandonment when it was shown that no customer demand existed for a line.

Due to our dependence on a single railroad and a lack of access to competing modes of transportation, many farmers and elevator owners do not have any economically feasible options. The Andrews amendment has played a critical role in ensuring that BN took a go slow approach to abandoning lines in North Dakota.

For the RECORD, I am also submitting two letters. One from myself to Representative SUSAN MOLINARI, chairwoman for the Subcommittee on Railroads and the second from the North Dakota Public Service Commissioners stating their support for continuing the Andrews amendment.

Additionally, I am concerned this legislation unfairly tips the balance too far in favor of the railroads. The pre-emption of State and Federal laws takes away the option shippers have to pursue common law remedies. Also the power to suspend rates or practices while a charge of unfavorable treatment is reviewed has been suspended.

CONGRESS OF THE UNITED STATES,
October 10, 1995.

Hon. SUSAN MOLINARI,
Chairwoman, Subcommittee on Railroads, Committee on Transportation and Infrastructure, Rayburn House Office Building, Washington, DC.

DEAR CHAIRWOMAN MOLINARI: As you prepare to introduce legislation to merge the Interstate Commerce Commission (ICC) into the Department of Transportation (DOT), I am writing to express my strong support for preserving a vital protection for North Dakota farmers and grain shippers against wholesale railroad abandonment.

To realize the importance of this provision to North Dakota, one must first understand the unparalleled degree to which North Dakota agriculture is dependent upon railroad transportation. North Dakota is the nation's most prolific producer of agriculture commodities—our farmers lead the nation in the production of wheat, durum, barley and sunflowers. And North Dakota is uniquely dependent upon railroads to transport these commodities to market.

North Dakota is not only the nation's largest agriculture producer, it is also, geographically, the most remote from processing centers and points of export. Unlike other large agriculture producing states, there is no realistic alternative mode of transportation to rail. Barge traffic is unavailable and trucking bulk shipments over such great distances is not economically viable.

As a result, on average, the 475 local country grain elevators in North Dakota rely on railroads to ship 75 percent of their commodities to market. The majority of these elevators fit the textbook definition of "captive shipper," where the railroad faces no effective competition. To illustrate this point, consider the circumstances of the grain elevator in Beach, North Dakota. The elevator in Beach is 750 miles from the nearest grain market, 750 miles from the nearest navigable waterway, and 150 miles from the nearest competing railroad.

Although North Dakota's overwhelming reliance on railroads continues to create difficulties in the marketing of grain, for the last 15 years, we have achieved a degree of stability for our farmers and shippers through an abandonment limitation—the socalled "Andrews amendment."

In the early 1980's, Burlington Northern (BN) railroad filed applications with the ICC to abandon 1,200 miles of rail in North Dakota—more than 20 percent of the total railroad miles in the state. The proposal threatened the livelihood of farmers and small grain elevators across the state. In response, Senator Mark Andrews (R-ND) offered an amendment stating that Burlington Northern railroad could not abandon more than 350 miles of rail in North Dakota (P.L. 97-102, Sec. 402).

It should be noted that the Andrews amendment was modified by the FY 1992 Department of Transportation Appropriations Act to permit BN to exceed the 350 mile statutory limit for a abandonments under the exemption provided by section 1152 of title 49 of the Code of Federal Regulations. As you know, this provision allows railroads to bypass normal abandonment proceedings when it is demonstrated that there is no customer demand for the line. Therefore, the Andrews amendment is not a prohibition on rail abandonment—it is a reasonable safeguard that recognizes the unique dependence of North Dakota on rail transportation.

In sum, as you consider changes to the Interstate Commerce Act, I strongly urge you to preserve the abandonment limitation provided by P.L. 97-102. I appreciate your careful consideration of this important issue.

Sincerely,

EARL POMEROY,
Member of Congress.

PUBLIC SERVICE COMMISSION,
STATE OF NORTH DAKOTA,
Bismark, ND, October 23, 1995.

Hon. SUSAN MOLINARI,
Chairwoman, Subcommittee on Railroads, Committee on Transportation and Intrastructure, Rayburn House Office Building, Washington, DC

DEAR CHAIRWOMAN MOLINARI: Congressman Pomeroy has already contacted you concerning the vital importance of the "Andrews Amendment" which prohibits wholesale rail abandonment in North Dakota (copy attached). As the agency that is responsible for representing our state's transportation interests before Congress and federal agencies, we share in his concern and urge congressional action to retain this protection.

North Dakota is perhaps the Nation's most agricultural state. We are often the leading producer of major commodities such as wheat (flour), durum (pasta), barley (beer and animal feed), and sunflower (oil and food). Virtually all of this grain is shipped to consumption centers and processors that are located hundreds and even thousands of miles away.

North Dakota is highly dependent on rail transportation because of its location and its lack of other transportation alternatives. Unlike their counterparts in other grain producing states, North Dakota grain shippers are located an average of 450 miles from the nearest source of water transportation and trucks just are not a viable alternative. It would take nearly 650,000 long-haul trucks to move one year's harvest to market.

North Dakota's grain industry had more competitive choices 25 years ago. At that time the state was served by five national rail carriers; today there are two. These carriers can be far more aggressive concerning abandonments because, in all likelihood, if they abandon a line, farmers and grain companies will simply be forced to deliver their grain to that same railroad at some more distant point. These local entities would experience higher delivery costs and local roads would see experience far greater wear. Elevators which have made capital investments to their facilities would be left with significant stranded investments.

The "Andrews Amendment" was put in place to force North Dakota's major rail carrier to take a go-slow approach to abandonments. It has worked to the benefit of both the state and the railroad. Less than half of the lines proposed for abandonment in 1981 have been abandoned. Some of the once-targeted lines have even been upgraded and now serve as major sources of freight revenue for the railroad.

North Dakota will, quite possibly, be faced with another major abandonment threat in the near future. Recent and pending mega rail mergers, the advent of even larger rail cars, and proposed changes to the Interstate Commerce Act threaten to create a renewed interest in "system rationalization."

North Dakota has not opposed a single abandonment application in the past ten years but we do not welcome the prospects of another round of wholesale abandonments. The "Andrews Amendment" prevents such a threat.

It is important to remember that this provision does not preclude abandonments. Hundreds of miles of track have been abandoned since its passage and even more unused lines could be abandoned today if their operator chose to make the required filings with the ICC.

The "Andrews Amendment" simply prohibits a railroad from abandoning a line in anticipation of future free market occurrences and forces them to respond to changed market conditions rather than presupposing them.

We appreciate and urge your favorable support.

Sincerely,

BRUCE HAGEN,
Commissioner.

SUSAN E. WEFALD,
President.

LEO M. REINBOLD,
Commissioner.

Mr. EWING. Mr. Chairman, I want to commend you for moving H.R. 2539, the ICC Termination Act of 1995, forward in a timely fashion. As Members may be aware the Interstate Commerce Commission [ICC] will be terminated on December 5 of this year, and without new legislation in place, the existing cumbersome and obsolete 19th century ICC statute will remain on the books.

While there is solid bipartisan support for termination of the ICC, the difficulty of dismantling 100 years of transportation and commercial law has certainly become evident. However, in dismantling the ICC and moving its remaining critical functions to the U.S. Department of Transportation, care must be taken to protect vulnerable interests, like captive shippers.

The provisions of the bill which encourage class II railroads to purchase lines that would otherwise be abandoned by larger class I railroads must be retained or captive shippers could see their service disappear entirely. Unfortunately, adoption of Representative WHITFIELD'S proposed amendment would upset the careful balance in the bill and could discourage class II railroads from investing in lines scheduled for abandonment. Congress should not impose an unfunded mandate on class II railroads and create an environment where essential railroad service is lost because the costs of assuming existing labor agreements and severance benefits is prohibitive. For this reason, I urge my colleagues to support the committee language and reject the Whitfield amendment.

Mr. Chairman, I also appreciate your willingness to address other issues of importance to American agriculture and for working with members of the Transportation and Infrastructure Committee who represent agricultural districts. Agriculture is heavily dependent upon rail service to move products to market. For many rural and smalltown farmers there is only one grain elevator and one rail line available. The ability to move commodities in a timely fashion is critical to remaining in business. When faced with these monopolistic circumstances some reasonable regulation is essential.

I am pleased the legislation before the House today clarifies the exemptions language in the bill, grants the adjudication panel the authority to deny abandonments, includes contract summary filing language, restores investigation authority, and restores the existing 20 days rate-change-notification requirement. However, I remain concerned about potential railcar supply shortages and the percentage of rolling stock that could be contracted out under the common carrier provisions of the bill.

Railcar shortages boost the price farmers and elevators must pay to move crops to market, thereby lowering the amount farmers receive for their crops. In fact, Midwestern agriculture is already facing acute railcar shortages resulting from increased demand, instability in the railroad industry caused by proposed mergers, and high barge shipping rates. While I am not advocating excessive regulation to protect agriculture, the final ICC termination legislation should not worsen the situation unnecessarily.

Mr. Chairman, I plan to continue working with you on this issue and I urge you to consider accepting the common carrier language contained in the Senate's ICC termination bill when this legislation goes to conference.

Again, Mr. Chairman, I want to thank you for the leadership you have demonstrated in working with Members who represent agricultural interests. Although H.R. 2539 is not perfect, and some additional work is necessary, I urge my colleagues to support passage of H.R. 2539.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the Committee amendment in the nature of a substitute shall be considered by titles as an original bill for the purposes of amendment. The first section in each title is considered as read.

Before consideration of any other amendment it shall be in order to consider the amendment printed in the designated place in the CONGRESSIONAL RECORD if offered by the gentleman from Pennsylvania [Mr. SHUSTER] or his designee. That amendment shall be considered as read, may amend portions of the bill not yet read for amendment, is not subject to amendment, and is not subject to a demand for a division of the question. Debate on the amendment is limited to 10 minutes, equally divided and controlled by the proponent and an opponent of the amendment.

If that amendment is adopted, the bill as then perfected will be considered as an original bill for the purpose of further amendment.

During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition to a Member who has caused an amendment to be printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered as read.

The Clerk will designate section 1.

The text of section 1 is as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "ICC Termination Act of 1995".

AMENDMENT OFFERED BY MR. SHUSTER

Mr. SHUSTER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SHUSTER:

Page 5, line 24, insert "common carrier" after "a person providing".

Page 7, line 8, insert "with respect to regulation of rail transportation" after "provided under this part".

Page 9, line 24, insert "The enactment of the ICC Termination Act of 1995 shall have no effect on which employees and employers are covered by the Railway Labor Act, the Railroad Retirement Act of 1974, the Railroad Retirement Tax Act, and the Railroad Unemployment Insurance Act." after "local governmental authority.".

Page 12, in the table of sections for subchapter I of chapter 105, strike "Inflation-based rate increases" and insert in lieu thereof "Rail cost adjustment factor".

Page 13, line 21, strike "shall recognize" and insert in lieu thereof "shall give due consideration to—

"(A) the amount of traffic which is transported at revenues which do not contribute to going concern value and the efforts made to minimize such traffic;

"(B) the amount of traffic which contributes only marginally to fixed costs and the extent to which, if any, rates on such traffic can be changed to maximize the revenues from such traffic; and

"(C) the carrier's mix of rail traffic to determine whether one commodity is paying an unreasonable share of the carrier's overall revenues,

recognizing".

Page 14, lines 2 through 5, strike "to establish simplified" and all that follows through "evidence is impractical".

Page 14, line 11, strike "including" and insert in lieu thereof "to the extent required by section 10507,".

Page 17, line 11, strike "11101" and insert in lieu thereof "10902".

Page 29, line 11, strike "Class I".

Page 29, lines 12 and 13, strike "Panel's Rail Form A" and insert in lieu thereof "Uniform Rail Costing System".

Page 30, line 7, through page 31, line 3, amend section 10508 to read as follows:

"§ 10508. Rail cost adjustment factor

"(a) The Panel shall, as often as practicable, but in no event less often than quarterly, publish a rail cost adjustment factor which shall be a fraction, the numerator of which is the latest published Index of Railroad Costs (which index shall be compiled or verified by the Panel, with appropriate adjustments to reflect the change in composition of railroad costs, including the quality and mix of material and labor) and the denominator of which is the same index for the fourth quarter of every fifth year, beginning with the fourth quarter of 1992.

"(b) The rail cost adjustment factor published by the Panel under subsection (a) of this section shall take into account changes in railroad productivity. The Panel shall also publish a similar index that does not take into account changes in railroad productivity.

Page 31, line 22, insert "The district courts of the United States shall not have jurisdiction pursuant to this section based on section 1331 or 1337 of title 28, United States Code." after "parties otherwise agree.".

Page 31, after line 22, insert the following:

"(d)(1) A summary of each contract for the transportation of agricultural commodities entered into under this section shall be filed with the Panel, containing such nonconfidential information as the Panel prescribes. The Panel shall publish special rules for such contracts in order to ensure that the essential terms of the contract are available to the general public.

Page 31, line 23, strike "(d)" and insert in lieu thereof "(2)".

Page 32, after line 6, insert the following new subsection:

"(f) A rail carrier that enters into a contract as authorized by this section remains subject to the common carrier obligation set forth in section 10901, with respect to rail transportation not provided under such a contract.

Page 37, in the table of sections for chapter 107, insert at the end the following new item:

"10707. Railroad development.

Page 45, line 10, strike "paragraph (2) or".

Page 45, lines 13 through 22, strike paragraph (2).

Page 45, line 23, strike "(3)" and insert in lieu thereof "(2)".

Page 47, line 18, strike "6 months" and insert in lieu thereof "4 months".

Page 48, line 2, page 49, lines 21 and 25, and page 50, line 5, strike "6-month" and insert in lieu thereof "4-month".

Page 51, line 20, insert "The Panel does not have authority under this chapter over construction, acquisition, operation, abandonment, or discontinuance of spur, industrial, team, switching, or side tracks." after "or side tracks.".

Page 51, after line 20, insert the following new section:

"§ 10707. Railroad development

"(a) In this section, the term 'financially responsible person' means a person who—

"(1) is capable of paying the constitutional minimum value of the railroad line proposed to be acquired; and

"(2) is able to assure that adequate transportation will be provided over such line for a period of not less than 3 years.

Such term includes a governmental authority but does not include a Class I or Class II rail carrier.

"(b)(1) When the Panel finds that—

"(A)(i) the public convenience and necessity require or permit the sale of a particular railroad line under this section; or

"(ii) a railroad line is on a system diagram map as required under section 10703 of this title, but the rail carrier owning such line has not filed a notice of intent to abandon such line under section 10703 of this title before an application to purchase such line, or any required preliminary filing with respect to such application, is filed under this section; and

"(B) an application to purchase such line has been filed by a financially responsible person,

the Panel shall require the rail carrier owning the railroad line to sell such line to such financially responsible person at a price not less than the constitutional minimum value.

"(2) For purposes of this subsection, the constitutional minimum value of a particular railroad line shall be presumed to be not less than the net liquidation value of such line or the going concern value of such line, whichever is greater.

"(c)(1) For purposes of this section, the Panel may determine that the public convenience and necessity require or permit the sale of a railroad line if the Panel determines, after a hearing on the record, that—

"(A) the rail carrier operating such line refuses within a reasonable time to make the necessary efforts to provide adequate service to shippers who transport traffic over such line;

"(B) the transportation over such line is inadequate for the majority of shippers who transport traffic over such line;

"(C) the sale of such line will not have a significantly adverse financial effect on the rail carrier operating such line;

"(D) the sale of such line will not have an adverse effect on the overall operational performance of the rail carrier operating such line; and

"(E) the sale of such line will be likely to result in improved railroad transportation for shippers that transport traffic over such line.

"(2) In a proceeding under this subsection, the burden of proving that the public convenience and necessity require or permit the sale of a particular railroad line is on the person filing the application to acquire such line. If the Panel finds under this subsection that the public convenience and necessity require or permit the sale of a particular railroad line, the Panel shall concurrently notify the parties of such finding and publish such finding in the Federal Register.

"(d) In the case of any railroad line subject to sale under subsection (a) of this section, the Panel shall, upon the request of the acquiring carrier, require the selling carrier to provide to the acquiring carrier trackage rights to allow a reasonable interchange with the selling carrier or to move power equipment or empty rolling stock between noncontiguous feeder lines operated by the acquiring carrier. The Panel shall require the acquiring carrier to provide the selling carrier reasonable compensation for any such trackage rights.

"(e) The Panel shall require, to the maximum extent practicable, the use of the employees who would normally have performed work in connection with a railroad line subject to a sale under this section.

"(f) In the case of a railroad line which carried less than 3,000,000 gross ton miles of traffic per mile in the preceding calendar year, whenever a purchasing carrier under this section petitions the Panel for joint rates applicable to traffic moving over through routes in which the purchasing carrier may practicably participate, the Panel shall, within 30 days after the date such petition is filed and pursuant to section 10505(a) of this title, require the establishment of reasonable joint rates and divisions over such route.

"(g)(1) Any person operating a railroad line acquired under this section may elect to be exempt from any of the provisions of this part, except that such a person may not be exempt from the provisions of chapter 105 of this title with respect to transportation under a joint rate.

"(2) The provisions of paragraph (1) of this subsection shall apply to any line of railroad which was abandoned during the 18-month period immediately prior to the effective date of the Staggers Rail Act of 1980 and was subsequently purchased by a financially responsible person.

"(h) If a purchasing carrier under this section proposes to sell or abandon all or any portion of a purchased railroad line, such purchasing carrier shall offer the right of first refusal with respect to such line or portion thereof to the carrier which sold such

line under this section. Such offer shall be made at a price equal to the sum of the price paid by such purchasing carrier to such selling carrier for such line or portion thereof and the fair market value (less deterioration) of any improvements made, as adjusted to reflect inflation.

"(i) Any person operating a railroad line acquired under this section may determine preconditions, such as payment of a subsidy, which must be met by shippers in order to obtain service over such lines, but such operator must notify the shippers on the line of its intention to impose such preconditions.

Page 52, line 9, insert "Commitments which deprive a carrier of its ability to respond to reasonable requests for common carrier service are not reasonable." after "requests for service.".

Page 53, line 3, insert "20 days have expired after" after "service terms unless".

Page 53, lines 11 and 12, strike ", including appropriate periods of notice." and insert in lieu thereof ". Final regulations shall be adopted by the Panel not later than 180 days after the date of the enactment of the ICC Termination Act of 1995.".

Page 66, line 12, insert "in order to perfect the security interest that is the subject of such instrument" after "filed with the Panel".

Page 68, after line 15, insert the following new subsection:

"(g) The Panel shall collect, maintain, and keep open for public inspection a railway equipment register consistent with the manner and format maintained by the Interstate Commerce Commission as of the date of the enactment of the ICC Termination Act of 1995.

Page 69, line 8, insert "(except section 11122)" after "under this subchapter".

Page 73, line 19, strike "rights. Any trackage rights" and insert in lieu thereof "rights and access to other facilities. Any trackage rights and related".

Page 73, line 20, insert "operating terms and" after "shall provide for".

Page 74, lines 21 and 22, strike "Secretary of Transportation" and insert in lieu thereof "Attorney General".

Page 84, lines 2 and 3, strike "The Panel may begin an investigation under this part on its own initiative or on complaint." and insert in lieu thereof "Except as otherwise provided in this part, the Panel may begin an investigation under this part only on complaint.".

Page 85, line 24, insert "in a United States District Court" after "civil action".

Page 105, line 3, strike the first comma and all that follows through the period on line 5 and insert a period.

Page 115, line 6, before "authority" insert "appropriate".

Page 115, strike lines 7 and 8 and insert a period.

Page 117, line 4, strike "shall".

Page 132, line 4, strike "has" and insert "and the Panel have".

Page 133, after line 17, insert the following:

"(b) LIMITATION.—The Panel may not exempt a water carrier from the application of, or compliance with, sections 13701 and 13702 for transportation in noncontiguous domestic trade.

Page 133, line 18, strike "(b)" and insert "(c)".

Page 136, line 2, after "section 13703" insert "or 14302".

Page 136, in the matter following line 3—

(1) redesignate the items relating to sections 13707–13712 as items relating to sections 13708–13713, respectively;

(2) insert after the item relating to section 13706 the following:

" '13707. Payment of rates.'"; and

(3) strike the item relating to section 13710, as redesignated by paragraph (1), and insert the following:

" '13710. Additional billing and collecting practices.'".

Page 136, lines 14 and 15, strike "described in section 13102(9)(A), or" and insert a comma.

Page 136, line 17, after the comma insert "or".

Page 136, after line 17, insert the following:

"(C) rates, rules, and classifications made collectively by motor carriers under agreement pursuant to section 13703,

Page 138, lines 9 and 10, strike "described in section 13102(9)(A)".

Page 140, line 13, strike "kept open" and insert "make the tariffs as changed available".

Page 141, line 11, strike "in" and insert "of".

Page 141, lines 12 and 13, strike "households described in section 13102(9)(B)" and insert "household goods".

Page 142, line 7, strike "described in section 13102(9)(A)".

Page 143, strike lines 5 through 8 and insert the following:

"(4) INDEPENDENTLY ESTABLISHED RATES.—Any carrier which is a party to an agreement under paragraph (1) is not, and may not be precluded, from independently establishing its own rates, classification, and mileages or from adopting and using a noncollectively made classification or mileage guide.

"(5) INVESTIGATIONS.—

"(A) REASONABLENESS.—The Panel may suspend and investigate the reasonableness of any rate, rule, classification, or rate adjustment of general application made pursuant to an agreement under this section.

"(B) ACTIONS NOT IN THE PUBLIC INTEREST.—The Panel may investigate any action taken pursuant to an agreement approved under this section. If the Panel finds that the action is not in the public interest, the Panel may take such measures as may be necessary to protect the public interest with regard to the action, including issuing an order directing the parties to cease and desist or modify the action.

Page 143, line 9, strike "(5)" and insert "(6)".

Page 144, line 18, after the period insert the following:

Parties to the agreement may continue to undertake activities pursuant to the previously approved agreement while the renewal request is pending.

Page 145, strike line 11 and insert the following:

"(g) INDUSTRY STANDARD GUIDES.—

"(1) IN GENERAL.—

"(A) PUBLIC AVAILABILITY.—Routes, rates, classifications, mileage guides, and rules established under agreements approved under this section shall be published and made available for public inspection upon request.

"(B) PARTICIPATION OF CARRIERS.—

"(i) IN GENERAL.—A motor carrier of property whose routes, rates, classifications, mileage guides, rules, or packaging are determined or governed by publications established under agreements approved under this section must participate in the determining or governing publication for such provisions to apply.

"(ii) POWER OF ATTORNEY.—The motor carrier of property shall issue a power of attorney to the publishing agent and, upon its acceptance, the agent shall issue a written certification to the motor carrier affirming its participation in the governing publication, and the certification shall be made available for public inspection.

"(2) MILEAGE LIMITATION.—No carrier subject

Page 145, line 15, strike "(1)" and insert "(A)".

Page 145, move lines 15 through 21 two ems to the right.

Page 145, strike line 16 and all that follows through "which" on line 17 and insert "that is developed independently of any other publication of mileage developed by any other carrier and that".

Page 145, line 19, strike "(2)" and insert "(B)".

Page 149, after line 16, insert the following:

"§ 13707. Payment of rates

"(a) TRANSFER OF POSSESSION UPON PAYMENT.—Except as provided in subsection (b), a carrier providing transportation or service subject to jurisdiction under this part shall give up possession at the destination of the property transported by it only when payment for the transportation or service is made.

"(b) EXCEPTIONS.—

"(1) REGULATIONS.—Under regulations of the Secretary governing the payment for transportation and service and preventing discrimination, those carriers may give up possession at destination of property transported by them before payment for the transportation or service. The regulations of the Secretary may provide for weekly or monthly payment for transportation provided by motor carriers and for periodic payment for transportation provided by water carriers.

"(2) EXTENSIONS OF CREDIT TO GOVERNMENTAL ENTITIES.—Such a carrier (including a motor carrier being used by a household goods freight forwarder) may extend credit for transporting property for the United States Government, a State, a territory or possession of the United States, or a political subdivision of any of them.

Redesignate subsequent sections of chapter 137 on pages 149 through 163, accordingly.

Page 149, line 18, strike "TIMING" and insert "DISCLOSURE".

Page 149, line 23, before the period insert "and shall also disclose, at such time, whether and to whom any allowance or reduction in charges is made".

Page 150, lines 13 and 14, strike "BEFORE EFFECTIVE DATE" and insert "AT RATES OTHER THAN LEGAL TARIFF RATES".

Page 150, line 21, after the comma insert "or under subchapter I of chapter 135".

Page 151, line 12, after "Commission" insert "or the Panel, as required,".

Page 151, line 20, after "Commission" insert "or the Panel, as required,".

Page 152, line 21, before the period insert ", or chapter 149".

Page 154, line 7, before "title" insert "part or, for transportation provided before the effective date of this section, all rights and remedies that existed under this".

Page 157, strike lines 11 and 12 and insert the following:

"§ 13710. Additional billing and collecting practices"

Page 157, line 20, after "rate" insert "applicable to its shipment or".

Page 157, line 23, strike "With" and all that follows through "when" on line 25 and insert "When".

Page 158, line 5, strike "In those cases" and insert the following:

"(3) BILLING DISPUTES.—

"(A) INITIATED BY MOTOR CARRIERS.—In those cases"

Page 158, strike line 16 and all that follows through "if" on line 18 and insert the following:

"(B) INITIATED BY SHIPPERS.—If".

Page 160, line 1, before "that" insert "subject to jurisdiction under subchapter I of chapter 135 or, before the effective date of this section, to have provided transportation".

Page 160, line 2, strike "before" and insert ", as in effect on the day before".

Page 160, line 7, after "between" insert "(1)".

Page 160, line 8, after "with" insert "this chapter or, with respect to transportation provided before the effective date of this section, in accordance with".

Page 160, line 9, strike "of this title" and insert ", as in effect on the date the transportation was provided,".

Page 160, line 10, strike "and" and insert ", and (2)".

Page 160, line 13, strike "of this title".

Page 160, lines 14 and 15, strike "of this title".

Page 161, line 11, after "Commission" insert "or the Panel, as required,".

Page 161, line 18, after "Commission" insert "or the Panel, as required,".

Page 162, line 20, strike "relating" and all that follows through the period on line 22 and insert the following:

as in effect on the day before such effective date, as such sections relate to a filed tariff rate and other general tariff requirements.

Page 163, line 1, strike "13708" and insert "13709".

Page 163, after line 8, insert the following:

"(g) APPLICABILITY TO PENDING CASES.—This section shall apply to all cases and proceedings pending on the effective date of this section.

Page 164, in the item relating to section 13904 in the matter following line 7, strike "motor carriers".

Page 168, line 18, strike "EXPRESS".

Page 169, lines 7 and 8, strike "Except as provided in section 14501(a), any" and insert "Any".

Page 169, line 11, strike "the 30th" and all that follows through "and" on line 14 and insert "such time as".

Page 169, line 16, strike the period and insert the following:

but in no case later than the 30th day following the date on which the motor carrier of passengers first begins providing transportation entirely in one State under this paragraph.

Page 173, line 15, after "(3)" insert a comma.

Page 174, after line 11, insert the following:

"(d) MOTOR CARRIER DEFINED.—In this section and sections 13905 and 13906, the term 'motor carrier' includes foreign motor carriers and foreign motor private carriers.

Page 174, line 23, strike "**motor carrier**".

Page 175, strike line 7 and move the matter on lines 8 through 10 after the subsection heading on line 6.

Page 175, strike lines 11 through 16.

Page 176, after line 1, insert the following:

"(a) PERSON HOLDING ICC AUTHORITY.—Any person having authority to provide transportation or service as a motor carrier, freight forwarder, or broker under this title, as in effect on the day before the effective date of this section, shall be deemed, for purposes of this part, to be registered to provide such transportation or service under this part.

Redesignate subsequent subsections on page 176 accordingly.

Page 176, line 22, strike "of the registrant".

Page 186, line 22, after the period insert the following:

In issuing the regulations, the Secretary shall consider whether or not to integrate the requirements of section 13304 into the new system and may integrate such requirements into the new system.

Page 188, line 3, strike "under section 14504," and insert "(including filings and fees authorized under section 14504),".

Page 196, line 19, before the period insert "and brokers".

Page 198, at the end of the matter following line 23, insert the following:

"14303. Consolidation, merger, and acquisition of control of motor carriers of passengers.

Page 201, line 14, strike "of this title".

Page 205, after line 11, insert the following:

"(g) DEFINITIONS.—In this section, the following definitions apply:

"(1) HOUSEHOLD GOODS.—The term 'household goods' has the meaning such term had under section 10102(11) of this title, as in effect on the day before the effective date of this section.

"(2) TRANSPORTATION.—The term 'transportation' means transportation that would be subject to the jurisdiction of the Interstate Commerce Commission under subchapter II of chapter 105 of this title, as in effect on the day before such effective date, if such subchapter were still in effect.

"§ 14303. Consolidation, merger, and acquisition of control of motor carriers of passengers

"(a) APPROVAL REQUIRED.—The following transactions involving motor carriers of passengers subject to jurisdiction under subchapter I of chapter 135 may be carried out only with the approval of the Panel:

"(1) Consolidation or merger of the properties or franchises of at least 2 carriers into one operation for the ownership, management, and operation of the previously separately owned properties.

"(2) A purchase, lease, or contract to operate property of another carrier by any number of carriers.

"(3) Acquisition of control of a carrier by any number of carriers.

"(4) Acquisition of control of at least 2 carriers by a person that is not a carrier.

"(5) Acquisition of control of a carrier by a person that is not a carrier but that controls any number of carriers.

"(b) STANDARD FOR APPROVAL.—The Panel shall approve and authorize a transaction under this section when it finds the transaction is consistent with the public interest. The Panel shall consider at least the following:

"(1) The effect of the proposed transaction on the adequacy of transportation to the public.

"(2) The total fixed charges that result from the proposed transaction.

"(3) The interest of carrier employees affected by the proposed transaction.

The Panel may impose conditions governing the transaction.

"(c) DETERMINATION OF COMPLETENESS OF APPLICATION.—Within 30 days after the date on which an application is filed under this section, the Panel shall either publish a notice of the application in the Federal Register or reject the application if it is incomplete.

"(d) COMMENTS.—Written comments about an application may be filed with the Panel within 45 days after the date on which notice of the application is published under subsection (c).

"(e) DEADLINES.—The Panel shall conclude evidentiary proceedings by the 240th day after the date on which notice of the application is published under subsection (c). The Panel shall issue a final decision by the 180th day after the conclusion of the evidentiary proceedings. The Panel may extend a time period under this subsection; except that the total of all such extensions with respect to any application shall not exceed 90 days.

"(f) EFFECT OF APPROVAL.—A carrier or corporation participating in or resulting from a transaction approved by the Panel under this section, or exempted by the Panel from the application of this section pursuant to section 13541, may carry out the transaction, own and operate property, and exercise control or franchises acquired through the transaction without the approval of a State authority. A carrier, corporation, or person participating in the approved or exempted transaction is exempt from the antitrust laws and from all other law, including State and municipal law, as necessary to let that person carry out the transaction, hold, maintain, and operate property, and exercise control or franchises acquired through the transaction.

"(g) LIMITATION ON APPLICABILITY.—This section shall not apply to transactions involving carriers whose aggregate gross operating revenues were not more than $2,000,000 during a period of 12 consecutive months ending not more than 6 months before the date of the agreement of the parties.

Page 205, line 17, strike "two" and insert "2".

Page 206, line 12, strike "two" and insert "2".

Page 208, line 2, strike "performed" and all that follows through "without" on line 5 and insert "performed without".

Page 212, line 6, after "exceeds" insert a comma.

Page 218, line 7, strike "will be" and insert "is".

Page 218, line 12, strike "will minimize" and insert "minimizes".

Page 218, line 15, strike "will result" and insert "results".

Page 221, after line 12, insert the following:

"(d) LIMITATION.—The Secretary and the Panel only have authority under this section with respect to matters within their respective jurisdictions under this part.

Page 222, lines 12 and 13, strike ", through its own attorneys,".

Page 222, line 17, strike "of Transportation".

Page 222, lines 17 and 18, strike "Intermodal Surface Transportation" and insert "the".

Page 223, after line 2, insert the following:

"(a) IN GENERAL.—

Page 223, line 3, strike "(a)" and insert "(1)".

Page 223, line 3, strike "ORDER" and insert "ORDER".

Page 223, move lines 3 through 9 two ems to the right.

Move the sentence beginning on line 4 of page 224 after the period on line 9 of page 223.

Move paragraph (2) on lines 17 through 21 of page 223 after line 9 on page 223.

Page 223, strike lines 10 and 11 and insert the following:

"(b) LIABILITY AND DAMAGES FOR EXCEEDING TARIFF RATE.—

Page 223, move lines 12 through 16 two ems to the left.

Page 223, line 16, strike "of this title".

Page 223, line 26, strike "of this title".

Page 224, line 1, strike "(1) or (2) of this section".

Page 226, strike lines 10 through 14 and insert the following:

"(e) ATTORNEY'S FEES.—The district court shall award a reasonable attorney's fee under this section. The district court shall tax and collect that fee as part of the costs of the action.

Page 226, line 10, strike "

Page 227, line 6, strike "of this title".

Page 227, lines 13 and 14, strike "subsection (b)" and all that follows through "section" on line 15 and insert "subsections (b) and (c)".

Page 227, line 17, strike "of this section".

Page 229, line 12, strike "filed".

Page 229, line 12, strike "of this title."

Page 230, strike lines 18 through 24 and insert the following:

"(1) LIMITATION OF LIABILITY.—A carrier may limit liability imposed under subsection (a) by establishing rates for the transportation of property (other than household goods) under which the liability of the carrier for such property (A) is limited to a value established by written or electronic declaration of the shipper or by a mutual written agreement between the carrier and shipper, or (B) is contained in a schedule of rules and rates maintained by the carrier and provided to the shipper upon request. The schedule shall clearly state its dates of applicability.

Page 231, line 11, strike the parenthetical phrase.

Page 237, line 6, strike "In any case" and all that follows through the period on line 12 and insert the following:

The arbitrator may determine which party shall pay the cost or a portion of the cost of the arbitration proceeding.

Page 239, line 1, strike "motor".

Page 240, line 18, strike "those types of".

Page 240, after line 18, insert the following:

"(g) REVIEW BY SECRETARY.—Not later than 36 months after the effective date of this section, the Secretary shall complete a review of the dispute settlement program established under this section. If, after notice and opportunity for comment, the Secretary determines that changes are necessary to such program to ensure the fair and equitable resolution of disputes under this section, the Secretary shall implement such changes and transmit a report to Congress on such changes.

Page 241, line 4, after "with" insert "section 13702 or, with respect to transportation provided before the effective date of this section,".

Page 241, line 4, strike "of this title" and insert a comma.

Page 241, line 7, strike "filed".

Page 246, line 23, strike "subsection (a) or (b) of".

Page 248, line 6, strike "AGENTS AND OTHERS" and insert "OTHERS".

Page 249, line 4, after "person" insert a comma.

Page 252, line 9, after "registration" insert "of a foreign motor carrier or foreign motor private carrier".

Page 257, in the table of sections of subchapter II of chapter 7, strike the item relating to section 725 and redesignate the subsequent items accordingly.

Page 269, lines 16 through 25, strike section 725.

Page 270, lines 1 and 4, redesignate sections 726 and 727 as sections 725 and 726, respectively.

Page 271, line 2, after "Panel" insert "or the Secretary".

Page 271, line 3, after "Panel" insert "or the Secretary".

Page 271, line 3, strike "or times" and insert "and to such extent".

Page 271, line 24, insert "The Panel shall promptly rescind all regulations established by the Interstate Commerce Commission that are based on provisions of law repealed and not substantively reenacted by this Act." after "operation of law.".

Page 277, after line 22, insert the following:

(1) in section 5005(a)(4) by striking "5201(7)" and inserting "5201(6)";

Page 277, line 23, strike "(1)" and insert "(2)".

Page 278, line 1, strike "(2)" and insert "(3)".

Page 278, after line 5, insert the following:

(B) in section 5201(2) by striking "a motor common carrier, or express carrier" and inserting "or a motor carrier";

(C) in section 5201(4)—

(i) by striking "common"; and

(ii) by striking "permit" and inserting "registration";

(D) in section 5201(5)—

(i) by striking "common" each place it appears;

(ii) by striking "10102(14)" and inserting "13102(11)"; and

(iii) by striking "certificate of public convenience and necessity" and inserting "registration";

(E) by striking paragraph (6);

(F) by redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively;

(G) in section 5201(6), as so redesignated, by striking "certificate of public convenience and necessity" and inserting "certificate or registration";

Redesignate subsequent subparagraphs on page 278, accordingly.

Page 278, line 10, strike "(B)" and insert "(H)".

Page 278, lines 10 and 11, strike "paragraph," and all that follows through the semicolon on line 12 and insert the following:

paragraph—

(i) by striking "Commission" and inserting "Panel"; and

(ii) by striking "motor common carrier" each place it appears and inserting "motor carrier";

Page 278, line 22, strike "and".

Page 279, line 2, strike the period and insert "; and".

Page 279, after line 2, insert the following:

(M) in section 5215(a) by striking "motor common carrier" and inserting "motor carrier".

Page 280, line 10, strike "Board" and insert "Panel".

Page 282, line 5, strike "Board" and insert "Panel".

Page 283, line 15, strike "board" and insert "Panel".

Page 291, line 1, before "part" insert "common carriers of passengers under".

Page 291, line 3, before "part" insert "carriers of passengers under".

Page 291, line 9, strike "11501(g)(2)" and insert "14501(b)(2)".

The CHAIRMAN. Pursuant to the rule, the gentleman from Pennsylvania [Mr. SHUSTER] will be recognized for 5 minutes, and the gentleman from Minnesota [Mr. OBERSTAR] will be recognized for 5 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. SHUSTER].

Mr. SHUSTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I will say this is a bipartisan amendment which has the support of both sides of the aisle on our committee. I would emphasize that this manager's amendment is something we have worked out with the various Members.

First of all, Mr. Chairman, the railroad provisions provide that in the clarification, that nothing in the bill is intended to change in any way the current coverage of the Railway Labor Act and the Railroad Retirement and Unemployment Act;

Second, restoration of certain Staggers Act captive shipper protections, such as the so-called Long-Cannon guidelines, requirements for filing of contract summaries and minimum notification periods for changes in rates;

Third, restoration of the feeder line development program, which provides shippers with a procedure by which to preserve rail service that is threatened by abandonment;

Fourth, restrictions on the investigative authority of the transportation adjudicatory panel which will inherit remaining rail regulatory activities, as well as other technical clarifications.

With regard to the motor carrier provisions, there are several technical and clarifying changes to the motor carrier rate provisions. There is a reinstating of provisions from current law relating to the payment of rates, bus carrier merger authority, and updating several provisions from the Negotiated Rates Act of 1994; further, clarifying that carriers currently holding ICC operating authority are deemed to be registered with the Department of Transportation.

Next, there are several changes to the current household goods provisions, including revisions to pooling authority and the determination of which party should pay the cost of the loss and damage arbitration, and establishing that carriers will be able to establish "released value" liability rates, and that such rates may be set by electronic device, as is permitted under current law. The provision makes no changes in the underlying Carmack amendment.

Finally, I note that under the rule, the amendment, if adopted, is made part of the original text for purposes of amendment, so Members' rights to amend this package of amendments is fully protected.

Mr. Chairman, I urge support of the amendment.

Mr. OBERSTAR. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, the Chairman of the committee has correctly described the amendment as a bipartisan amendment, one on which we have worked together and have come to an agreement to improve the bill, and he has described quite well broad provisions in this manager's amendment. It does include the Long-Cannon criteria which are very important to our colleague, the gentleman from West Virginia [Mr. RAHALL].

It includes a provision that requires summaries of agricultural contracts to be filed with the panel. It includes a requirement that contract carriers remain subject to the common carrier obligation. It requires a feeder line development provision that would allow the panel to order the sale of a railroad line from a railroad that was not providing satisfactory service to another railroad in order to provide better service. Both of these are items that our colleague, the gentleman from New York [Mr. NADLER] is interested in.

It includes provisions to prohibit contract commitments that prevent a carrier from responding to reasonable requests for service, reasonable and hence vital to the common carrier obligation. I think that issue is reasonably resolved.

Mr. Chairman, there are several other amendments, particularly concerning abandonment, that I think are very important to this bill. The gentleman from Pennsylvania [Mr. SHUSTER] and I were fully agreed that we ought to insist on allowing abandonments to be reconfigured to make them more viable as stand-alone short lines and reduce the review period for abandonment from 6 months to 4 months.

All in all, Mr. Chairman, this is a very inclusive and carefully crafted piece of legislation that improves the overall status of this legislation.

Mr. Chairman, I am happy to yield 2 minutes to the gentleman from West Virginia [Mr. RAHALL].

Mr. RAHALL. Mr. Chairman, I thank the distinguished ranking minority Member for yielding time to me, and certainly associate myself with his comments, as well as the comments of our distinguished chairman, the gentleman from Pennsylvania [Mr. SHUSTER].

Mr. Chairman, this is an issue that has been of critical importance to those in the coal fields who are captive to one rail line or are captive shippers of coal and other bulk commodities as well, I might add, across the Nation.

As the gentleman from Minnesota mentioned, this amendment embodies the Long-Cannon guidelines as they relate to captive shippers, and that puts in place the current law that has worked well for us in the coal fields since the enactment of the Staggers Rail Act in 1980. It does provide for reasonable rates charged by railroads on these captive shippers, and for this I salute the gentleman from Pennsylvania, as well as the gentleman from Minnesota [Mr. OBERSTAR], for their working together with me, and for those of us who do represent captive shippers, whether they be coal, iron ore, grain, or whatever the bulk commodity may be, so I urge adoption of the Shuster en bloc amendments.

Mr. PETRI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I support this committee amendment. Since the subcommittee and full committee markups 2 weeks ago, we have had the opportunity to further review the legislative provisions and consider the further comments of the various groups, including carriers and shippers, as to ways to improve the bill. Some of the motor carrier provisions reflect the recommendations made by affected groups, the Department of Transportation, and the Interstate Commerce Commission, and relate to bus mergers, household goods arbitration disputes, cargo liability and a few other areas. The majority of provisions, however, are simply technical or conforming in nature.

I urge adoption of the amendment.

Mr. OBERSTAR. Mr. Chairman, I yield 30 seconds to the gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Chairman, I rise to thank the committee chairman for this amendment. It does meet with a lot of problems, and I rise to remember that a lot of the problems in this bill are really not philosophical, they are regional, and the chairman has dealt well with this. I also have a concern about captive shipping as well. I appreciate a chance to vote for this amendment.

Mr. OBERSTAR. Mr. Chairman, I yield the balance of our time to the gentleman from Illinois [Mr. LIPINSKI].

Mr. LIPINSKI. Mr. Chairman, I thank the ranking member for yielding time to me.

Mr. Chairman, I simply want to say that this manager's amendment is a product of outstanding cooperation and bipartisanship between the gentleman from Pennsylvania [Mr. SHUSTER], the gentleman from Minnesota [Mr. OBERSTAR], the gentleman from Wisconsin [Mr. PETRI], the gentleman from West Virginia [Mr. RAHALL], and the gentlewoman from New York [Ms. MOLINARI], and it is in the true spirit of the committee that all of us have served on for a long period of time. It is very nice to see that in this day and age, with the hostility that sometimes exists here between the majority and the minority, that we have managed to supersede that on our committee. I have always felt our committee has a special bipartisan flavor to it, and I compliment all the parties involved for working out this manager's amendment.

I particularly salute the chairman and the ranking minority member for working this out, because I know they have worked on numerous problems like this over the course of many years on the Committee on Transportation and Infrastructure.

Mr. OBERSTAR. Mr. Chairman, I yield back the balance of my time, and I urge support of the amendment.

Mr. SHUSTER. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. SHUSTER].

The amendment was agreed to.

The CHAIRMAN. Are there any other amendments to section 1?

If not, the Clerk will designate title I.

The text of title I is as follows:

TITLE I—ABOLITION OF INTERSTATE COMMERCE COMMISSION

SEC. 101. ABOLITION.

The Interstate Commerce Commission is abolished.

SEC. 102. RAIL PROVISIONS.

(a) AMENDMENT.—Subtitle IV of title 49, United States Code, is amended to read as follows:

"SUBTITLE IV—INTERSTATE TRANSPORTATION

"PART A—RAIL

"CHAPTER

	Sec.
"101. GENERAL PROVISIONS	*10101*
"103. JURISDICTION	*10301*
"105. RATES	*10501*
"107. LICENSING	*10701*
"109. OPERATIONS	*10901*
"111. FINANCE	*11101*
"113. FEDERAL-STATE RELATIONS	*11301*
"115. ENFORCEMENT: INVESTIGATIONS, RIGHTS, AND REMEDIES	*11501*
"117. CIVIL AND CRIMINAL PENALTIES	*11701*

"PART B—MOTOR CARRIERS, WATER CARRIERS, BROKERS, AND FREIGHT FORWARDERS

"CHAPTER

	Sec.
"131. GENERAL PROVISIONS	*13101*
"133. ADMINISTRATIVE PROVISIONS	*13301*
"135. JURISDICTION	*13501*
"137. RATES AND THROUGH ROUTES	*13701*
"139. REGISTRATION	*13901*
"141. OPERATIONS OF CARRIERS	*14101*
"143. FINANCE	*14301*
"145. FEDERAL-STATE RELATIONS	*14501*
"147. ENFORCEMENT; INVESTIGATIONS; RIGHTS; REMEDIES	*14701*
"149. CIVIL AND CRIMINAL PENALTIES	*14901*

"PART A—RAIL

"CHAPTER 101—GENERAL PROVISIONS

"Sec.
"10101. Rail transportation policy.
"10102. Definitions.
"10103. Remedies are exclusive.

"§10101. Rail transportation policy

"In regulating the railroad industry, it is the policy of the United States Government—

"(1) to allow, to the maximum extent possible, competition and the demand for services to establish reasonable rates for transportation by rail;

"(2) to minimize the need for Federal regulatory control over the rail transportation system and to require fair and expeditious regulatory decisions when regulation is required;

"(3) to promote a safe and efficient rail transportation system by allowing rail carriers to earn adequate revenues, as determined by the Panel;

"(4) to ensure the development and continuation of a sound rail transportation system with effective competition among rail carriers and with other modes, to meet the needs of the public and the national defense;

"(5) to foster sound economic conditions in transportation and to ensure effective competition and coordination between rail carriers and other modes;

"(6) to maintain reasonable rates where there is an absence of effective competition and where rail rates provide revenues which exceed the amount necessary to maintain the rail system and to attract capital;

"(7) to reduce regulatory barriers to entry into and exit from the industry;

"(8) to operate transportation facilities and equipment without detriment to the public health and safety;

"(9) to encourage honest and efficient management of railroads;

"(10) to require rail carriers, to the maximum extent practicable, to rely on individual rate increases, and to limit the use of increases of general applicability;

"(11) to encourage fair wages and safe and suitable working conditions in the railroad industry;

"(12) to avoid undue concentrations of market power and to prohibit unlawful discrimination;

"(13) to ensure the availability of accurate cost information in regulatory proceedings, while minimizing the burden on rail carriers of developing and maintaining the capability of providing such information; and

"(14) to encourage and promote energy conservation.

"§10102. Definitions

"In this part—

"(1) 'car service' includes (A) the use, control, supply, movement, distribution, exchange, interchange, and return of locomotives, cars, other vehicles, and special types of equipment used in the transportation of property by a rail carrier, and (B) the supply of trains by a rail carrier;

"(2) 'control', when referring to a relationship between persons, includes actual control, legal control, and the power to exercise control, through or by (A) common directors, officers, stockholders, a voting trust, or a holding or investment company, or (B) any other means;

"(3) 'Panel' means the Transportation Adjudication Panel;

"(4) 'person', in addition to its meaning under section 1 of title 1, includes a trustee, receiver, assignee, or personal representative of a person;

"(5) 'rail carrier' means a person providing common carrier railroad transportation for compensation, but does not include street, suburban, or interurban electric railways not operated as part of the general system of rail transportation;

"(6) 'railroad' includes—

"(A) a bridge, car float, lighter, ferry, and intermodal equipment used by or in connection with a railroad;

"(B) the road used by a rail carrier and owned by it or operated under an agreement; and

"(C) a switch, spur, track, terminal, terminal facility, and a freight depot, yard, and ground, used or necessary for transportation;

"(7) 'rate' means a rate, fare, or charge for transportation;

"(8) 'State' means a State of the United States and the District of Columbia;

"(9) 'transportation' includes—

"(A) a locomotive, car, vehicle, yard, property, facility, instrumentality, or equipment of any kind related to the movement of passengers or property, or both, by rail, regardless of ownership or an agreement concerning use; and

"(B) services related to that movement, including receipt, delivery, elevation, transfer in transit, refrigeration, icing, ventilation, storage, handling, and interchange of passengers and property; and

"(10) 'United States' means the States of the United States and the District of Columbia.

"§10103. Remedies are exclusive

"Except as otherwise provided in this part, the remedies provided under this part with respect to regulation of rail transportation are exclusive and preempt the remedies provided under Federal or State law.

"CHAPTER 103—JURISDICTION

"Sec.
"10301. General jurisdiction.
"10302. Authority to exempt rail carrier transportation.

"§10301. General jurisdiction

"(a)(1) Subject to this chapter and other law, the Panel has jurisdiction over transportation by rail carrier that is—

"(A) only by railroad; or

"(B) by railroad and water, when the transportation is under common control, management, or arrangement for a continuous carriage or shipment.

"(2) Jurisdiction under paragraph (1) applies only to transportation in the United States between a place in—

"(A) a State and a place in the same or another State;

"(B) a State and a place in a territory or possession of the United States;

"(C) a territory or possession of the United States and a place in another such territory or possession;

"(D) a territory or possession of the United States and another place in the same territory or possession;

"(E) the United States and another place in the United States through a foreign country; or

"(F) the United States and a place in a foreign country.

"(b) The jurisdiction of the Panel over—

"(1) transportation by rail carriers, and the remedies provided in this part with respect to rates, classifications, rules (including car service, interchange, and other operating rules), practices, routes, services, and facilities of such carriers; and

"(2) the construction, acquisition, operation, abandonment, or discontinuance of spur, industrial, team, switching, or side tracks, or facilities, even if the tracks are located, or intended to be located, entirely in one State,

is exclusive.

"(c)(1) In this subsection—

"(A) the term 'local governmental authority'—

"(i) has the same meaning given that term by section 5302(a) of this title; and

"(ii) includes a person or entity that contracts with the local governmental authority to provide transportation services; and

"(B) the term 'mass transportation' means transportation services described in section 5302(a) of this title that are provided by rail.

"(2) Except as provided in paragraph (3), the Panel does not have jurisdiction under this part over mass transportation provided by a local governmental authority.

"(3)(A) Notwithstanding paragraph (2) of this subsection, a local governmental authority, described in paragraph (2), is subject to applicable laws of the United States related to—

"(i) safety;

"(ii) the representation of employees for collective bargaining; and

"(iii) employment retirement, annuity, and unemployment systems or other provisions related to dealings between employees and employers.

"(B) The Panel has jurisdiction under sections 10902 and 10903 of this title over mass transportation provided by a local governmental authority. The enactment of the ICC Termination Act of 1995 shall have no effect on which employees and employers are covered by the Railway Labor Act, the Railroad Retirement Act of 1974, the Railroad Retirement Tax Act, and the Railroad Unemployment Insurance Act after local governmental authority.

"§10302. Authority to exempt rail carrier transportation

"(a) In a matter related to a rail carrier providing transportation subject to the jurisdiction of the Panel under this part, the Panel, to the maximum extent consistent with this part, shall exempt a person, class of persons, or a transaction or service whenever the Panel finds that the application of a provision of this part—

"(1) is not necessary to carry out the transportation policy of section 10101 of this title; and

"(2) either—

"(A) the transaction or service is of limited scope; or

"(B) the application of the provision is not needed to protect shippers from the abuse of market power.

"(b) The Panel may, where appropriate, begin a proceeding under this section on its own initiative or on application by the Secretary of Transportation or an interested party. The Panel shall, within 90 days after receipt of any such application, determine whether to begin an appropriate proceeding. If the Panel decides not to begin a proceeding, the reasons for the decision shall be published in the Federal Register. Any proceeding begun as a result of an application under this subsection shall be completed within one year after it is begun.

"(c) The Panel may specify the period of time during which an exemption granted under this section is effective.

"(d) The Panel may revoke an exemption, to the extent it specifies, when it finds that application of a provision of this part to the person, class, or transportation is necessary to carry out the transportation policy of section 10101 of this title. The Panel shall, within 90 days after receipt of a request for revocation under this subsection, determine whether to begin an appropriate proceeding. If the Panel decides not to begin a proceeding, the reasons for the decision shall be published in the Federal Register. Any proceeding begun as a result of a request under this subsection shall be completed within one year after it is begun.

"(e) No exemption order issued pursuant to this section shall operate to relieve any rail carrier from an obligation to provide contractual terms for liability and claims which are consistent with the provisions of section 11506 of this title. Nothing in this subsection or section 11506 of this title shall prevent rail carriers from offering alternative terms nor give the Panel the authority to require any specific level of rates or services based upon the provisions of section 11506 of this title.

"(f) The Panel may exercise its authority under this section to exempt transportation that is provided by a rail carrier.

"(g) The Panel may not exercise its authority under this section to relieve a rail carrier of its obligation to protect the interests of employees as required by this part.

"CHAPTER 105—RATES

"SUBCHAPTER I—GENERAL AUTHORITY

"Sec.
"10501. Standards for rates, classifications, through routes, rules, and practices.
"10502. Authority for rail carriers to establish rates, classifications, rules, and practices.
"10503. Authority for rail carriers to establish through routes.
"10504. Authority and criteria: rates, classifications, rules, and practices prescribed by Panel.
"10505. Authority: through routes, joint classifications, rates, and divisions prescribed by Panel.
"10506. Rate agreements: exemption from antitrust laws.
"10507. Determination of market dominance in rail rate proceedings.
"10508. Rail cost adjustment factor.
"10509. Contracts.

"SUBCHAPTER II—SPECIAL CIRCUMSTANCES

"10521. Government traffic.
"10522. Emergency rates.
"10523. Car utilization.

"SUBCHAPTER III—LIMITATIONS

"10541. Prohibitions against discrimination by rail carriers.
"10542. Facilities for interchange of traffic.
"10543. Continuous carriage of freight.
"10544. Transportation services or facilities furnished by shipper.
"10545. Demurrage charges.
"10546. Designation of certain routes by shippers.

"SUBCHAPTER I—GENERAL AUTHORITY

"§10501. Standards for rates, classifications, through routes, rules, and practices

"(a) A through route established by a rail carrier must be reasonable. Divisions of joint rates by rail carriers must be made without unreasonable discrimination against a participating carrier and must be reasonable.

"(b) A rail carrier providing transportation subject to the jurisdiction of the Panel under this part may not discriminate in its rates against a connecting line of another rail carrier providing transportation subject to the jurisdiction of the Panel under this part or unreasonably discriminate against that line in the distribution of traffic that is not routed specifically by the shipper.

"(c) Except as provided in subsection (d) of this section and unless a rate is prohibited by a provision of this part, a rail carrier providing transporation subject to the jurisdiction of the Panel under this part may establish any rate for transportation or other service provided by the rail carrier.

"(d)(1) If the Panel determines, under section 10507 of this title, that a rail carrier has market dominance over the transportation to which a particular rate applies, the rate established by such carrier for such transportation must be reasonable.

"(2) In determining whether a rate established by a rail carrier is reasonable for purposes of this section, the Panel shall give due consideration to—

"(A) the amount of traffic which is transported at revenues which do not contribute to going concern value and the efforts made to minimize such traffic;

"(B) the amount of traffic which contributes only marginally to fixed costs and the extent to which, if any, rates on such traffic can be changed to maximize the revenues from such traffic; and

"(C) the carrier's mix of rail traffic to determine whether one commodity is paying an unreasonable share of the carrier's overall revenues,

recognizing the policy of this part that rail carriers shall earn adequate revenues, as established by the Panel under section 10504(a)(2) of this title.

"(3) The Panel shall, within one year after the date of the enactment of this paragraph, complete the pending Interstate Commerce Commission non-coal rate guidelines.

"§10502. Authority for rail carriers to establish rates, classifications, rules, and practices

"A rail carrier providing transportation or service subject to the jurisdiction of the Panel under this part shall establish reasonable—

"(1) rates, to the extent required by section 10507 divisions of joint rates, and classifications for transportation and service it may provide under this part; and

"(2) rules and practices on matters related to that transportation or service.

"§10503. Authority for rail carriers to establish through routes

"Rail carriers providing transportation subject to the jurisdiction of the Panel under this part shall establish through routes with each other, shall establish rates and classifications applicable to those routes, and shall establish rules for their operation and provide—

"(1) reasonable facilities for operating the through route; and

"(2) reasonable compensation to persons entitled to compensation for services related to the through route.

"§10504. Authority and criteria: rates, classifications, rules, and practices prescribed by Panel

"(a)(1) When the Panel, after a full hearing, decides that a rate charged or collected by a rail carrier for transportation subject to the jurisdiction of the Panel under this part, or that a classification, rule, or practice of that carrier does or will violate this part, the Panel may prescribe the maximum rate, classification, rule, or practice to be followed. The Panel may order the carrier to stop the violation. When a rate, classification, rule, or practice is prescribed under this subsection, the affected carrier may not publish, charge, or collect a different rate and shall adopt the classification and observe the rule or practice prescribed by the Panel.

"(2) The Panel shall maintain and revise as necessary standards and procedures for establishing revenue levels for rail carriers providing transportation subject to its jurisdiction under this part that are adequate, under honest, economical, and efficient management, to cover total operating expenses, including depreciation and obsolescence, plus a reasonable and economic profit or return (or both) on capital employed in the business. The Panel shall make an adequate and continuing effort to assist those carriers in attaining revenue levels prescribed under this paragraph. Revenue levels established under this paragraph should—

"(A) provide a flow of net income plus depreciation adequate to support prudent capital outlays, assure the repayment of a reasonable level of debt, permit the raising of needed equity capital, and cover the effects of inflation; and

"(B) attract and retain capital in amounts adequate to provide a sound transportation system in the United States.

"(3) On the basis of the standards and procedures described in paragraph (2), the Panel shall annually determine which rail carriers are earning adequate revenues.

"(b) The Panel may begin a proceeding under this section on its own initiative or on complaint. A complaint under subsection (a) of this section must be made under section 11501 of this title, but the proceeding may also be in extension of a complaint pending before the Panel.

"§10505. Authority: through routes, joint classifications, rates, and divisions prescribed by Panel

"(a)(1) The Panel may, and shall when it considers it desirable in the public interest, prescribe through routes, joint classifications, joint rates, the division of joint rates, and the conditions under which those routes must be operated, for a rail carrier providing transportation subject to the jurisdiction of the Panel under this part.

"(2) The Panel may require a rail carrier to include in a through route substantially less than the entire length of its railroad and any intermediate railroad operated with it under common management or control if that intermediate railroad lies between the terminals of the through route only when—

"(A) required under sections 10541, 10542, or 10902 of this title;

"(B) inclusion of those lines would make the through route unreasonably long when compared with a practicable alternative through route that could be established; or

"(C) the Panel decides that the proposed through route is needed to provide adequate, and more efficient or economic, transportation. The Panel shall give reasonable preference, subject to this subsection, to the rail carrier originating the traffic when prescribing through routes.

"(b) The Panel shall prescribe the division of joint rates to be received by a rail carrier providing transportation subject to its jurisdiction under this part when it decides that a division of joint rates established by the participating carriers under section 10503 of this title, or under a decision of the Panel under subsection (a) of this section, does or will violate section 10501 of this title.

"(c) If a division of a joint rate prescribed under a decision of the Panel is later found to violate section 10501 of this title, the Panel may decide what division would have been reasonable and order adjustment to be made retroactive to the date the complaint was filed, the date the order for an investigation was made, or a later date that the Panel decides is justified. The Panel may make a decision under this subsection effective as part of its original decision.

"§10506. Rate agreements: exemption from antitrust laws

"(a)(1) In this subsection—

"(A) the term 'affiliate' means a person controlling, controlled by, or under common control or ownership with another person and 'ownership' refers to equity holdings in a business entity of at least 5 percent;

"(B) the term 'single-line rate' refers to a rate or allowance proposed by a single rail carrier that is applicable only over its line and for which the transportation (exclusive of terminal services by switching, drayage or other terminal carriers or agencies) can be provided by that carrier; and

"(C) the term 'practicably participates in the movement' shall have such meaning as the Panel shall by regulation prescribe.

"(2)(A) A rail carrier providing transportation subject to the jurisdiction of the Panel under this part that is a party to an agreement of at least 2 rail carriers that relates to rates (including charges between rail carriers and compensation paid or received for the use of facilities and equipment), classifications, divisions, or rules related to them, or procedures for joint consideration, initiation, publication, or establishment of them, shall apply to the Panel for approval of that agreement under this subsection. The Panel shall approve the agreement only when it finds that the making and carrying out of the agreement will further the transportation policy of section 10101 of this title and may require compliance with conditions necessary to make the agreement further that policy as a condition of its approval. If the Panel approves the agreement, it may be made and carried out under its terms and under the conditions required by the Panel, and the Sherman Act (15 U.S.C. 1, et seq.), the Clayton Act (15 U.S.C. 12, et seq.), the Federal Trade Commission Act (15 U.S.C. 41, et seq.), sections 73 and 74 of the Wilson Tariff Act (15 U.S.C. 8 and 9), and the Act of June 19, 1936 (15 U.S.C. 13, 13a, 13b, 21a) do not apply to parties and other persons with respect to making or carrying out the agreement. However, the Panel may not approve or continue approval of an agreement when the conditions required by it are not met or if it does not receive a verified statement under subparagraph (B) of this paragraph.

"(B) The Panel may approve an agreement under subparagraph (A) of this paragraph only when the rail carriers applying for approval file a verified statement with the Panel. Each statement must specify for each rail carrier that is a party to the agreement—

"(i) the name of the carrier;

"(ii) the mailing address and telephone number of its headquarter's office; and

"(iii) the names of each of its affiliates and the names, addresses, and affiliates of each of its officers and directors and of each person, together with an affiliate, owning or controlling any debt, equity, or security interest in it having a value of at least $1,000,000.

"(3)(A) An organization established or continued under an agreement approved under this subsection shall make a final disposition of a rule or rate docketed with it by the 120th day after the proposal is docketed. Such an organization may not—

"(i) permit a rail carrier to discuss, to participate in agreements related to, or to vote on single-line rates proposed by another rail carrier, except that for purposes of general rate increases and broad changes in rates, classifications, rules, and practices only, if the Panel finds at any time that the implementation of this clause is not feasible, it may delay or suspend such implementation in whole or in part;

"(ii) permit a rail carrier to discuss, to participate in agreements related to, or to vote on rates related to a particular interline movement unless that rail carrier practicably participates in the movement; or

"(iii) if there are interline movements over two or more routes between the same end points, permit a carrier to discuss, to participate in agreements related to, or to vote on rates except with a carrier which forms part of a particular single route. If the Panel finds at any time that the implementation of this clause is not feasible, it may delay or suspend such implementation in whole or in part.

"(B)(i) In any proceeding in which a party alleges that a rail carrier voted or agreed on a rate or allowance in violation of this subsection, that party has the burden of showing that the vote or agreement occurred. A showing of parallel behavior does not satisfy that burden by itself.

"(ii) In any proceeding in which it is alleged that a carrier was a party to an agreement, conspiracy, or combination in violation of a Federal law cited in subsection (a)(2)(A) of this section or of any similar State law, proof of an agreement, conspiracy, or combination may not be inferred from evidence that two or more rail carriers acted together with respect to an interline rate or related matter and that a party to such action took similar action with respect to a rate or related matter on another route or traffic. In any proceeding in which such a violation is alleged, evidence of a discussion or agreement between or among such rail carrier and one or more other rail carriers, or of any rate or other action resulting from such discussion or agreement, shall not be admissible if the discussion or agreement—

"(I) was in accordance with an agreement approved under paragraph (2) of this subsection; or

"(II) concerned an interline movement of the rail carrier, and the discussion or agreement would not, considered by itself, violate the laws referred to in the first sentence of this clause.

In any proceeding before a jury, the court shall determine whether the requirements of subclause (I) or (II) are satisfied before allowing the introduction of any such evidence.

"(C) An organization described in subparagraph (A) of this paragraph shall provide that transcripts or sound recordings be made of all meetings, that records of votes be made, and that such transcripts or recordings and voting records be submitted to the Panel and made available to other Federal agencies in connection with their statutory responsibilities over rate bureaus, except that such material shall be kept confidential and shall not be subject to disclosure under section 552 of title 5, United States Code.

"(4) Notwithstanding any other provision of this subsection, one or more rail carriers may enter into an agreement, without obtaining prior Panel approval, that provides solely for compilation, publication, and other distribution of rates in effect or to become effective. The Sherman Act (15 U.S.C. 1 et seq.), the Clayton Act (15 U.S.C. 12 et seq.), the Federal Trade Commission Act (15 U.S.C. 41 et seq.), sections 73 and 74 of the Wilson Tariff Act (15 U.S.C. 8 and 9), and the Act of June 19, 1936 (15 U.S.C. 13, 13a, 13b, 21a) shall not apply to parties and other persons with respect to making or carrying out such agreement. However, the Panel may, upon application or on its own initiative, investigate whether the parties to such an agreement have exceeded its scope, and upon a finding that they have, the Panel may issue such orders as are necessary, including an order dissolving the agreement, to ensure that actions taken pursuant to the agreement are limited as provided in this paragraph.

"(5)(A) Whenever two or more shippers enter into an agreement to discuss among themselves that relates to the amount of compensation such shippers propose to be paid by rail carriers providing transportation subject to the jurisdiction of the Panel under this part, for use by such rail carriers of rolling stock owned or leased by such shippers, the shippers shall apply to the Panel for approval of that agreement under this paragraph. The Panel shall approve the agreement only when it finds that the making and carrying out of the agreement will further the transportation policy set forth in section 10101 of this title and may require compliance with conditions necessary to make the agreement further that policy as a condition of approval. If the Panel approves the agreement, it may be made and carried out under its terms and under the terms required by the Panel, and the antitrust laws set forth in paragraph (2) of this subsection do not apply to parties and other persons with respect to making or carrying out the agreement. The Panel shall approve or disapprove an agreement under this paragraph within one year after the date application for approval of such agreement is made.

"(B) If the Panel approves an agreement described in subparagraph (A) of this paragraph and the shippers entering into such agreement and the rail carriers proposing to use rolling stock owned or leased by such shippers, under payment by such carriers or under a published allowance, are unable to agree upon the amount of compensation to be paid for the use of such rolling stock, any party directly involved in the negotiations may require that the matter be settled by submitting the issues in dispute to the Panel. The Panel shall render a binding decision, based upon a standard of reasonableness and after taking into consideration any past precedents on the subject matter of the negotiations, no later than 90 days after the date of the submission of the dispute to the Panel.

"(C) Nothing in this paragraph shall be construed to change the law in effect prior to the effective date of the Staggers Rail Act of 1980 with respect to the obligation of rail carriers to utilize rolling stock owned or leased by shippers.

"(b) The Panel may require an organization established or continued under an agreement approved under this section to maintain records and submit reports. The Panel may inspect a record maintained under this section.

"(c) The Panel may review an agreement approved under subsection (a) of this section and shall change the conditions of approval or terminate it when necessary to comply with the public interest and subsection (a). The Panel shall postpone the effective date of a change of an agreement under this subsection for whatever period it determines to be reasonably necessary to avoid unreasonable hardship.

"(d) The Panel may begin a proceeding under this section on its own initiative or on application. Action of the Panel under this section—

"(1) approving an agreement;

"(2) denying, ending, or changing approval;

"(3) prescribing the conditions on which approval is granted; or

"(4) changing those conditions,

has effect only as related to application of the antitrust laws referred to in subsection (a) of this section.

"(e) The Panel shall review each agreement approved under subsection (a) of this section periodically, but at least once every 3 years—

"(1) to determine whether the agreement or an organization established or continued under one of those agreements still complies with the requirements of that subsection and the public interest; and

"(2) to evaluate the success and effect of that agreement or organization on the consuming public and the national rail freight transportation system.

If the Panel finds that an agreement or organization does not conform to the requirements of that subsection, it shall end or suspend its approval.

"(f)(1) The Federal Trade Commission, in consultation with the Antitrust Division of the Department of Justice, shall prepare periodically an assessment of, and shall report to the Panel on—

"(A) possible anticompetitive features of—

"(i) agreements approved or submitted for approval under subsection (a) of this section; and

"(ii) an organization operating under those agreements; and

"(B) possible ways to alleviate or end an anticompetitive feature, effect, or aspect in a manner that will further the goals of this part and of the transportation policy of section 10101 of this title.

"(2) Reports received by the Panel under this subsection shall be published and made available to the public under section 552(a) of title 5.

"§10507. Determination of market dominance in rail rate proceedings

"(a) In this section, 'market dominance' means an absence of effective competition from other rail carriers or modes of transportation for the transportation to which a rate applies.

"(b) When a rate for transportation by a rail carrier providing transportation subject to the jurisdiction of the Panel under this part is challenged as being unreasonably high, the Panel shall determine, within 90 days after the start of a proceeding, whether the rail carrier proposing the rate has market dominance over the transportation to which the rate applies. The Panel may make that determination on its own initiative or on complaint. A finding by the Panel that the rail carrier does not have market dominance is determinative in a proceeding under this part related to that rate or transportation unless changed or set aside by the Panel or set aside by a court of competent jurisdiction.

"(c) When the Panel finds in any proceeding that a rail carrier proposing or defending a rate for transportation has market dominance over the transportation to which the rate applies, it may then determine that rate to be unreasonable if it exceeds a reasonable maximum for that transportation. However, a finding of market dominance does not establish a presumption that the proposed rate exceeds a reasonable maximum.

"(d)(1)(A) In making a determination under this section, the Panel shall find that the rail carrier establishing the challenged rate does not have market dominance over the transportation to which the rate applies if such rail carrier

proves that the rate charged results in a revenue-variable cost percentage for such transportation that is less than 180 percent.

"(B) For purposes of this section, variable costs for a rail carrier shall be determined only by using such carrier's unadjusted costs, calculated using the Uniform Rail Costing System cost finding methodology (or an alternative methodology adopted by the Panel in lieu thereof) and indexed quarterly to account for current wage and price levels in the region in which the carrier operates, with adjustments specified by the Panel. A rail carrier may meet its burden of proof under this subsection by establishing its variable costs in accordance with this paragraph, but a shipper may rebut that showing by evidence of such type, and in accordance with such burden of proof, as the Panel shall prescribe.

"(2) A finding by the Panel that a rate charged by a rail carrier results in a revenue-variable cost percentage for the transportation to which the rate applies that is equal to or greater than 180 percent does not establish a presumption that—

"(A) such rail carrier has or does not have market dominance over such transportation; or

"(B) the proposed rate exceeds or does not exceed a reasonable maximum.

"§10508. Rail cost adjustment factor

"(a) The Panel shall, as often as practicable, but in no event less often than quarterly, publish a rail cost adjustment factor which shall be a fraction, the numerator of which is the latest published Index of Railroad Costs (which index shall be compiled or verified by the Panel, with appropriate adjustments to reflect the change in composition of railroad costs, including the quality and mix of material and labor) and the denominator of which is the same index for the fourth quarter of every fifth year, beginning with the fourth quarter of 1992.

"(b) The rail cost adjustment factor published by the Panel under subsection (a) of this section shall take into account changes in railroad productivity. The Panel shall also publish a similar index that does not take into account changes in railroad productivity.

"§10509. Contracts

"(a) One or more rail carriers providing transportation subject to the jurisdiction of the Panel under this part may enter into a contract with one or more purchasers of rail services to provide specified services under specified rates and conditions.

"(b) A party to a contract entered into under this section shall have no duty in connection with services provided under such contract other than those duties specified by the terms of the contract.

"(c)(1) A contract that is authorized by this section, and transportation under such contract, shall not be subject to this part, and may not be subsequently challenged before the Panel or in any court on the grounds that such contract violates a provision of this part.

"(2) The exclusive remedy for any alleged breach of a contract entered into under this section shall be an action in an appropriate State court or United States district court, unless the parties otherwise agree. The district courts of the United States shall not have jurisdiction pursuant to this section based on section 1331 or 1337 of title 28, United States Code.

"(d)(1) A summary of each contract for the transportation of agricultural commodities entered into under this section shall be filed with the Panel, containing such nonconfidential information as the Panel prescribes. The Panel shall publish special rules for such contracts in order to ensure that the essential terms of the contract are available to the general public.

"(2) Documents, papers, and records (and any copies thereof) relating to a contract described in subsection (a) shall not be subject to the mandatory disclosure requirements of section 552 of title 5.

"(e) Any lawful contract between a rail carrier and one or more purchasers of rail service that was in effect on the effective date of the Staggers Rail Act of 1980 shall be considered a contract authorized by this section.

"(f) A rail carrier that enters into a contract as authorized by this section remains subject to the common carrier obligation set forth in section 10901, with respect to rail transportation not provided under such a contract.

"SUBCHAPTER II—SPECIAL CIRCUMSTANCES

"§10521. Government traffic

"A rail carrier providing transportation or service for the United States Government may transport property for the United States Government without charge or at a rate reduced from the applicable commercial rate. Section 3709 of the Revised Statutes (41 U.S.C. 5) does not apply when transportation for the United States Government can be obtained from a rail carrier lawfully operating in the area where the transportation would be provided.

"§10522. Emergency rates

"(a) The Panel may authorize a rail carrier providing transportation or service subject to its jurisdiction under this part to give reduced rates for service and transportation of property to or from an area in the United States to provide relief during emergencies. When the Panel takes action under this subsection, it must—

"(1) define the area of the United States in which the reduced rates will apply;

"(2) specify the period during which the reduced rates are to be in effect; and

"(3) define the class of persons entitled to the reduced rates.

"(b) The Panel may specify those persons entitled to reduced rates by reference to those persons designated as being in need of relief by the United States Government or by a State government authorized to assist in providing relief during the emergency. The Panel may act under this section without regard to subchapter II of chapter 5 of title 5.

"§10523. Car utilization

"In order to encourage more efficient use of freight cars, notwithstanding any other provision of this part, rail carriers shall be permitted to establish premium charges for special services or special levels of services not otherwise applicable to the movement. The Panel shall facilitate development of such charges so as to increase the utilization of equipment.

"SUBCHAPTER III—LIMITATIONS

"§10541. Prohibitions against discrimination by rail carriers

"(a)(1) A rail carrier providing transportation or service subject to the jurisdiction of the Panel under this part may not subject a person, place, port, or type of traffic to unreasonable discrimination.

"(2) For purposes of this section, a rail carrier engages in unreasonable discrimination when it charges or receives from a person a different compensation for a service rendered, or to be rendered, in transportation the rail carrier may perform under this part than it charges or receives from another person for performing a like and contemporaneous service in the transportation of a like kind of traffic under substantially similar circumstances.

"(b) This section shall not apply to—

"(1) contracts described in section 10509 of this title;

"(2) rail rates applicable to different routes; or

"(3) discrimination against the traffic of another carrier providing transportation by any mode.

"(c) Differences between rates, classifications, rules, and practices of rail carriers do not constitute a violation of this section if such differences result from different services provided by rail carriers.

"§10542. Facilities for interchange of traffic

"A rail carrier providing transportation subject to the jurisdiction of the Panel under this part shall provide reasonable, proper, and equal facilities that are within its power to provide for the interchange of traffic between, and for the receiving, forwarding, and delivering of passengers and property to and from, its respective line and a connecting line of another rail carrier.

"§10543. Continuous carriage of freight

"A rail carrier providing transportation or service subject to the jurisdiction of the Panel under this part may not enter a combination or arrangement to prevent the carriage of freight from being continuous from the place of shipment to the place of destination whether by change of time schedule, carriage in different cars, or by other means. The carriage of freight by those rail carriers is considered to be a continuous carriage from the place of shipment to the place of destination when a break of bulk, stoppage, or interruption is not made in good faith for a necessary purpose, and with the intent of avoiding or unnecessarily interrupting the continuous carriage or of evading this part.

"§10544. Transportation services or facilities furnished by shipper

"A rail carrier providing transportation or service subject to the jurisdiction of the Panel under this part may publish a charge or allowance for transportation or service for property when the owner of the property, directly or indirectly, furnishes a service related to or an instrumentality used in the transportation or service. The Panel may prescribe the maximum reasonable charge or allowance a rail carrier subject to its jurisdiction may pay for a service or instrumentality furnished under this section. The Panel may begin a proceeding under this section on its own initiative or on application.

"§10545. Demurrage charges

"A rail carrier providing transportation subject to the jurisdiction of the Panel under this part shall compute demurrage charges, and establish rules related to those charges, in a way that fulfills the national needs related to—

"(1) freight car use and distribution; and

"(2) maintenance of an adequate supply of freight cars to be available for transportation of property.

"§10546. Designation of certain routes by shippers

"(a)(1) When a person delivers property to a rail carrier for transportation subject to the jurisdiction of the Panel under this part, the person may direct the rail carrier to transport the property over an established through route. When competing rail lines constitute a part of the route, the person shipping the property may designate the lines over which the property will be transported. The designation must be in writing. A rail carrier may be directed to transport property over a particular through route when—

"(A) there are at least 2 through routes over which the property could be transported;

"(B) a through rate has been established for transportation over each of those through routes; and

"(C) the rail carrier is a party to those routes and rates.

"(2) A rail carrier directed to route property transported under paragraph (1) of this subsection must issue a through bill of lading containing the routing instructions and transport the property according to the instructions.

When the property is delivered to a connecting rail carrier, that rail carrier must also receive and transport it according to the routing instructions and deliver it to the next succeeding rail carrier or consignee according to the instructions.

"(b) The Panel may prescribe exceptions to the authority of a person to direct the movement of traffic under subsection (a) of this section.

"CHAPTER 107—LICENSING

"Sec.
"10701. Authorizing construction and operation of railroad lines.
"10702. Finance and construction transactions by Class II and Class III rail carriers and noncarriers.
"10703. Filing and procedure for notice of intent to abandon or discontinue.
"10704. Offers to purchase to avoid abandonment and discontinuance.
"10705. Offering abandoned rail properties for sale for public purposes.
"10706. Exception.
"10707. Railroad development.

"§10701. Authorizing construction and operation of railroad lines

"(a) A rail carrier providing transportation subject to the jurisdiction of the Panel under this part may—

"(1) construct an extension to any of its railroad lines;

"(2) construct an additional railroad line;

"(3) acquire or operate an extended or additional railroad line; or

"(4) provide transportation over, or by means of, an extended or additional railroad line;

only if the Panel issues a certificate authorizing such activity under subsection (c).

"(b) A proceeding to grant authority under subsection (a) of this section begins when an application is filed. On receiving the application, the Panel shall give reasonable public notice of the beginning of such proceeding.

"(c) The Panel shall issue a certificate authorizing activities for which such authority is requested in an application filed under subsection (b) unless the Panel finds that such activities are inconsistent with the public convenience and necessity. Such certificate may approve the application as filed, or with modifications, and may require compliance with conditions the Panel finds necessary in the public interest.

"(d)(1) When a certificate has been issued by the Panel under this section or section 10702 authorizing the construction or extension of a railroad line, no other rail carrier may block any construction or extension authorized by such certificate by refusing to permit the carrier to cross its property if—

"(A) the construction does not unreasonably interfere with the operation of the crossed line;

"(B) the operation does not materially interfere with the operation of the crossed line; and

"(C) the owner of the crossing line compensates the owner of the crossed line.

"(2) If the parties are unable to agree on the terms of operation or the amount of payment for purposes of paragraph (1) of this subsection, either party may submit the matters in dispute to the Panel for determination. The Panel shall make a determination under this paragraph within 90 days after the dispute is submitted for determination.

"(e) The Panel may require any rail carrier proposing both to construct and operate a new railroad line pursuant to this section to provide a fair and equitable arrangement for the protection of the interests of railroad employees who may be affected thereby no less protective of and beneficial to the interests of such employees than those established pursuant to section 11126 of this title.

"(f) Subsections (a), (b), (c), and (e) of this section shall only apply to Class I rail carriers.

"§10702. Finance and construction transactions by Class II and Class III rail carriers and noncarriers

"(a)(1) A Class II or Class III (as defined by the Panel) rail carrier providing transportation subject to the jurisdiction of the Panel under this part, or a noncarrier, may—

"(A) construct an extension of any of its railroad lines;

"(B) construct an additional railroad line; or

"(C) acquire or operate a railroad line,

only if the Panel issues a certificate authorizing such activity under subsection (c).

"(2) A certificate issued by the Panel under subsection (c) shall also be required for—

"(A) a Class II or Class III rail carrier providing transportation subject to the jurisdiction of the Panel under this part, or a noncarrier to provide transportation over, or by means of, a railroad line by trackage rights, lease, or joint ownership or joint use of the railroad line (and terminals incidental thereto);

"(B) a consolidation or merger of the properties or franchises of at least 2 Class II or Class III rail carriers into one corporation for the ownership, management, and operation of the previously separately owned properties;

"(C) the acquisition of control of a Class II or Class III rail carrier by one or more Class II or Class III rail carriers;

"(D) the acquisition of control of at least 2 Class II or Class III rail carriers by a person that is not a rail carrier; and

"(E) the acquisition of control of a Class II or Class III rail carrier by a person that is not a rail carrier but that controls at least one Class II or Class III rail carrier.

"(b) A proceeding to grant authority under subsection (a) begins when an application is filed. On receiving the application, the Panel shall give reasonable public notice of the beginning of such proceeding.

"(c) The Panel shall issue a certificate authorizing activities for which such authority is requested in an application filed under subsection (b) unless the Panel finds that such activities are inconsistent with the public convenience and necessity because—

"(1) as a result of the transaction, there is likely to be substantial lessening of competition, creation of a monopoly, or restraint of trade in freight surface transportation in any region of the United States; and

"(2) the anticompetitive effects of the transaction outweigh the public interest in meeting significant transportation needs.

Such certificate may approve the application as filed, or with modifications, and may require compliance with conditions the Panel finds necessary in the public interest.

"(d) When a person is involved in a transaction for which approval is sought under this section, the Panel shall require such person to protect the interest of affected employees to an extent equal to the protection required under sections 2 through 5 of the Worker Adjustment and Retraining Notification Act (29 U.S.C. 2101–2104).

"(e) The authority of the Panel over transactions described in subsection (a)(2) is exclusive. A rail carrier or corporation participating in or resulting from such a transaction may carry out the transaction, own and operate property, and exercise control or franchises acquired through the transaction without the approval of a State authority. A rail carrier, corporation, or person participating in that transaction is exempt from the antitrust laws and from all other law, including State and municipal law, as necessary to let that rail carrier, corporation, or person carry out the transaction, hold, maintain, and operate property and exercise control or franchises acquired through the transaction.

"§10703. Filing and procedure for notice of intent to abandon or discontinue

"(a)(1) A rail carrier providing transportation subject to the jurisdiction of the Panel under this part who intends to—

"(A) abandon any part of its railroad lines; or

"(B) discontinue the operation of all rail transportation over any part of its railroad lines,

must file a notice of intent relating thereto with the Panel. An abandonment or discontinuance may be carried out only as authorized under this chapter.

"(2) When a rail carrier providing transportation subject to the jurisdiction of the Panel under this part files a notice of intent, the notice shall include—

"(A) an accurate and understandable summary of the rail carrier's reasons for the proposed abandonment or discontinuance;

"(B) a statement indicating that each interested person is entitled to make recommendations to the Panel on the future of the rail line; and

"(C)(i) a statement that the line is available for sale in accordance with section 10704 of this title, (ii) a statement that the rail carrier will promptly provide to each interested party an estimate of the minimum purchase price, calculated in accordance with section 10704 of this title and (iii) the name and business address of the person who is authorized to discuss sale terms for the rail carrier.

"(3) The rail carrier shall—

"(A) send by certified mail a copy of the notice of intent to the chief executive officer of each State that would be directly affected by the proposed abandonment or discontinuance;

"(B) post a copy of the notice in each terminal and station on each portion of a railroad line proposed to be abandoned or over which all transportation is to be discontinued;

"(C) publish a copy of the notice for 3 consecutive weeks in a newspaper of general circulation in each county in which each such portion is located;

"(D) mail a copy of the notice, to the extent practicable, to all shippers that have made significant use (as designated by the Panel) of the railroad line during the 12 months preceding the filing of the notice of intent; and

"(E) attach to the notice filed with the Panel an affidavit certifying the manner in which subparagraphs (A) through (D) of this paragraph have been satisfied, and certifying that subparagraphs (A) through (D) have been satisfied within the most recent 30 days prior to the date the notice of intent is filed.

"(b)(1) Except as provided in paragraph (2) or subsection (d), abandonment and discontinuance may occur as provided in section 10704.

"(2) The Panel shall require as a condition of any abandonment or discontinuance under this section provisions to protect the interests of employees. The provisions shall be at least as beneficial to those interests as the provisions established under sections 11126 and 24706(c) of this title.

"(c)(1) In this subsection, the term 'potentially subject to abandonment' has the meaning given the term in regulations of the Panel. The regulations may include standards that vary by region of the United States and by railroad or group of railroads.

"(2) Each rail carrier shall maintain a complete diagram of the transportation system operated, directly or indirectly, by the rail carrier. The rail carrier shall submit to the Panel and publish amendments to its diagram that are necessary to maintain the accuracy of the diagram. The diagram shall—

"(A) include a detailed description of each of its railroad lines potentially subject to abandonment; and

"(B) identify each railroad line for which the rail carrier plans to file a notice of intent to abandon or discontinue under subsection (a) of this section.

"(d) The Panel may disapprove a proposed abandonment or discontinuance if the Panel finds it inconsistent with the public convenience and necessity.

"§10704. Offers to purchase to avoid abandonment and discontinuance

"(a) Any rail carrier which has filed a notice of intent to abandon or discontinue shall provide promptly to a party considering an offer to purchase and shall provide concurrently to the Panel—

"(1) a statement of the minimum purchase price required;

"(2) its most recent reports on the physical condition of that part of the railroad line involved in the proposed abandonment or discontinuance;

"(3) traffic, revenue, and other data necessary to determine the commercial potential of the railroad line; and

"(4) any other information that the Panel considers necessary to allow a potential offeror to calculate an adequate purchase offer.

"(b) Within 4 months after a notice of intent is filed under section 10703, any person may offer to purchase the railroad line that is the subject of such notice of intent. Such offer shall be filed concurrently with the Panel. If the offer to purchase is less than the minimum purchase price stated pursuant to subsection (a)(1), the offer shall explain the basis of the disparity, and the manner in which the offer is calculated.

"(c)(1) Unless the Panel, within 15 days after the expiration of the 4-month period described in subsection (b), finds that one or more financially responsible persons (including a governmental authority) have offered to purchase that part of the railroad line to be abandoned or over which all rail transportation is to be discontinued, abandonment or discontinuance may be carried out in accordance with section 10703.

"(2) If the Panel finds that such an offer or offers to purchase have been made within such period, abandonment or discontinuance shall be postponed until—

"(A) the carrier and a financially responsible person have reached agreement on a transaction for sale of the line; or

"(B) the conditions and amount of compensation are established under subsection (e).

"(d) Except as provided in subsection (e)(3), if the rail carrier and a financially responsible person (including a governmental authority) fail to agree on the amount or terms of the purchase, either party may, within 30 days after the offer is made, request that the Panel establish the conditions and amount of compensation.

"(e)(1) Whenever the Panel is requested to establish the conditions and amount of compensation under this section—

"(A) the Panel shall render its decision within 30 days;

"(B) the Panel shall determine the price and other terms of sale, except that in no case shall the Panel set a price which is below the fair market value of the line (including, unless otherwise mutually agreed, all facilities on the line or portion necessary to provide effective transportation services).

"(2) The decision of the Panel shall be binding on both parties, except that the person who has offered to purchase the line may withdraw his offer within 10 days of the Panel's decision. In such a case, the abandonment or discontinuance may be carried out immediately, unless other offers are being considered pursuant to paragraph (3) of this subsection.

"(3) If a rail carrier receives more than one offer to purchase, it shall select the offeror with whom it wishes to transact business, and complete the sale agreement, or request that the Panel establish the conditions and amount of compensation before the 40th day after the expiration of the 4-month period described in subsection (b). If no agreement on sale is reached within such 40-day period and the Panel has not been requested to establish the conditions and amount of compensation, any other offeror whose offer was made within the 4-month period described in subsection (b) may request that the Panel establish the conditions and amount of compensation. If the Panel has established the conditions and amount of compensation, and the original offer has been withdrawn, any other offeror whose offer was made within the 4-month period described in subsection (b) may accept the Panel's decision within 20 days after such decision, and the Panel shall require the carrier to enter into a sale agreement with such offeror, if such sale agreement incorporates the Panel's decision.

"(4) No purchaser of a line or portion of line sold under this section may transfer or discontinue service on such line prior to the end of the second year after consummation of the sale, nor may such purchaser transfer such line, except to the rail carrier from whom it was purchased, prior to the end of the fifth year after consummation of the sale.

"(f) Upon abandonment of a railroad line under this section, the obligation of the rail carrier abandoning the line to provide transportation on that line, as required by section 10901(a), is extinguished.

"§10705. Offering abandoned rail properties for sale for public purposes

"When a rail carrier files a notice of intent to abandon or discontinue under section 10703, the Panel shall find whether the rail properties that are involved in the proposed abandonment or discontinuance are appropriate for use for public purposes, including highways, other forms of mass transportation, conservation, energy production or transmission, or recreation. If the Panel finds that the rail properties proposed to be abandoned are appropriate for public purposes and not required for continued rail operations, the properties may be sold, leased, exchanged, or otherwise disposed of only under conditions provided in the order of the Panel. The conditions may include a prohibition on any such disposal for a period of not more than 180 days after the effective date of the order, unless the properties have first been offered, on reasonable terms, for sale for public purposes.

"§10706. Exception

"Notwithstanding section 10701 and subchapter II of chapter 111 of this title, and without the approval of the Panel, a rail carrier providing transportation subject to the jurisdiction of the Panel under this part may enter into arrangements for the joint ownership or joint use of spur, industrial, team, switching, or side tracks. The Panel does not have authority under this chapter over construction, acquisition, operation, abandonment, or discontinuance of spur, industrial, team, switching, or side tracks.

"§10707. Railroad development

"(a) In this section, the term 'financially responsible person' means a person who—

"(1) is capable of paying the constitutional minimum value of the railroad line proposed to be acquired; and

"(2) is able to assure that adequate transportation will be provided over such line for a period of not less than 3 years.

Such term includes a governmental authority but does not include a Class I or Class II rail carrier.

"(b)(1) When the Panel finds that—

"(A)(i) the public convenience and necessity require or permit the sale of a particular railroad line under this section; or

"(ii) a railroad line is on a system diagram map as required under section 10703 of this title, but the rail carrier owning such line has not filed a notice of intent to abandon such line under section 10703 of this title before an application to purchase such line, or any required preliminary filing with respect to such application, is filed under this section; and

"(B) an application to purchase such line has been filed by a financially responsible person,

the Panel shall require the rail carrier owning the railroad line to sell such line to such financially responsible person at a price not less than the constitutional minimum value.

"(2) For purposes of this subsection, the constitutional minimum value of a particular railroad line shall be presumed to be not less than the net liquidation value of such line or the going concern value of such line, whichever is greater.

"(c)(1) For purposes of this section, the Panel may determine that the public convenience and necessity require or permit the sale of a railroad line if the Panel determines, after a hearing on the record, that—

"(A) the rail carrier operating such line refuses within a reasonable time to make the necessary efforts to provide adequate service to shippers who transport traffic over such line;

"(B) the transportation over such line is inadequate for the majority of shippers who transport traffic over such line;

"(C) the sale of such line will not have a significantly adverse financial effect on the rail carrier operating such line;

"(D) the sale of such line will not have an adverse effect on the overall operational performance of the rail carrier operating such line; and

"(E) the sale of such line will be likely to result in improved railroad transportation for shippers that transport traffic over such line.

"(2) In a proceeding under this subsection, the burden of proving that the public convenience and necessity require or permit the sale of a particular railroad line is on the person filing the application to acquire such line. If the Panel finds under this subsection that the public convenience and necessity require or permit the sale of a particular railroad line, the Panel shall concurrently notify the parties of such finding and publish such finding in the Federal Register.

"(d) In the case of any railroad line subject to sale under subsection (a) of this section, the Panel shall, upon the request of the acquiring carrier, require the selling carrier to provide to the acquiring carrier trackage rights to allow a reasonable interchange with the selling carrier or to move power equipment or empty rolling stock between noncontiguous feeder lines operated by the acquiring carrier. The Panel shall require the acquiring carrier to provide the selling carrier reasonable compensation for any such trackage rights.

"(e) The Panel shall require, to the maximum extent practicable, the use of the employees who would normally have performed work in connection with a railroad line subject to a sale under this section.

"(f) In the case of a railroad line which carried less than 3,000,000 gross ton miles of traffic per mile in the preceding calendar year, whenever a purchasing carrier under this section petitions the Panel for joint rates applicable to traffic moving over through routes in which the purchasing carrier may practicably participate, the Panel shall, within 30 days after the date such petition is filed and pursuant to section 10505(a) of this title, require the establishment of reasonable joint rates and divisions over such route.

"(g)(1) Any person operating a railroad line acquired under this section may elect to be exempt from any of the provisions of this part, except that such a person may not be exempt from the provisions of chapter 105 of this title with respect to transportation under a joint rate.

"(2) The provisions of paragraph (1) of this subsection shall apply to any line of railroad which was abandoned during the 18-month period immediately prior to the effective date of the Staggers Rail Act of 1980 and was subsequently purchased by a financially responsible person.

"(h) If a purchasing carrier under this section proposes to sell or abandon all or any portion of a purchased railroad line, such purchasing carrier shall offer the right of first refusal with respect to such line or portion thereof to the carrier which sold such line under this section. Such offer shall be made at a price equal to the sum of the price paid by such purchasing carrier to such selling carrier for such line or portion thereof and the fair market value (less deterioration) of any improvements made, as adjusted to reflect inflation.

"(i) Any person operating a railroad line acquired under this section may determine preconditions, such as payment of a subsidy, which must be met by shippers in order to obtain service over such lines, but such operator must notify the shippers on the line of its intention to impose such preconditions.

"CHAPTER 109—OPERATIONS

"SUBCHAPTER I—GENERAL REQUIREMENTS

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"SUBCHAPTER I—GENERAL REQUIREMENTS

"§10901. Providing transportation, service, and rates

"(a) A rail carrier providing transportation or service subject to the jurisdiction of the Panel under this part shall provide the transportation or service on reasonable request. A rail carrier shall not be found to have violated this section because it fulfills its reasonable commitments under contracts authorized under section 10509 of this title before responding to reasonable requests for service. Commitments which deprive a carrier of its ability to respond to reasonable requests for common carrier service are not reasonable.

"(b) A rail carrier shall also provide to any person, on request, rates and other service terms. The response by a rail carrier to a request for rates and other service terms shall be—

"(1) in writing and forwarded to the requesting person promptly after receipt of the request; or

"(2) promptly made available in electronic form.

"(c) A rail carrier may not increase any common carrier rates or change any common carrier service terms unless 20 days have expired after written notice is provided in accordance with subsection (d) to—

"(1) any person who has requested such rates or terms under subsection (b); and

"(2) any person who has made arrangements with the carrier for a shipment that would be subject to such increased rates or changed terms.

"(d) The Panel shall, by regulation, establish rules to implement this section. Final regulations shall be adopted by the Panel not later than 180 days after the date of the enactment of the ICC Termination Act of 1995.

"§10902. Use of terminal facilities

"(a) The Panel may require terminal facilities, including main-line tracks for a reasonable distance outside of a terminal, owned by a rail carrier providing transportation subject to the jurisdiction of the Panel under this part, to be used by another rail carrier if the Panel finds that use to be practicable and in the public interest without substantially impairing the ability of the rail carrier owning the facilities or entitled to use the facilities to handle its own business. The rail carriers are responsible for establishing the conditions and compensation for use of the facilities. However, if the rail carriers cannot agree, the Panel may establish conditions and compensation for use of the facilities under the principle controlling compensation in condemnation proceedings. The compensation shall be paid or adequately secured before a rail carrier may begin to use the facilities of another rail carrier under this section.

"(b) A rail carrier whose terminal facilities are required to be used by another rail carrier under this section is entitled to recover damages from the other rail carrier for injuries sustained as the result of compliance with the requirement or for compensation for the use, or both as appropriate, in a civil action, if it is not satisfied with the conditions for use of the facilities or if the amount of the compensation is not paid promptly.

"(c)(1) The Panel may require rail carriers to enter into reciprocal switching agreements, where it finds such agreements to be practicable and in the public interest, or where such agreements are necessary to provide competitive rail service. The rail carriers entering into such an agreement shall establish the conditions and compensation applicable to such agreement, but, if the rail carriers cannot agree upon such conditions and compensation within a reasonable period of time, the Panel may establish such conditions and compensation.

"(2) The Panel may require reciprocal switching agreements entered into by rail carriers pursuant to this subsection to contain provisions for the protection of the interests of employees affected thereby.

"(d) The Panel shall complete any proceeding under subsection (a) or (b) within 180 days after the filing of the request for relief.

"§10903. Switch connections and tracks

"(a) On application of the owner of a lateral branch line of railroad, or of a shipper tendering interstate traffic for transportation, a rail carrier providing transportation subject to the jurisdiction of the Panel under this part shall construct, maintain, and operate, on reasonable conditions, a switch connection to connect that branch line or private side track with its railroad and shall furnish cars to move that traffic to the best of its ability without discrimination in favor of or against the shipper when the connection—

"(1) is reasonably practicable;

"(2) can be made safely; and

"(3) will furnish sufficient business to justify its construction and maintenance.

"(b) If a rail carrier fails to install and operate a switch connection after application is made under subsection (a) of this section, the owner of the lateral branch line of railroad or the shipper may file a complaint with the Panel under section 11501 of this title. The Panel shall investigate the complaint and decide the safety, practicability, justification, and compensation to be paid for the connection. The Panel may direct the rail carrier to comply with subsection (a) of this section only after a full hearing.

"SUBCHAPTER II—CAR SERVICE

"§10921. Criteria

"(a)(1) A rail carrier providing transportation subject to the jurisdiction of the Panel under this part shall furnish safe and adequate car service and establish, observe, and enforce reasonable rules and practices on car service. The Panel may require a rail carrier to provide facilities and equipment that are reasonably necessary to furnish safe and adequate car service if the Panel decides that the rail carrier has materially failed to furnish that service. The Panel may begin a proceeding under this paragraph when an interested person files an application with it. The Panel may act only after a hearing on the record and an affirmative finding, based on the evidence presented, that—

"(A) providing the facilities or equipment will not materially and adversely affect the ability of the rail carrier to provide safe and adequate transportation;

"(B) the amount spent for the facilities or equipment, including a return equal to the rail carrier's current cost of capital, will be recovered; and

"(C) providing the facilities or equipment will not impair the ability of the rail carrier to attract adequate capital.

"(2) The Panel may require a rail carrier to file its car service rules with the Panel.

"(b) The Panel may designate and appoint agents and agencies to make and carry out its directions related to car service and matters under sections 10923 and 10924(a)(1) of this title.

"§10922. Compensation and practice

"(a) The regulations of the Panel on car service shall encourage the purchase, acquisition, and efficient use of freight cars. The regulations may include—

"(1) the compensation to be paid for the use of a locomotive, freight car, or other vehicle;

"(2) the other terms of any arrangement for the use by a rail carrier of a locomotive, freight car, or other vehicle not owned by the rail carrier using the locomotive, freight car, or other vehicle, whether or not owned by another carrier, shipper, or third person; and

"(3) sanctions for nonobservance.

"(b) The rate of compensation to be paid for each type of freight car shall be determined by the expense of owning and maintaining that type of freight car, including a fair return on its cost giving consideration to current costs of capital, repairs, materials, parts, and labor. In determining the rate of compensation, the Panel shall consider the transportation use of each type of freight car, the national level of ownership of each type of freight car, and other factors that affect the adequacy of the national freight car supply.

"§10923. Rerouting traffic on failure of rail carrier to serve the public

"(a) When the Panel considers that a rail carrier providing transportation subject to the jurisdiction of the Panel under this part cannot transport the traffic offered to it in a manner that properly serves the public, the Panel may direct the handling, routing, and movement of the traffic of that rail carrier and its distribution over other railroad lines to promote commerce and service to the public. Subject to subsection (b)(2) of this section, the rail carriers may establish the terms of compensation between themselves.

"(b)(1) Except as provided in paragraph (2) of this subsection, the Panel may act under this section on its own initiative or on application without regard to subchapter II of chapter 5 of title 5.

"(2) When the rail carriers do not agree on the terms of compensation under this section, the Panel may establish the terms for them in a later proceeding.

"(c) When there is a shortage of equipment, congestion of traffic, or other emergency declared by the Panel, it may prescribe temporary through routes that are desirable in the public interest on its own initiative or on application without regard to subchapter II of chapter 7 of this title, and subchapter II of chapter 5 of title 5.

"§10924. War emergencies; embargoes imposed by carriers

"(a)(1) When the President, during time of war or threatened war, notifies the Panel that it is essential to the defense and security of the United States to give preference or priority to the movement of certain traffic, the Panel shall direct that preference or priority be given to that traffic.

"(2) When the President, during time of war or threatened war, demands that preference and precedence be given to the transportation of troops and material of war over all other traffic, all rail carriers providing transportation subject to the jurisdiction of the Panel under this part shall adopt every means within their control to facilitate and expedite the military traffic.

"(b) An embargo imposed by any such rail carrier does not apply to shipments consigned to agents of the United States Government for its use. The rail carrier shall deliver those shipments as promptly as possible.

"SUBCHAPTER III—REPORTS AND RECORDS

"§10941. Definitions

"In this subchapter—

"(1) the terms 'rail carrier' and 'lessor' include a receiver or trustee of a rail carrier and lessor, respectively;

"(2) the term 'lessor' means a person owning a railroad that is leased to and operated by a carrier providing transportation subject to the jurisdiction of the Panel under this part; and

"(3) the term 'association' means an organization maintained by or in the interest of a group of rail carriers providing transportation or service subject to the jurisdiction of the Panel under this part that performs a service, or engages in activities, related to transportation under this part.

"§10942. Uniform accounting system

"The Panel may prescribe a uniform accounting system for classes of rail carriers providing transportation subject to the jurisdiction of the Panel under this part. To the maximum extent practicable, the Panel shall conform such system to generally accepted accounting principles, and shall administer this subchapter in accordance with such principles.

"§10943. Depreciation charges

"The Panel shall, for a class of rail carriers providing transportation subject to its jurisdiction under this part, prescribe, and change when necessary, those classes of property for which depreciation charges may be included under operating expenses and a rate of depreciation that may be charged to a class of property. The Panel may classify those rail carriers for purposes of this section. A rail carrier for whom depreciation charges and rates of depreciation are in effect under this section for any class of property may not—

"(1) charge to operating expenses a depreciation charge on a class of property other than that prescribed by the Panel;

"(2) charge another rate of depreciation; or

"(3) include other depreciation charges in operating expenses.

"§10944. Records: form; inspection; preservation

"(a) The Panel may prescribe the form of records required to be prepared or compiled under this subchapter—

"(1) by rail carriers and lessors, including records related to movement of traffic and receipts and expenditures of money; and

"(2) by persons furnishing cars to or for a rail carrier providing transportation subject to the jurisdiction of the Panel under this part to the extent related to those cars or that service.

"(b) The Panel, or an employee designated by the Panel, may on demand and display of proper credentials—

"(1) inspect and examine the lands, buildings, and equipment of a rail carrier or lessor; and

"(2) inspect and copy any record of—

"(A) a rail carrier, lessor, or association; and

"(B) a person controlling, controlled by, or under common control with a rail carrier if the Panel considers inspection relevant to that person's relation to, or transaction with, that rail carrier.

"(c) The Panel may prescribe the time period during which operating, accounting, and financial records must be preserved by rail carriers, lessors, and persons furnishing cars.

"§10945. Reports by rail carriers, lessors, and associations

"(a) The Panel may require rail carriers, lessors, and associations, or classes of them as the Panel may prescribe, to file annual, periodic, and special reports with the Panel containing answers to questions asked by it.

"(b)(1) An annual report shall contain an account, in as much detail as the Panel may require, of the affairs of the rail carrier, lessor, or association for the 12-month period ending on December 31 of each year.

"(2) An annual report shall be filed with the Panel by the end of the third month after the end of the year for which the report is made unless the Panel extends the filing date or changes the period covered by the report. The annual report and, if the Panel requires, any other report made under this section, shall be made under oath.

"SUBCHAPTER IV—RAILROAD COST ACCOUNTING

"§10961. Implementation of cost accounting principles

"Not less than once every five years after the promulgation of original rules implementing the cost accounting principles established by the Railroad Accounting Principles Board, the Panel shall review such principles and shall, by rule, make such changes in such principles as are required to achieve the regulatory purposes of this part. The Panel shall insure that the rules promulgated under this section are the most efficient and least burdensome means by which the required information may be developed for regulatory purposes. To the maximum extent practicable, the Panel shall conform such rules to generally accepted accounting principles.

"§10962. Rail carrier cost accounting system

"(a) Each rail carrier shall have and maintain a cost accounting system that is in compliance with the rules promulgated by the Panel under section 10961 of this title. A rail carrier may, after notifying the Panel, make modifications in such system unless, within 60 days after the date of notification, the Panel finds such modifications to be inconsistent with the rules promulgated by the Panel under section 10961 of this title.

"(b) For purposes of determining whether the cost accounting system of a rail carrier is in compliance with the rules promulgated by the Panel, the Panel shall have the right to examine and make copies of any documents, papers, or records of such rail carrier relating to compliance with such rules. Such documents, papers, and records (and any copies thereof) shall not be subject to the mandatory disclosure requirements of section 552 of title 5.

"§10963. Cost availability

"As required by the rules of the Panel governing discovery in Panel proceedings, rail carriers shall make relevant cost data available to shippers, States, ports, communities, and other interested parties that are a party to a Panel proceeding in which such data are required.

"§10964. Accounting and cost reporting

"(a) To obtain expense and revenue information for regulatory purposes, the Panel may promulgate reasonable rules for rail carriers providing transportation subject to the jurisdiction of the Panel under this part, prescribing expense and revenue accounting and reporting requirements consistent with generally accepted accounting principles uniformly applied to such carriers. Such requirements shall be cost effective and compatible with and not duplicative of the managerial and responsibility accounting requirements of those carriers. To the extent such rules are required solely to provide expense and revenue information necessary for determining railroad costs in regulatory proceedings under this part, such rules shall be promulgated in accordance with the cost accounting principles established by the Railroad Accounting Principles Board.

"(b) Any reports required by the rules established by the Panel under this section shall include only information considered necessary for disclosure under the cost accounting principles established by the Board or under generally accepted accounting principles or the requirements of the Securities and Exchange Commission.

"CHAPTER 111—FINANCE

"SUBCHAPTER I—EQUIPMENT TRUSTS AND SECURITY INTERESTS

"Sec.
"11101. Equipment trusts: recordation; evidence of indebtedness.

"SUBCHAPTER II—COMBINATIONS

"11121. Scope of authority.
"11122. Limitation on pooling and division of transportation or earnings.
"11123. Consolidation, merger, and acquisition of control.
"11124. Consolidation, merger, and acquisition of control: conditions of approval.
"11125. Consolidation, merger, and acquisition of control: procedure.
"11126. Employee protective arrangements in transactions involving rail carriers.
"11127. Supplemental orders.

"SUBCHAPTER I—EQUIPMENT TRUSTS AND SECURITY INTERESTS

"§11101. Equipment trusts: recordation; evidence of indebtedness

"(a) A mortgage, lease equipment trust agreement, conditional sales agreement, or other instrument evidencing the mortgage, lease, conditional sale, or bailment of or security interest in

railroad cars, locomotives, or other rolling stock, or accessories used on such railroad cars, locomotives, or other rolling stock (including superstructures and racks), intended for a use related to interstate commerce shall be filed with the Panel in order to perfect the security interest that is the subject of such instrument. An assignment of a right or interest under one of those instruments and an amendment to that instrument or assignment including a release, discharge, or satisfaction of any part of it shall also be filed with the Panel. The instrument, assignment, or amendment must be in writing, executed by the parties to it, and acknowledged or verified under Panel regulations. When filed under this section, that document is notice to, and enforceable against, all persons. A document filed under this section does not have to be filed, deposited, registered, or recorded under another law of the United States, a State (or its political subdivisions), or territory or possession of the United States, related to filing, deposit, registration, or recordation of those documents.

"(b) The Panel shall maintain a system for recording each document filed under subsection (a) of this section and mark each of them with a consecutive number and the date and hour of their recordation. The Panel shall maintain and keep open for public inspection an index of documents filed under that subsection. That index shall include the name and address of the principal debtors, trustees, guarantors, and other parties to those documents and may include other facts that will assist in determining the rights of the parties to those transactions.

"(c) The Panel shall to the greatest extent practicable perform its functions under this section through contracts with private sector entities.

"(d) The Panel shall assess user fees for services performed by the Panel or a contractor thereof under this section. Such fees may be used by the Panel to offset its costs, to the extent provided in advance in appropriations Acts.

"(e) A mortgage, lease, equipment trust agreement, conditional sales agreement, or other instrument evidencing the mortgage, lease, conditional sale, or bailment of or security interest in railroad cars, locomotives, or other rolling stock, or accessories used on such railroad cars, locomotives, or other rolling stock (including superstructures and racks), or any assignment thereof, which—

"(1) is duly constituted under the laws of a country other than the United States; and

"(2) relates to property that bears the reporting marks and identification numbers of any person domiciled in or corporation organized under the laws of such country,

shall be recognized with the same effect as having been filed under this section.

"(f) Interests with respect to which documents are filed or recognized under this section are deemed perfected in all jurisdictions, and shall be governed by applicable State or foreign law in all matters not specifically governed by this section.

"(g) The Panel shall collect, maintain, and keep open for public inspection a railway equipment register consistent with the manner and format maintained by the Interstate Commerce Commission as of the date of the enactment of the ICC Termination Act of 1995.

"SUBCHAPTER II—COMBINATIONS

"§11121. Scope of authority

"(a) The authority of the Panel under this subchapter is exclusive. A rail carrier or corporation participating in or resulting from a transaction approved by or exempted by the Panel under this subchapter may carry out the transaction, own and operate property, and exercise control or franchises acquired through the transaction without the approval of a State authority. A rail carrier, corporation, or person participating in that approved or exempted transaction is exempt from the antitrust laws and from all other law, including State and municipal law, as necessary to let that rail carrier, corporation, or person carry out the transaction, hold, maintain, and operate property, and exercise control or franchises acquired through the transaction.

"(b) The requirement to obtain the approval or authorization of the Panel under this subchapter (except section 11122) shall only apply to transactions involving at least one Class I rail carrier, and shall not apply to transactions described in section 10702.

"§11122. Limitation on pooling and division of transportation or earnings

"(a) A rail carrier providing transportation subject to the jurisdiction of the Panel under this part may not agree or combine with another of those rail carriers to pool or divide traffic or services or any part of their earnings without the approval of the Panel under this section or section 10923 of this title. The Panel may approve and authorize the agreement or combination if the rail carriers involved assent to the pooling or division and the Panel finds that a pooling or division of traffic, services, or earnings—

"(1) will be in the interest of better service to the public or of economy of operation; and

"(2) will not unreasonably restrain competition.

"(b) The Panel may impose conditions governing the pooling or division and may approve and authorize payment of a reasonable consideration between the rail carriers.

"(c) The Panel may begin a proceeding under this section on its own initiative or on application.

"§11123. Consolidation, merger, and acquisition of control

"(a) The following transactions involving rail carriers providing transportation subject to the jurisdiction of the Panel under this part may be carried out only with the approval and authorization of the Panel:

"(1) Consolidation or merger of the properties or franchises of at least 2 rail carriers into one corporation for the ownership, management, and operation of the previously separately owned properties.

"(2) A purchase, lease, or contract to operate property of another rail carrier by any number of rail carriers.

"(3) Acquisition of control of a rail carrier by any number of rail carriers.

"(4) Acquisition of control of at least 2 rail carriers by a person that is not a rail carrier.

"(5) Acquisition of control of a rail carrier by a person that is not a rail carrier but that controls any number of rail carriers.

"(6) Acquisition by a rail carrier of trackage rights over, or joint ownership in or joint use of, a railroad line (and terminals incidental to it) owned or operated by another rail carrier.

"(b) A person may carry out a transaction referred to in subsection (a) of this section or participate in achieving the control or management, including the power to exercise control or management, in a common interest of more than one of those rail carriers, regardless of how that result is reached, only with the approval and authorization of the Panel under this subchapter. In addition to other transactions, each of the following transactions are considered achievements of control or management:

"(1) A transaction by a rail carrier that has the effect of putting that rail carrier and person affiliated with it, taken together, in control of another rail carrier.

"(2) A transaction by a person affiliated with a rail carrier that has the effect of putting that rail carrier and persons affiliated with it, taken together, in control of another rail carrier.

"(3) A transaction by at least 2 persons acting together (one of whom is a rail carrier or is affiliated with a rail carrier) that has the effect of putting those persons and rail carriers and persons affiliated with any of them, or with any of those affiliated rail carriers, taken together, in control of another rail carrier.

"(c) A person is affiliated with a rail carrier under this subchapter if, because of the relationship between that person and a rail carrier, it is reasonable to believe that the affairs of another rail carrier, control of which may be acquired by that person, will be managed in the interest of the other rail carrier.

"§11124. Consolidation, merger, and acquisition of control: conditions of approval

"(a) The Panel may begin a proceeding to approve and authorize a transaction referred to in section 11123 of this title on application of the person seeking that authority. When an application is filed with the Panel, the Panel shall notify the chief executive officer of each State in which property of the rail carriers involved in the proposed transaction is located and shall notify those rail carriers. The Panel shall hold a public hearing unless the Panel determines that a public hearing is not necessary in the public interest.

"(b) In a proceeding under this section which involves the merger or control of at least two Class I railroads, as defined by the Panel, the Panel shall consider at least—

"(1) the effect of the proposed transaction on the adequacy of transportation to the public;

"(2) the effect on the public interest of including, or failing to include, other rail carriers in the area involved in the proposed transaction;

"(3) the total fixed charges that result from the proposed transaction;

"(4) the interest of rail carrier employees affected by the proposed transaction; and

"(5) whether the proposed transaction would have an adverse effect on competition among rail carriers in the affected region or in the national rail system.

"(c) The Panel shall approve and authorize a transaction under this section when it finds the transaction is consistent with the public interest. The Panel may impose conditions governing the transaction, including the divestiture of parallel tracks or requiring the granting of trackage rights and access to other facilities. Any trackage rights and related conditions imposed to alleviate anticompetitive effects of the transaction shall provide for operating terms and compensation levels to ensure that such effects are alleviated. When the transaction contemplates a guaranty or assumption of payment of dividends or of fixed charges or will result in an increase of total fixed charges, the Panel may approve and authorize the transaction only if it finds that the guaranty, assumption, or increase is consistent with the public interest. The Panel may require inclusion of other rail carriers located in the area involved in the transaction if they apply for inclusion and the Panel finds their inclusion to be consistent with the public interest.

"(d) In a proceeding under this section which does not involve the merger or control of at least two Class I railroads, as defined by the Panel, the Panel shall approve such an application unless it finds that—

"(1) as a result of the transaction, there is likely to be substantial lessening of competition, creation of a monopoly, or restraint of trade in freight surface transportation in any region of the United States; and

"(2) the anticompetitive effects of the transaction outweigh the public interest in meeting significant transportation needs.

In making such findings, the Panel shall, with respect to any application that is part of a plan

or proposal developed under section 333(a)–(d) of this title, accord substantial weight to any recommendations of the Attorney General.

"(e)(1) To the extent provided in this subsection, a proceeding under this subchapter relating to a transaction involving at least one Class I rail carrier shall not be considered an adjudication required by statute to be determined on the record after opportunity for an agency hearing, for the purposes of subchapter II of chapter 5 of title 5, United States Code.

"(2) Ex parte communications, as defined in section 551(14) of title 5, United States Code, shall be permitted in proceedings described in paragraph (1) of this subsection, subject to the requirements of paragraph (3) of this subsection.

"(3)(A) Any member or employee of the Panel who makes or receives a written ex parte communication concerning the merits of a proceeding described in paragraph (1) shall promptly place the communication in the public docket of the proceeding.

"(B) Any member or employee of the Panel who makes or receives an oral ex parte communication concerning the merits of a proceeding described in paragraph (1) shall promptly place a written summary of the oral communication in the public docket of the proceeding.

"(4) Nothing in this subsection shall be construed to require the Panel or any of its members or employees to engage in any ex parte communication with any person. Nothing in this subsection or any other law shall be construed to limit the authority of the members or employees of the Panel, in their discretion, to note in the docket or otherwise publicly the occurrence and substance of an ex parte communication.

"§11125. Consolidation, merger, and acquisition of control: procedure

"(a) The Panel shall publish notice of the application under section 11124 in the Federal Register by the end of the 30th day after the application is filed with the Panel. However, if the application is incomplete, the Panel shall reject it by the end of that period. The order of rejection is a final action of the Panel. The published notice shall indicate whether the application involves—

"(1) the merger or control of at least two Class I railroads, as defined by the Panel, to be decided within the time limits specified in subsection (b) of this section;

"(2) transactions of regional or national transportation significance, to be decided within the time limits specified in subsection (c) of this section; or

"(3) any other transaction covered by this section, to be decided within the time limits specified in subsection (d) of this section.

"(b) If the application involves the merger or control of two or more Class I railroads, as defined by the Panel, the following conditions apply:

"(1) Written comments about an application may be filed with the Panel within 45 days after notice of the application is published under subsection (a) of this section. Copies of such comments shall be served on the Attorney General, who may decide to intervene as a party to the proceeding. That decision must be made by the 15th day after the date of receipt of the written comments, and if the decision is to intervene, preliminary comments about the application must be sent to the Panel by the end of the 15th day after the date of receipt of the written comments.

"(2) The Panel shall require that applications inconsistent with an application, notice of which was published under subsection (a) of this section, and applications for inclusion in the transaction, be filed with it by the 90th day after publication of notice under that subsection.

"(3) The Panel must conclude evidentiary proceedings by the end of the 6th month after the date of publication of notice under subsection (a) of this section. The Panel must issue a final decision by the 90th day after the date on which it concludes the evidentiary proceedings.

"(c) If the application involves a transaction other than the merger or control of at least two Class I railroads, as defined by the Panel, which the Panel has determined to be of regional or national transportation significance, the following conditions apply:

"(1) Written comments about an application, including comments of the Attorney General, may be filed with the Panel within 30 days after notice of the application is published under subsection (a) of this section.

"(2) The Panel shall require that applications inconsistent with an application, notice of which was published under subsection (a) of this section, and applications for inclusion in the transaction, be filed with it by the 60th day after publication of notice under that subsection.

"(3) The Panel must conclude any evidentiary proceedings by the 125th day after the date of publication of notice under subsection (a) of this section. The Panel must issue a final decision by the 40th day after the date on which it concludes the evidentiary proceedings.

"(d) For all applications under this section other than those specified in subsections (b) and (c) of this section, the following conditions apply:

"(1) Written comments about an application, including comments of the Attorney General, may be filed with the Panel within 30 days after notice of the application is published under subsection (a) of this section.

"(2) The Panel must conclude any evidentiary proceedings by the 105th day after the date of publication of notice under subsection (a) of this section. The Panel must issue a final decision by the 40th day after the date on which it concludes the evidentiary proceedings.

"§11126. Employee protective arrangements in transactions involving rail carriers

"When approval is sought for a transaction under sections 11124 and 11125 of this title, the Panel shall require the rail carrier to provide a fair arrangement at least as protective of the interests of employees who are affected by the transaction as the terms imposed under section 5(2)(f) of the Interstate Commerce Act before February 5, 1976, and the terms established under section 24706(c) of this title. Notwithstanding this part, the arrangement may be made by the rail carrier and the authorized representative of its employees. The arrangement and the order approving the transaction must require that the employees of the affected rail carrier will not be in a worse position related to their employment as a result of the transaction during the 4 years following the effective date of the final action of the Panel (or if an employee was employed for a lesser period of time by the rail carrier before the action became effective, for that lesser period).

"§11127. Supplemental orders

"When cause exists, the Panel may make appropriate orders supplemental to an order made in a proceeding under sections 11122 through 11126 of this title.

"CHAPTER 113—FEDERAL-STATE RELATIONS

"Sec.

"11301. Tax discrimination against rail transportation property.

"11302. Withholding State and local income tax by rail carriers.

"§11301. Tax discrimination against rail transportation property

"(a) In this section—

"(1) the term 'assessment' means valuation for a property tax levied by a taxing district;

"(2) the term 'assessment jurisdiction' means a geographical area in a State used in determining the assessed value of property for ad valorem taxation;

"(3) the term 'rail transportation property' means property, as defined by the Panel, owned or used by a rail carrier providing transportation subject to the jurisdiction of the Panel under this part; and

"(4) the term 'commercial and industrial property' means property, other than transportation property and land used primarily for agricultural purposes or timber growing, devoted to a commercial or industrial use and subject to a property tax levy.

"(b) The following acts unreasonably burden and discriminate against interstate commerce, and a State, subdivision of a State, or authority acting for a State or subdivision of a State may not do any of them:

"(1) Assess rail transportation property at a value that has a higher ratio to the true market value of the rail transportation property than the ratio that the assessed value of other commercial and industrial property in the same assessment jurisdiction has to the true market value of the other commercial and industrial property.

"(2) Levy or collect a tax on an assessment that may not be made under paragraph (1) of this subsection.

"(3) Levy or collect an ad valorem property tax on rail transportation property at a tax rate that exceeds the tax rate applicable to commercial and industrial property in the same assessment jurisdiction.

"(4) Impose another tax that discriminates against a rail carrier providing transportation subject to the jurisdiction of the Panel under this part.

"(c) Notwithstanding section 1341 of title 28 and without regard to the amount in controversy or citizenship of the parties, a district court of the United States has jurisdiction, concurrent with other jurisdiction of courts of the United States and the States, to prevent a violation of subsection (b) of this section. Relief may be granted under this subsection only if the ratio of assessed value to true market value of rail transportation property exceeds by at least 5 percent the ratio of assessed value to true market value of other commercial and industrial property in the same assessment jurisdiction. The burden of proof in determining assessed value and true market value is governed by State law. If the ratio of the assessed value of other commercial and industrial property in the assessment jurisdiction to the true market value of all other commercial and industrial property cannot be determined to the satisfaction of the district court through the random-sampling method known as a sales assessment ratio study (to be carried out under statistical principles applicable to such a study), the court shall find, as a violation of this section—

"(1) an assessment of the rail transportation property at a value that has a higher ratio to the true market value of the rail transportation property than the assessed value of all other property subject to a property tax levy in the assessment jurisdiction has to the true market value of all other commercial and industrial property; and

"(2) the collection of an ad valorem property tax on the rail transportation property at a tax rate that exceeds the tax ratio rate applicable to taxable property in the taxing district.

"§11302. Withholding State and local income tax by rail carriers

"(a) No part of the compensation paid by a rail carrier providing transportation subject to the jurisdiction of the Panel under this part to an employee who performs regularly assigned duties as such an employee on a railroad in

more than one State shall be subject to the income tax laws of any State or subdivision of that State, other than the State or subdivision thereof of the employee's residence.

"(b) A rail carrier withholding pay from an employee under subsection (a) of this section shall file income tax information returns and other reports only with the State and subdivision of residence of the employee.

"CHAPTER 115—ENFORCEMENT: INVESTIGATIONS, RIGHTS, AND REMEDIES

"Sec.
"11501. General authority.
"11502. Enforcement by the Panel.
"11503. Enforcement by the Attorney General.
"11504. Rights and remedies of persons injured by rail carriers.
"11505. Limitation on actions by and against rail carriers.
"11506. Liability of rail carriers under receipts and bills of lading.

"§11501. General authority

"(a) Except as otherwise provided in this part, the Panel may begin an investigation under this part only on complaint. If the Panel finds that a rail carrier is violating this part, the Panel shall take appropriate action to compel compliance with this part.

"(b) A person, including a governmental authority, may file with the Panel a complaint about a violation of this part by a rail carrier providing transportation or service subject to the jurisdiction of the Panel under this part. The complaint must state the facts that are the subject of the violation. The Panel may dismiss a complaint it determines does not state reasonable grounds for investigation and action. However, the Panel may not dismiss a complaint made against a rail carrier providing transportation subject to the jurisdiction of the Panel under this part because of the absence of direct damage to the complainant.

"(c) A formal investigative proceeding begun by the Panel under subsection (a) of this section is dismissed automatically unless it is concluded by the Panel with administrative finality by the end of the third year after the date on which it was begun.

"§11502. Enforcement by the Panel

"The Panel may bring a civil action—

"(1) to enjoin a rail carrier from violating sections 10701 through 10706 of this title, or a regulation prescribed or order or certificate issued under any of those sections;

"(2) to enforce subchapter II of chapter 111 of this title and to compel compliance with the order of the Panel under that subchapter; and

"(3) to enforce an order of the Panel, except a civil action to enforce an order for the payment of money, when it is violated by a rail carrier providing transportation subject to the jurisdiction of the Panel under this part.

"§11503. Enforcement by the Attorney General

"The Attorney General may, and on request of the Panel shall, bring court proceedings to enforce this part, or a regulation or order of the Panel or certificate or permit issued under this part, and to prosecute a person violating this part or a regulation or order of the Panel or certificate or permit issued under this part.

"§11504. Rights and remedies of persons injured by rail carriers

"(a) A person injured because a rail carrier providing transportation or service subject to the jurisdiction of the Panel under this part does not obey an order of the Panel, except an order for the payment of money, may bring a civil action in a United States District Court to enforce that order under this subsection.

"(b) A rail carrier providing transportation subject to the jurisdiction of the Panel under this part is liable for damages sustained by a person as a result of an act or omission of that carrier in violation of this part.

"(c)(1) A person may file a complaint with the Panel under section 11501(b) of this title or bring a civil action under subsection (b) of this section to enforce liability against a rail carrier providing transportation subject to the jurisdiction of the Panel under this part.

"(2) When the Panel makes an award under subsection (b) of this section, the Panel shall order the rail carrier to pay the amount awarded by a specific date. The Panel may order a rail carrier providing transportation subject to the jurisdiction of the Panel under this part to pay damages only when the proceeding is on complaint. The person for whose benefit an order of the Panel requiring the payment of money is made may bring a civil action to enforce that order under this paragraph if the rail carrier does not pay the amount awarded by the date payment was ordered to be made.

"(d)(1) When a person begins a civil action under subsection (b) of this section to enforce an order of the Panel requiring the payment of damages by a rail carrier providing transportation subject to the jurisdiction of the Panel under this part, the text of the order of the Panel must be included in the complaint. In addition to the district courts of the United States, a State court of general jurisdiction having jurisdiction of the parties has jurisdiction to enforce an order under this paragraph. The findings and order of the Panel are competent evidence of the facts stated in them. Trial in a civil action brought in a district court of the United States under this paragraph is in the judicial district—

"(A) in which the plaintiff resides;

"(B) in which the principal operating office of the rail carrier is located; or

"(C) through which the railroad line of that carrier runs.

In a civil action under this paragraph, the plaintiff is liable for only those costs that accrue on an appeal taken by the plaintiff.

"(2) All parties in whose favor the award was made may be joined as plaintiffs in a civil action brought in a district court of the United States under this subsection and all the rail carriers that are parties to the order awarding damages may be joined as defendants. Trial in the action is in the judicial district in which any one of the plaintiffs could bring the action against any one of the defendants. Process may be served on a defendant at its principal operating office when that defendant is not in the district in which the action is brought. A judgment ordering recovery may be made in favor of any of those plaintiffs against the defendant found to be liable to that plaintiff.

"(3) The district court shall award a reasonable attorney's fee as a part of the damages for which a rail carrier is found liable under this subsection. The district court shall tax and collect that fee as a part of the costs of the action.

"§11505. Limitation on actions by and against rail carriers

"(a) A rail carrier providing transportation or service subject to the jurisdiction of the Panel under this part must begin a civil action to recover charges for transportation or service provided by the carrier within 3 years after the claim accrues.

"(b) A person must file a complaint with the Panel to recover damages under section 11504(b) of this title within 2 years after the claim accrues.

"(c) The limitation period under subsection (b) of this section is extended for 6 months from the time written notice is given to the claimant by the rail carrier of disallowance of any part of the claim specified in the notice if a written claim is given to the rail carrier within that limitation period. The limitation period under subsection (b) of this section is extended for 90 days from the time the rail carrier begins a civil action under subsection (a) of this section to recover charges related to the same transportation or service, or collects (without beginning a civil action under that subsection) the charge for that transportation or service if that action is begun or collection is made within the appropriate period.

"(d) A person must begin a civil action to enforce an order of the Panel against a rail carrier for the payment of money within one year after the date the order required the money to be paid.

"(e) This section applies to transportation for the United States Government. The time limitations under this section are extended, as related to transportation for or on behalf of the United States Government, for 3 years from the date of—

"(1) payment of the rate for the transportation or service involved;

"(2) subsequent refund for overpayment of that rate; or

"(3) deduction made under section 3726 of title 31, whichever is later.

"(f) A claim related to a shipment of property accrues under this section on delivery or tender of delivery by the rail carrier.

"§11506. Liability of rail carriers under receipts and bills of lading

"(a) A rail carrier providing transportation or service subject to the jurisdiction of the Panel under this part shall issue a receipt or bill of lading for property it receives for transportation under this part. That rail carrier and any other rail carrier that delivers the property and is providing transportation or service subject to the jurisdiction of the Panel under this part are liable to the person entitled to recover under the receipt or bill of lading. The liability imposed under this subsection is for the actual loss or injury to the property caused by—

"(1) the receiving rail carrier;

"(2) the delivering rail carrier; or

"(3) another rail carrier over whose line or route the property is transported in the United States or from a place in the United States to a place in an adjacent foreign country when transported under a through bill of lading.

Failure to issue a receipt or bill of lading does not affect the liability of a rail carrier. A delivering rail carrier is deemed to be the rail carrier performing the line-haul transportation nearest the destination but does not include a rail carrier providing only a switching service at the destination.

"(b) The rail carrier issuing the receipt or bill of lading under subsection (a) of this section or delivering the property for which the receipt or bill of lading was issued is entitled to recover from the rail carrier over whose line or route the loss or injury occurred the amount required to be paid to the owners of the property, as evidenced by a receipt, judgment, or transcript, and the amount of its expenses reasonably incurred in defending a civil action brought by that person.

"(c)(1) A rail carrier may not limit or be exempt from liability imposed under subsection (a) of this section except as provided in this subsection. A limitation of liability or of the amount of recovery or representation or agreement in a receipt, bill of lading, contract, or rule in violation of this section is void.

"(2) A rail carrier of passengers may limit its liability under its passenger rate for loss or injury of baggage carried on trains carrying passengers.

"(3) A rail carrier providing transportation or service subject to the jurisdiction of the Panel under this part may establish rates for transportation of property under which—

"(A) the liability of the rail carrier for such property is limited to a value established by

written declaration of the shipper or by a written agreement between the shipper and the carrier; or

"(B) specified amounts are deducted, pursuant to a written agreement between the shipper and the carrier, from any claim against the carrier with respect to the transportation of such property.

"(d)(1) A civil action under this section may be brought in a district court of the United States or in a State court.

"(2)(A) A civil action under this section may only be brought—

"(i) against the originating rail carrier, in the judicial district in which the point of origin is located;

"(ii) against the delivering rail carrier, in the judicial district in which the principal place of business of the person bringing the action is located if the delivering carrier operates a railroad or a route through such judicial district, or in the judicial district in which the point of destination is located; and

"(iii) against the carrier alleged to have caused the loss or damage, in the judicial district in which such loss or damage is alleged to have occurred.

"(B) In this section, 'judicial district' means (i) in the case of a United States district court, a judicial district of the United States, and (ii) in the case of a State court, the applicable geographic area over which such court exercises jurisdiction.

"(e) A rail carrier may not provide by rule, contract, or otherwise, a period of less than 9 months for filing a claim against it under this section and a period of less than 2 years for bringing a civil action against it under this section. The period for bringing a civil action is computed from the date the carrier gives a person written notice that the carrier has disallowed any part of the claim specified in the notice. For the purposes of this subsection—

"(1) an offer of compromise shall not constitute a disallowance of any part of the claim unless the carrier, in writing, informs the claimant that such part of the claim is disallowed and provides reasons for such disallowance; and

"(2) communications received from a carrier's insurer shall not constitute a disallowance of any part of the claim unless the insurer, in writing, informs the claimant that such part of the claim is disallowed, provides reasons for such disallowance, and informs the claimant that the insurer is acting on behalf of the carrier.

"CHAPTER 117—CIVIL AND CRIMINAL PENALTIES

"Sec.
"11701. General civil penalties.
"11702. Interference with railroad car supply.
"11703. Record keeping and reporting violations.
"11704. Unlawful disclosure of information.
"11705. Disobedience to subpoenas.
"11706. General criminal penalty when specific penalty not provided.
"11707. Punishment of corporation for violations committed by certain individuals.

"§11701. General civil penalties

"(a) Except as otherwise provided in this section, a rail carrier providing transportation subject to the jurisdiction of the Panel under this part, an officer or agent of that rail carrier, or a receiver, trustee, lessee, or agent of one of them, knowingly violating an order of the Panel under this part is liable to the United States Government for a civil penalty of $5,000 for each violation. Liability under this subsection is incurred for each distinct violation. A separate violation occurs for each day the violation continues.

"(b) A rail carrier providing transportation subject to the jurisdiction of the Panel under this part, or a receiver or trustee of that rail carrier, violating a regulation or order of the Panel under section 10924 (a)(2) or (b) of this title is liable to the United States Government for a civil penalty of $500 for each violation and for $25 for each day the violation continues.

"(c) A person knowingly authorizing, consenting to, or permitting a violation of sections 10701 through 10706 of this title or of a requirement or a regulation under any of those sections, is liable to the United States Government for a civil penalty of not more than $5,000.

"(d) A rail carrier, receiver, or operating trustee violating an order or direction of the Panel under section 10923 or 10924(a)(1) of this title is liable to the United States Government for a civil penalty of at least $100 but not more than $500 for each violation and for $50 for each day the violation continues.

"(e)(1) A person required under subchapter III of chapter 109 of this title to make, prepare, preserve, or submit to the Panel a record concerning transportation subject to the jurisdiction of the Panel under this part that does not make, prepare, preserve, or submit that record as required under that subchapter, is liable to the United States Government for a civil penalty of $500 for each violation.

"(2) A rail carrier providing transportation subject to the jurisdiction of the Panel under this part, and a lessor, receiver, or trustee of that rail carrier, violating section 10944(b)(1) of this title, is liable to the United States Government for a civil penalty of $100 for each violation.

"(3) A rail carrier providing transportation subject to the jurisdiction of the Panel under this part, a lessor, receiver, or trustee of that rail carrier, a person furnishing cars, and an officer, agent, or employee of one of them, required to make a report to the Panel or answer a question that does not make the report or does not specifically, completely, and truthfully answer the question, is liable to the United States Government for a civil penalty of $100 for each violation.

"(4) A separate violation occurs for each day a violation under this subsection continues.

"(f) Trial in a civil action under subsections (a) through (e) of this section is in the judicial district in which the rail carrier has its principal operating office or in a district through which the railroad of the rail carrier runs.

"§11702. Interference with railroad car supply

"(a) A person that offers or gives anything of value to another person acting for or employed by a rail carrier providing transportation subject to the jurisdiction of the Panel under this part intending to influence an action of that other person related to supply, distribution, or movement of cars or vehicles used in the transportation of property, or because of the action of that other person shall be fined not more than $1,000, imprisoned for not more than 2 years, or both.

"(b) A person acting for or employed by a rail carrier providing transportation subject to the jurisdiction of the Panel under this part that solicits, accepts, or receives anything of value—

"(1) intending to be influenced by it in an action of that person related to supply, distribution, or movement of cars, vehicles, or vessels used in the transportation of property; or

"(2) because of the action of that person,

shall be fined not more than $1,000, imprisoned for not more than 2 years, or both.

"§11703. Record keeping and reporting violations

"A person required to make a report to the Panel, or make, prepare, or preserve a record, under subchapter III of chapter 109 of this title about transportation subject to the jurisdiction of the Panel under this part that knowingly and willfully—

"(1) makes a false entry in the report or record;

"(2) destroys, mutilates, changes, or by another means falsifies the record;

"(3) does not enter business related facts and transactions in the record;

"(4) makes, prepares, or preserves the record in violation of a regulation or order of the Panel; or

"(5) files a false report or record with the Panel,

shall be fined not more than $5,000, imprisoned for not more than 2 years, or both.

"§11704. Unlawful disclosure of information

"(a) A—

"(1) rail carrier providing transportation subject to the jurisdiction of the Panel under this part, or an officer, agent, or employee of that rail carrier, or another person authorized to receive information from that rail carrier, that knowingly discloses to another person, except the shipper or consignee; or

"(2) a person who solicits or knowingly receives,

information described in subsection (b) without the consent of the shipper or consignee shall be fined not more than $1,000.

"(b) The information referred to in subsection (a) is information about the nature, kind, quantity, destination, consignee, or routing of property tendered or delivered to that rail carrier for transportation provided under this part, or information about the contents of a contract authorized under section 10509 of this title, that may be used to the detriment of the shipper or consignee or may disclose improperly, to a competitor, the business transactions of the shipper or consignee.

"(c) This part does not prevent a rail carrier or broker providing transportation subject to the jurisdiction of the Panel under this part from giving information—

"(1) in response to legal process issued under authority of a court of the United States or a State;

"(2) to an officer, employee, or agent of the United States Government, a State, or a territory or possession of the United States; or

"(3) to another rail carrier or its agent to adjust mutual traffic accounts in the ordinary course of business.

"(d) An employee of the Panel delegated to make an inspection or examination under section 10944 of this title who knowingly discloses information acquired during that inspection or examination, except as directed by the Panel, a court, or a judge of that court, shall be fined not more than $500, imprisoned for not more than 6 months, or both.

"(e) A person that knowingly discloses confidential data made available to such person under section 10963 of this title by a rail carrier providing transportation subject to the jurisdiction of the Panel under this part shall be fined not more than $50,000.

"§11705. Disobedience to subpoenas

"A person not obeying a subpoena or requirement of the Panel to appear and testify or produce records shall be fined at least $100 but not more than $5,000, imprisoned for not more than one year, or both.

"§11706. General criminal penalty when specific penalty not provided

"When another criminal penalty is not provided under this chapter, a rail carrier providing transportation subject to the jurisdiction of the Panel under this part, and when that rail carrier is a corporation, a director or officer of the corporation, or a receiver, trustee, lessee, or person acting for or employed by the corporation that, alone or with another person, willfully violates this part or an order prescribed

under this part, shall be fined not more than $5,000. However, if the violation is for discrimination in rates charged for transportation, the person may be imprisoned for not more than 2 years in addition to being fined under this section. A separate violation occurs each day a violation of section 11122 of this title continues.

"§11707. Punishment of corporation for violations committed by certain individuals

"An act or omission that would be a violation of this part if committed by a director, officer, receiver, trustee, lessee, agent, or employee of a rail carrier providing transportation or service subject to the jurisdiction of the Panel under this part that is a corporation is also a violation of this part by that corporation. The penalties of this chapter apply to that violation. When acting in the scope of their employment, the actions and omissions of individuals acting for or employed by that rail carrier are considered to be the actions and omissions of that rail carrier as well as that individual.".

*(b) CONFORMING AMENDMENT.—The item relating to subtitle IV in the table of subtitles of title 49, United States Code, is amended by striking "**Commerce**" and inserting in lieu thereof "**Transportation**".*

SEC. 103. MOTOR CARRIER, WATER CARRIER, AND FREIGHT FORWARDER PROVISIONS.

Subtitle IV of title 49, United States Code, is further amended by adding at the end the following:

"PART B—MOTOR CARRIERS, WATER CARRIERS, BROKERS, AND FREIGHT FORWARDERS

"CHAPTER 131—GENERAL PROVISIONS

"Sec.
"13101. Transportation policy.
"13102. Definitions.
"13103. Remedies as cumulative.

"§13101. Transportation policy

"(a) IN GENERAL.—To ensure the development, coordination, and preservation of a transportation system that meets the transportation needs of the United States, including the United States Postal Service and national defense, it is the policy of the United States Government to oversee the modes of transportation and—

"(1) in overseeing those modes—

"(A) to recognize and preserve the inherent advantage of each mode of transportation;

"(B) to promote safe, adequate, economical, and efficient transportation;

"(C) to encourage sound economic conditions in transportation, including sound economic conditions among carriers;

"(D) to encourage the establishment and maintenance of reasonable rates for transportation, without unreasonable discrimination or unfair or destructive competitive practices;

"(E) to cooperate with each State and the officials of each State on transportation matters; and

"(F) to encourage fair wages and working conditions in the transportation industry;

"(2) in overseeing transportation by motor carrier, to promote competitive and efficient transportation services in order to—

"(A) encourage fair competition, and reasonable rates for transportation by motor carriers of property;

"(B) promote efficiency in the motor carrier transportation system and to require fair and expeditious decisions when required;

"(C) meet the needs of shippers, receivers, passengers, and consumers;

"(D) allow a variety of quality and price options to meet changing market demands and the diverse requirements of the shipping and traveling public;

"(E) allow the most productive use of equipment and energy resources;

"(F) enable efficient and well-managed carriers to earn adequate profits, attract capital, and maintain fair wages and working conditions;

"(G) provide and maintain service to small communities and small shippers and intrastate bus services;

"(H) provide and maintain commuter bus operations;

"(I) improve and maintain a sound, safe, and competitive privately owned motor carrier system;

"(J) promote greater participation by minorities in the motor carrier system; and

"(K) promote intermodal transportation; and

"(3) in overseeing transportation by motor carrier of passengers—

"(A) to cooperate with the States on transportation matters for the purpose of encouraging the States to exercise intrastate regulatory jurisdiction in accordance with the objectives of this part;

"(B) to provide Federal procedures which ensure that intrastate regulation is exercised in accordance with this part; and

"(C) to ensure that Federal reform initiatives enacted by section 31138 and the Bus Regulatory Reform Act of 1982 are not nullified by State regulatory actions.

"(b) ADMINISTRATION TO CARRY OUT POLICY.—This part shall be administered and enforced to carry out the policy of this section.

"§13102. Definitions

"In this part, the following definitions shall apply:

"(1) BROKER.—The term 'broker' means a person, other than a motor carrier or an employee or agent of a motor carrier, that as a principal or agent sells, offers for sale, negotiates for, or holds itself out by solicitation, advertisement, or otherwise as selling, providing, or arranging for, transportation by motor carrier for compensation.

"(2) CARRIER.—The term 'carrier' means a motor carrier, a water carrier, and a freight forwarder.

"(3) CONTRACT CARRIAGE.—The term 'contract carriage' means—

"(A) for transportation provided before the effective date of this section, service provided pursuant to a permit issued under section 10923, as in effect on the day before the effective date of this section; and

"(B) for transportation provided on or after such date, service provided under an agreement entered into under section 14101(b).

"(4) CONTROL.—The term 'control', when referring to a relationship between persons, includes actual control, legal control, and the power to exercise control, through or by—

"(A) common directors, officers, stockholders, a voting trust, or a holding or investment company, or

"(B) any other means.

"(5) FOREIGN MOTOR CARRIER.—The term 'foreign motor carrier' means a person (including a motor carrier of property but excluding a motor private carrier)—

"(A)(i) that is domiciled in a contiguous foreign country; or

"(ii) that is owned or controlled by persons of a contiguous foreign country; and

"(B) in the case of a person that is not a motor carrier of property, that provides interstate transportation of property by motor vehicle under an agreement or contract entered into with a motor carrier of property (other than a motor private carrier or a motor carrier of property described in subparagraph (A)).

"(6) FOREIGN MOTOR PRIVATE CARRIER.—The term 'foreign motor private carrier' means a person (including a motor private carrier but excluding a motor carrier of property)—

"(A)(i) that is domiciled in a contiguous foreign country; or

"(ii) that is owned or controlled by persons of a contiguous foreign country; and

"(B) in the case of a person that is not a motor private carrier, that provides interstate transportation of property by motor vehicle under an agreement or contract entered into with a person (other than a motor carrier of property or a motor private carrier described in subparagraph (A)).

"(7) FREIGHT FORWARDER.—The term 'freight forwarder' means a person holding itself out to the general public (other than as a pipeline, rail, motor, or water carrier) to provide transportation of property for compensation and in the ordinary course of its business—

"(A) assembles and consolidates, or provides for assembling and consolidating, shipments and performs or provides for break-bulk and distribution operations of the shipments;

"(B) assumes responsibility for the transportation from the place of receipt to the place of destination; and

"(C) uses for any part of the transportation a carrier subject to jurisdiction under this part.

The term does not include a person using transportation of an air carrier subject to part A of subtitle VII.

"(8) HIGHWAY.—The term 'highway' means a road, highway, street, and way in a State.

"(9) HOUSEHOLD GOODS.—The term 'household goods', as used in connection with transportation, means personal effects and property used or to be used in a dwelling, when a part of the equipment or supply of such dwelling, and similar property if the transportation of such effects or property is—

"(A) arranged and paid for by the householder, including transportation of property from a factory or store when the property is purchased by the householder with intent to use in his or her dwelling, or

"(B) arranged and paid for by another party.

"(10) HOUSEHOLD GOODS FREIGHT FORWARDER.—The term 'household goods freight forwarder' means a freight forwarder of one or more of the following items: household goods, unaccompanied baggage, or used automobiles.

"(11) MOTOR CARRIER.—The term 'motor carrier' means a person providing motor vehicle transportation for compensation.

"(12) MOTOR PRIVATE CARRIER.—The term 'motor private carrier' means a person, other than a motor carrier, transporting property by motor vehicle when—

"(A) the transportation is as provided in section 13501 of this title;

"(B) the person is the owner, lessee, or bailee of the property being transported; and

"(C) the property is being transported for sale, lease, rent, or bailment or to further a commercial enterprise.

"(13) MOTOR VEHICLE.—The term 'motor vehicle' means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used on a highway in transportation, or a combination determined by the Secretary, but does not include a vehicle, locomotive, or car operated only on a rail, or a trolley bus operated by electric power from a fixed overhead wire, and providing local passenger transportation similar to street-railway service.

"(14) NONCONTIGUOUS DOMESTIC TRADE.—The term 'noncontiguous domestic trade' means transportation subject to jurisdiction under chapter 135 involving traffic originating in or destined to Alaska, Hawaii, or a territory or possession of the United States.

"(15) PANEL.—The term 'Panel' means the Transportation Adjudication Panel.

"(16) PERSON.—The term 'person', in addition to its meaning under section 1 of title 1, includes a trustee, receiver, assignee, or personal representative of a person.

"(17) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

"(18) STATE.—The term 'State' means the 50 States of the United States and the District of Columbia.

"(19) TRANSPORTATION.—The term 'transportation' includes—

"(A) a motor vehicle, vessel, warehouse, wharf, pier, dock, yard, property, facility, instrumentality, or equipment of any kind related to the movement of passengers or property, or both, regardless of ownership or an agreement concerning use; and

"(B) services related to that movement, including receipt, delivery, elevation, transfer in transit, refrigeration, icing, ventilation, storage, handling, and interchange of passengers and property.

"(20) UNITED STATES.—The term 'United States' means the States of the United States and the District of Columbia.

"(21) VESSEL.—The term 'vessel' means a watercraft or other artificial contrivance that is used, is capable of being used, or is intended to be used, as a means of transportation by water.

"(22) WATER CARRIER.—The term 'water carrier' means a person providing water transportation for compensation.

"§13103. Remedies as cumulative

"Except as otherwise provided in this part, the remedies provided under this part are in addition to remedies existing under another law or common law.

"CHAPTER 133—ADMINISTRATIVE PROVISIONS

"Sec.
"13301. Powers.
"13302. Intervention.
"13303. Service of notice in proceedings.
"13304. Service of process in court proceedings.

"§13301. Powers

"(a) GENERAL POWERS OF SECRETARY.—Except as otherwise specified, the Secretary shall carry out this part. Enumeration of a power of the Secretary in this part does not exclude another power the Secretary may have in carrying out this part. The Secretary may prescribe regulations in carrying out this part.

"(b) OBTAINING INFORMATION.—The Secretary may obtain from carriers providing, and brokers for, transportation and service subject to this part, and from persons controlling, controlled by, or under common control with those carriers or brokers to the extent that the business of that person is related to the management of the business of that carrier or broker, information the Secretary decides is necessary to carry out this part.

"(c) SUBPOENA POWER.—

"(1) BY SECRETARY.—The Secretary may subpoena witnesses and records related to a proceeding under this part from any place in the United States, to the designated place of the proceeding. If a witness disobeys a subpoena, the Secretary, or a party to a proceeding under this part, may petition a court of the United States to enforce that subpoena.

"(2) ENFORCEMENT.—The district courts of the United States have jurisdiction to enforce a subpoena issued under this section. Trial is in the district in which the proceeding is conducted. The court may punish a refusal to obey a subpoena as a contempt of court.

"(d) TESTIMONY OF WITNESSES.—

"(1) PROCEDURE FOR TAKING TESTIMONY.—In a proceeding under this part, the Secretary may take the testimony of a witness by deposition and may order the witness to produce records. A party to a proceeding pending under this part may take the testimony of a witness by deposition and may require the witness to produce records at any time after a proceeding is at issue on petition and answer.

"(2) SUBPOENA.—If a witness fails to be deposed or to produce records under paragraph (1) of this subsection, the Secretary may subpoena the witness to take a deposition, produce the records, or both.

"(3) DEPOSITIONS.—A deposition may be taken before a judge of a court of the United States, a United States magistrate judge, a clerk of a district court, or a chancellor, justice, or judge of a supreme or superior court, mayor or chief magistrate of a city, judge of a county court, or court of common pleas of any State, or a notary public who is not counsel or attorney of a party or interested in the proceeding.

"(4) NOTICE OF DEPOSITION.—Before taking a deposition, reasonable notice must be given in writing by the party or the attorney of that party proposing to take a deposition to the opposing party or the attorney of record of that party, whoever is nearest. The notice shall state the name of the witness and the time and place of taking the deposition.

"(5) TRANSCRIPT.—The testimony of a person deposed under this subsection shall be taken under oath. The person taking the deposition shall prepare, or cause to be prepared, a transcript of the testimony taken. The transcript shall be subscribed by the deponent.

"(6) FOREIGN COUNTRY.—The testimony of a witness who is in a foreign country may be taken by deposition before an officer or person designated by the Secretary or agreed on by the parties by written stipulation filed with the Secretary. A deposition shall be filed with the Secretary promptly.

"(e) WITNESS FEES.—Each witness summoned before the Secretary or whose deposition is taken under this section and the individual taking the deposition are entitled to the same fees and mileage paid for those services in the courts of the United States.

"(f) POWERS OF PANEL.—For those provisions of this part that are specified to be carried out by the Panel, the Panel shall have the same powers as the Secretary has under this section.

"§13302. Intervention

"Under regulations of the Secretary, reasonable notice of, and an opportunity to intervene and participate in, a proceeding under this part related to transportation subject to jurisdiction under subchapter I of chapter 135 shall be given to interested persons.

"§13303. Service of notice in proceedings

"(a) AGENTS FOR SERVICE OF PROCESS.—A carrier, a broker, or a freight forwarder providing transportation or service subject to jurisdiction under chapter 135 shall designate, in writing, an agent by name and post office address on whom service of notices in a proceeding before, and of actions of, the Secretary may be made.

"(b) FILING WITH STATE.—A motor carrier providing transportation under this part shall also file the designation with the appropriate authority of each State in which it operates. The designation may be changed at any time in the same manner as originally made.

"(c) NOTICE.—A notice to a motor carrier, freight forwarder, or broker shall be served personally or by mail on the motor carrier, freight forwarder, or broker or on its designated agent. Service by mail on the designated agent shall be made at the address filed for the agent. When notice is given by mail, the date of mailing is considered to be the time when the notice is served. If a motor carrier, freight forwarder, or broker does not have a designated agent, service may be made by posting a copy of the notice at the headquarters of the Department of Transportation.

"§13304. Service of process in court proceedings

"(a) DESIGNATION OF AGENT.—A motor carrier or broker providing transportation subject to jurisdiction under chapter 135 of this title, including a motor carrier or broker operating within the United States while providing transportation between places in a foreign country or between a place in one foreign country and a place in another foreign country, shall designate an agent in each State in which it operates by name and post office address on whom process issued by a court with subject matter jurisdiction may be served in an action brought against that carrier or broker. The designation shall be in writing and filed with the Department of Transportation. If a designation under this subsection is not made, service may be made on any agent of the carrier or broker within that State.

"(b) CHANGE.—A designation under this section may be changed at any time in the same manner as originally made.

"CHAPTER 135—JURISDICTION

"SUBCHAPTER I—MOTOR CARRIER TRANSPORTATION

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"SUBCHAPTER IV—AUTHORITY TO EXEMPT

"13541. Authority to exempt transportation or services.

"SUBCHAPTER I—MOTOR CARRIER TRANSPORTATION

"§13501. General jurisdiction

"The Secretary and the Panel have jurisdiction, as specified in this part, over transportation by motor carrier and the procurement of that transportation, to the extent that passengers, property, or both, are transported by motor carrier—

"(1) between a place in—

"(A) a State and a place in another State;

"(B) a State and another place in the same State through another State;

"(C) the United States and a place in a territory or possession of the United States to the extent the transportation is in the United States;

"(D) the United States and another place in the United States through a foreign country to the extent the transportation is in the United States; or

"(E) the United States and a place in a foreign country to the extent the transportation is in the United States; and

"(2) in a reservation under the exclusive jurisdiction of the United States or on a public highway.

"§13502. Exempt transportation between Alaska and other States

"To the extent that transportation by a motor carrier between a place in Alaska and a place in another State under section 13501 is provided in a foreign country—

"(1) neither the Secretary nor the Panel has jurisdiction to impose a requirement over conduct of the motor carrier in the foreign country conflicting with a requirement of that country; but

"(2) the motor carrier, as a condition of providing transportation in the United States, shall comply, with respect to all transportation provided between Alaska and the other State, with the requirements of this part related to rates and practices applicable to the transportation.

"§13503. Exempt motor vehicle transportation in terminal areas

"(a) TRANSPORTATION BY CARRIERS.—

"(1) IN GENERAL.—Neither the Secretary nor the Panel has jurisdiction under this subchapter over transportation by motor vehicle provided in a terminal area when the transportation—

"(A) is a transfer, collection, or delivery;

"(B) is provided by—

"(i) a rail carrier subject to jurisdiction under chapter 105;

"(ii) a water carrier subject to jurisdiction under subchapter II of this chapter; or

"(iii) a freight forwarder subject to jurisdiction under subchapter III of this chapter; and

"(C) is incidental to transportation or service provided by the carrier or freight forwarder that is subject to jurisdiction under chapter 105 of this title or under subchapter II or III of this chapter.

"(2) APPLICABILITY OF OTHER PROVISIONS.—Transportation exempt from jurisdiction under paragraph (1) of this subsection is subject to jurisdiction under chapter 105 when provided by such a rail carrier, under subchapter II of this chapter when provided by such a water carrier, and under subchapter III of this chapter when provided by such a freight forwarder.

"(b) TRANSPORTATION BY AGENT.—

"(1) IN GENERAL.—Except to the extent provided by paragraph (2) of this subsection, neither the Secretary nor the Panel has jurisdiction under this subchapter over transportation by motor vehicle provided in a terminal area when the transportation—

"(A) is a transfer, collection, or delivery; and

"(B) is provided by a person as an agent or under other arrangement for—

"(i) a rail carrier subject to jurisdiction under chapter 105 of this title;

"(ii) a motor carrier subject to jurisdiction under this subchapter;

"(iii) a water carrier subject to jurisdiction under subchapter II of this chapter; or

"(iv) a freight forwarder subject to jurisdiction under subchapter III of this chapter.

"(2) TREATMENT OF TRANSPORTATION BY PRINCIPAL.—Transportation exempt from jurisdiction under paragraph (1) of this subsection is considered transportation provided by the carrier or service provided by the freight forwarder for whom the transportation was provided and is subject to jurisdiction under chapter 105 of this title when provided for such a rail carrier, under this subchapter when provided for such a motor carrier, under subchapter II of this chapter when provided for such a water carrier, and under subchapter III of this chapter when provided for such a freight forwarder.

"§13504. Exempt motor carrier transportation entirely in one State

"Neither the Secretary nor the Panel has jurisdiction under this subchapter over transportation, except transportation of household goods, by a motor carrier operating solely within the State of Hawaii. The State of Hawaii may regulate transportation exempt from jurisdiction under this section and, to the extent provided by a motor carrier operating solely within the State of Hawaii, transportation exempt under section 13503 of this title.

"§13505. Transportation furthering a primary business

"(a) IN GENERAL.—Neither the Secretary nor the Panel has jurisdiction under this part over the transportation of property by motor vehicle when—

"(1) the property is transported by a person engaged in a business other than transportation; and

"(2) the transportation is within the scope of, and furthers a primary business (other than transportation) of the person.

"(b) CORPORATE FAMILIES.—

"(1) IN GENERAL.—Neither the Secretary nor the Panel has jurisdiction under this part over transportation of property by motor vehicle for compensation provided by a person who is a member of a corporate family for other members of such corporate family.

"(2) DEFINITION.—In this section, 'corporate family' means a group of corporations consisting of a parent corporation and all subsidiaries in which the parent corporation owns directly or indirectly a 100 percent interest.

"§13506. Miscellaneous motor carrier transportation exemptions

"(a) IN GENERAL.—Neither the Secretary nor the Panel has jurisdiction under this part over—

"(1) a motor vehicle transporting only school children and teachers to or from school;

"(2) a motor vehicle providing taxicab service and having a capacity of not more than 6 passengers and not operated on a regular route or between specified places;

"(3) a motor vehicle owned or operated by or for a hotel and only transporting hotel patrons between the hotel and the local station of a common carrier;

"(4) a motor vehicle controlled and operated by a farmer and transporting—

"(A) the farmer's agricultural or horticultural commodities and products; or

"(B) supplies to the farm of the farmer;

"(5) a motor vehicle controlled and operated by a cooperative association (as defined by section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)) or by a federation of cooperative associations if the federation has no greater power or purposes than a cooperative association, except that if the cooperative association or federation provides transportation for compensation between a place in a State and a place in another State, or between a place in a State and another place in the same State through another State—

"(A) for a nonmember that is not a farmer, cooperative association, federation, or the United States Government, the transportation (except for transportation otherwise exempt under this subchapter)—

"(i) shall be limited to transportation incidental to the primary transportation operation of the cooperative association or federation and necessary for its effective performance; and

"(ii) may not exceed in each fiscal year 25 percent of the total transportation of the cooperative association or federation between those places, measured by tonnage; and

"(B) the transportation for all nonmembers may not exceed in each fiscal year, measured by tonnage, the total transportation between those places for the cooperative association or federation and its members during that fiscal year;

"(6) transportation by motor vehicle of—

"(A) ordinary livestock;

"(B) agricultural or horticultural commodities (other than manufactured products thereof);

"(C) commodities listed as exempt in the Commodity List incorporated in ruling numbered 107, March 19, 1958, Bureau of Motor Carriers, Interstate Commerce Commission, other than frozen fruits, frozen berries, frozen vegetables, cocoa beans, coffee beans, tea, bananas, or hemp, or wool imported from a foreign country, wool tops and noils, or wool waste (carded, spun, woven, or knitted);

"(D) cooked or uncooked fish, whether breaded or not, or frozen or fresh shellfish, or byproducts thereof not intended for human consumption, other than fish or shellfish that have been treated for preserving, such as canned, smoked, pickled, spiced, corned, or kippered products; and

"(E) livestock and poultry feed and agricultural seeds and plants, if such products (excluding products otherwise exempt under this paragraph) are transported to a site of agricultural production or to a business enterprise engaged in the sale to agricultural producers of goods used in agricultural production;

"(7) a motor vehicle used only to distribute newspapers;

"(8)(A) transportation of passengers by motor vehicle incidental to transportation by aircraft;

"(B) transportation of property (including baggage) by motor vehicle as part of a continuous movement which, prior or subsequent to such part of the continuous movement, has been or will be transported by an air carrier or (to the extent so agreed by the United States and approved by the Secretary) by a foreign air carrier; or

"(C) transportation of property by motor vehicle in lieu of transportation by aircraft because of adverse weather conditions or mechanical failure of the aircraft or other causes due to circumstances beyond the control of the carrier or shipper;

"(9) the operation of a motor vehicle in a national park or national monument;

"(10) a motor vehicle carrying not more than 15 individuals in a single, daily roundtrip to commute to and from work;

"(11) transportation of used pallets and used empty shipping containers (including intermodal cargo containers), and other used shipping devices (other than containers or devices used in the transportation of motor vehicles or parts of motor vehicles);

"(12) transportation of natural, crushed, vesicular rock to be used for decorative purposes;

"(13) transportation of wood chips;

"(14) brokers for motor carriers of passengers, except as provided in section 13904(d)); or

"(15) transportation of broken, crushed, or powdered glass.

"(b) EXEMPT UNLESS OTHERWISE NECESSARY.—Except to the extent the Secretary or Panel, as applicable, finds it necessary to exercise jurisdiction to carry out the transportation policy of section 13101, neither the Secretary nor the Panel has jurisdiction under this part over—

"(1) transportation provided entirely in a municipality, in contiguous municipalities, or in a zone that is adjacent to, and commercially a part of, the municipality or municipalities, except—

"(A) when the transportation is under common control, management, or arrangement for a continuous carriage or shipment to or from a place outside the municipality, municipalities, or zone; or

"(B) that in transporting passengers over a route between a place in a State and a place in another State, or between a place in a State and another place in the same State through another State, the transportation is exempt from jurisdiction under this part only if the motor carrier operating the motor vehicle also is lawfully providing intrastate transportation of passengers over the entire route under the laws of each State through which the route runs;

"(2) transportation by motor vehicle provided casually, occasionally, or reciprocally but not as a regular occupation or business, except when a broker or other person sells or offers for sale passenger transportation provided by a person authorized to transport passengers by motor vehicle under an application pending, or registration issued, under this part; or

"(3) the emergency towing of an accidentally wrecked or disabled motor vehicle.

"§13507. Mixed loads of regulated and unregulated property

"A motor carrier of property providing transportation exempt from jurisdiction under paragraph (6), (8), (11), (12), or (13) of section 13506(a) may transport property under such paragraph in the same vehicle and at the same time as property which the carrier is authorized to transport under a registration issued under section 13902(a). Such transportation shall not affect the unregulated status of such exempt property or the regulated status of the property which the carrier is authorized to transport under such registration.

"§13508. Limited authority over cooperative associations

"(a) IN GENERAL.—Notwithstanding section 13506(a)(5), any cooperative association (as defined by section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a))) or a federation of cooperative associations shall prepare and maintain such records relating to transportation provided by such association or federation, in such form as the Secretary or the Panel may require by regulation to carry out the provisions of such section 13506(a)(5). The Secretary or the Panel, or an employee designated by the Secretary or the Panel, may on demand and display of proper credentials—

"(1) inspect and examine the lands, buildings, and equipment of such association or federation; and

"(2) inspect and copy any record of such association or federation.

"(b) REPORTS.—Notwithstanding section 13506(a)(5), the Secretary or the Panel may require a cooperative association or federation of cooperative associations described in subsection (a) of this section to file reports with the Secretary or the Panel containing answers to questions about transportation provided by such association or federation.

"(c) ENFORCEMENT.—The Secretary or the Panel may bring a civil action to enforce subsections (a) and (b) of this section or a regulation or order of the Secretary or the Panel issued under this section, when violated by a cooperative association or federation of cooperative associations described in subsection (a).

"(d) REPORTING PENALTIES.—

"(1) IN GENERAL.—A person required to make a report to the Secretary or the Panel, answer a question, or maintain a record under this section, or an officer, agent, or employee of that person, that—

"(A) does not make the report;

"(B) does not specifically, completely, and truthfully answer the question; or

"(C) does not maintain the record in the form and manner prescribed under this section;

is liable to the United States Government for a civil penalty of not more than $500 for each violation and for not more than $250 for each additional day the violation continues.

"(2) VENUE.—Trial in a civil action under paragraph (1) shall be in the judicial district in which—

"(A) the cooperative association or federation of cooperative associations has its principal office;

"(B) the violation occurred; or

"(C) the offender is found.

Process in the action may be served in the judicial district of which the offender is an inhabitant or in which the offender may be found.

"(e) EVASION PENALTIES.—A person, or an officer, employee, or agent of that person, that by any means knowingly and willfully tries to evade compliance with the provisions of this section shall be fined at least $200 but not more than $500 for the first violation and at least $250 but not more than $2,000 for a subsequent violation.

"(f) RECORDKEEPING PENALTIES.—A person required to make a report, answer a question, or maintain a record under this section, or an officer, agent, or employee of that person, that—

"(1) willfully does not make that report;

"(2) willfully does not specifically, completely, and truthfully answer that question in 30 days from the date that the question is required to be answered;

"(3) willfully does not maintain that record in the form and manner prescribed;

"(4) knowingly and willfully falsifies, destroys, mutilates, or changes that report or record;

"(5) knowingly and willfully files a false report or record under this section;

"(6) knowingly and willfully makes a false or incomplete entry in that record about a business-related fact or transaction; or

"(7) knowingly and willfully maintains a record in violation of a regulation or order issued under this section;

shall be fined not more than $5,000.

"SUBCHAPTER II—WATER CARRIER TRANSPORTATION

"§13521. General jurisdiction

"(a) GENERAL RULES.—The Secretary and the Panel have jurisdiction over transportation insofar as water carriers are concerned—

"(1) by water carrier between a place in a State and a place in another State, even if part of the transportation is outside the United States;

"(2) by water carrier and motor carrier from a place in a State to a place in another State; except that if part of the transportation is outside the United States, the Secretary only has jurisdiction over that part of the transportation provided—

"(A) by motor carrier that is in the United States; and

"(B) by water carrier that is from a place in the United States to another place in the United States; and

"(3) by water carrier or by water carrier and motor carrier between a place in the United States and a place outside the United States, to the extent that—

"(A) when the transportation is by motor carrier, the transportation is provided in the United States;

"(B) when the transportation is by water carrier to a place outside the United States, the transportation is provided by water carrier from a place in the United States to another place in the United States before transshipment from a place in the United States to a place outside the United States; and

"(C) when the transportation is by water carrier from a place outside the United States, the transportation is provided by water carrier from a place in the United States to another place in the United States after transshipment to a place in the United States from a place outside the United States.

"(b) LIMITATION.—The Panel may not exempt a water carrier from the application of, or compliance with, sections 13701 and 13702 for transportation in noncontiguous domestic trade.

"(c) DEFINITIONS.—In this section, the terms 'State' and 'United States' include the territories and possessions of the United States.

"SUBCHAPTER III—FREIGHT FORWARDER SERVICE

"§13531. General jurisdiction

"(a) IN GENERAL.—The Secretary and the Panel have jurisdiction, as specified in this part, over service that a freight forwarder undertakes to provide, or is authorized or required under this part to provide, to the extent transportation is provided in the United States and is between—

"(1) a place in a State and a place in another State, even if part of the transportation is outside the United States;

"(2) a place in a State and another place in the same State through a place outside the State; or

"(3) a place in the United States and a place outside the United States.

"(b) EXEMPTION OF CERTAIN AIR CARRIER SERVICE.—Neither the Secretary nor the Panel has jurisdiction under subsection (a) of this section over service undertaken by a freight forwarder using transportation of an air carrier subject to part A of subtitle VII of this title.

"SUBCHAPTER IV—AUTHORITY TO EXEMPT

"§13541. Authority to exempt transportation or services

"(a) IN GENERAL.—In any matter subject to jurisdiction under this part, the Secretary or the Panel, as applicable, shall exempt a person, class of persons, or a transaction or service from the application of a provision of this part, or use this exemption authority to modify the application of a provision of this part as it applies to such person, class, transaction, or service, when the Secretary or Panel finds that the application of that provision in whole or in part—

"(1) is not necessary to carry out the transportation policy of section 13101;

"(2) is not needed to protect shippers from the abuse of market power or that the transaction or service is of limited scope; and

"(3) is in the public interest.

"(b) INITIATION OF PROCEEDING.—The Secretary or Panel, as applicable, may, where appropriate, begin a proceeding under this section on the Secretary's or Panel's own initiative or on application by an interested party.

"(c) PERIOD OF EXEMPTION.—The Secretary or Panel, as applicable, may specify the period of time during which an exemption granted under this section is effective.

"(d) REVOCATION.—The Secretary or Panel, as applicable, may revoke an exemption, to the extent specified, on finding that application of a provision of this part to the person, class, or transportation is necessary to carry out the transportation policy of section 13101.

"(e) LIMITATIONS.—The exemption authority under this section may not be used to relieve a person from the application of, and compliance with, any law, rule, regulation, standard, or order pertaining to cargo loss and damage, insurance, safety fitness, or activities approved under section 13703 or not terminated under section 13907(d)(2).

"CHAPTER 137—RATES AND THROUGH ROUTES

"Sec.
"13701. Requirements for reasonable rates, classifications, through routes, rules, and practices for certain transportation.
"13702. Tariff requirement for certain transportation.
"13703. Certain collective activities; exemption from antitrust laws.
"13704. Household goods rates—estimates; guarantees of service.
"13705. Requirements for through routes among motor carriers of passengers.
"13706. Liability for payment of rates.
"13707. Payment of Rates.
"13708. Billing and collecting practices.
"13709. Procedures for resolving claims involving unfiled, negotiated transportation rates.
"13710. Additional billing and collecting practices.
"13711. Alternative procedure for resolving undercharge disputes.
"13712. Government traffic.
"13713. Food and grocery transportation.

"§13701. Requirements for reasonable rates, classifications, through routes, rules, and practices for certain transportation

"(a) REASONABLENESS.—

"(1) CERTAIN HOUSEHOLD GOODS TRANSPORTATION; JOINT RATES INVOLVING WATER TRANSPORTATION.—A rate, classification, rule, or practice related to transportation or service provided by a carrier subject to jurisdiction under chapter 135 for transportation or service involving—

"(A) a movement of household goods,

"(B) a rate for a movement by or with a water carrier in noncontiguous domestic trade, or

"(C) rates, rules, and classifications made collectively by motor carriers under agreement pursuant to section 13703,

must be reasonable.

"(2) THROUGH ROUTES AND DIVISIONS OF JOINT RATES.—Through routes and divisions of joint rates for such transportation or service must be reasonable.

"(b) PRESCRIPTION BY PANEL FOR VIOLATIONS.—When the Panel finds it necessary to stop or prevent a violation of subsection (a), the Panel shall prescribe the rate, classification, rule, practice, through route, or division of joint rates to be applied for such transportation or service.

"(c) ZONE OF REASONABLENESS.—

"(1) IN GENERAL.—For purposes of this section, a rate or division of a carrier for service in noncontiguous domestic trade is reasonable if the aggregate of increases and decreases in any such rate or division is not more than 10 percent above, or more than 10 percent below, the rate or division in effect 1 year before the effective date of the proposed rate or division.

"(2) ADJUSTMENTS TO THE ZONE.—The percentage specified in paragraph (1) shall be increased or decreased, as the case may be, by the percentage change in the Producers Price Index, as published by the Department of Labor, that has occurred during the most recent 1-year period before the date the rate or division in question first took effect.

"§13702. Tariff requirement for certain transportation

"(a) IN GENERAL.—A carrier subject to jurisdiction under chapter 135 may provide transportation or service that is—

"(1) in noncontiguous domestic trade, except with regard to bulk cargo, forest products, recycled metal scrap, waste paper, and paper waste; or

"(2) for movement of household goods;

only if the rate for such transportation or service is contained in a tariff that is in effect under this section. The carrier may not charge or receive a different compensation for the transportation or service than the rate specified in the tariff, whether by returning a part of that rate to a person, giving a person a privilege, allowing the use of a facility that affects the value of that transportation or service, or another device. A rate contained in a tariff shall be stated in money of the United States.

"(b) TARIFF REQUIREMENTS FOR NONCONTIGUOUS DOMESTIC TRADE.—

"(1) FILING.—A carrier providing transportation or service described in subsection (a)(1) shall publish and file with the Panel tariffs containing the rates established for such transportation or service. The carriers shall keep such tariffs available for public inspection. The Panel shall prescribe the form and manner of publishing, filing, and keeping tariffs available for public inspection under this subsection.

"(2) CONTENTS.—The Panel may prescribe any specific information and charges to be identified in a tariff, but at a minimum tariffs must identify plainly—

"(A) the carriers that are parties to it;

"(B) the places between which property will be transported;

"(C) terminal charges if a carrier provides transportation or service subject to jurisdiction under subchapter III of chapter 135;

"(D) privileges given and facilities allowed; and

"(E) any rules that change, affect, or determine any part of the published rate.

"(3) INLAND DIVISIONS.—A carrier providing transportation or service described in subsection (a)(1) under a joint rate for a through movement shall not be required to state separately or otherwise reveal in tariff filings the inland divisions of that through rate.

"(4) TIME-VOLUME RATES.—Rates in tariffs filed under this subsection may vary with the volume of cargo offered over a specified period of time.

"(5) CHANGES.—The Panel may permit carriers to change rates, classifications, rules, and practices without filing complete tariffs under this subsection that cover matter that is not being changed when the Panel finds that action to be consistent with the public interest. Those carriers may either—

"(A) publish new tariffs that incorporate changes, or

"(B) plainly indicate the proposed changes in the tariffs then in effect and make the tariffs as changed available for public inspection.

"(c) TARIFF REQUIREMENTS FOR HOUSEHOLD GOODS CARRIERS.—

"(1) IN GENERAL.—A carrier providing transportation described in subsection (a)(2) shall maintain rates and related rules and practices in a tariff. The tariff must be submitted to the Panel for inspection and be made available for inspection by shippers upon reasonable request.

"(2) NOTICE OF AVAILABILITY.—A carrier that maintains a tariff under this subsection may not enforce the provisions of the tariff unless the carrier has given notice that the tariff is available for inspection in its bill of lading or by other actual notice to individuals whose shipments are subject to the tariff.

"(3) REQUIREMENTS.—A carrier that maintains a tariff under this subsection is bound by the tariff except as otherwise provided in this part. A tariff that does not comply with this subsection may not be enforced against any individual shipper.

"(4) INCORPORATION BY REFERENCE.—A carrier may incorporate by reference the rates, terms, and other conditions of a tariff in agreements covering the transportation of household goods.

"(5) COMPLAINTS.—A complaint that a rate or related rule or practice maintained in a tariff under this subsection violates section 13701(a) may be submitted to the Panel for resolution.

"(d) INVALIDATION.—The Panel may invalidate a tariff prepared by a carrier or carriers under this section if that tariff violates this section or a regulation of the Panel carrying out this section.

"§13703. Certain collective activities; exemption from antitrust laws

"(a) AGREEMENTS.—

"(1) AUTHORITY TO ENTER.—A motor carrier providing transportation or service subject to jurisdiction under chapter 135 may enter into an agreement with one or more such carriers to establish—

"(A) through routes and joint rates;

"(B) rates for the transportation of household goods;

"(C) classifications;

"(D) mileage guides;

"(E) rules;

"(F) divisions;

"(G) rate adjustments of general application based on industry average carrier costs (so long as there is no discussion of individual markets or particular single-line rates); or

"(H) procedures for joint consideration, initiation, or establishment of matters described in subparagraphs (A) through (G).

"(2) SUBMISSION OF AGREEMENT TO PANEL; APPROVAL.—An agreement entered into under subsection (a) may be submitted by any carrier or carriers that are parties to such agreement to the Panel for approval and may be approved by the Panel only if it finds that such agreement is in the public interest.

"(3) CONDITIONS.—The Panel may require compliance with reasonable conditions consistent with this part to assure that the agreement furthers the transportation policy set forth in section 13101.

"(4) INDEPENDENTLY ESTABLISHED RATES.—Any carrier which is a party to an agreement under paragraph (1) is not, and may not be precluded, from independently establishing its own rates, classification, and mileages or from adopting and using a noncollectively made classification or mileage guide.

"(5) INVESTIGATIONS.—

"(A) REASONABLENESS.—The Panel may suspend and investigate the reasonableness of any rate, rule, classification, or rate adjustment of general application made pursuant to an agreement under this section.

"(B) ACTIONS NOT IN THE PUBLIC INTEREST.—The Panel may investigate any action taken pursuant to an agreement approved under this section. If the Panel finds that the action is not in the public interest, the Panel may take such measures as may be necessary to protect the public interest with regard to the action, including issuing an order directing the parties to cease and desist or modify the action.

"(6) EFFECT OF APPROVAL.—If the Panel approves the agreement or renews approval of the agreement, it may be made and carried out under its terms and under the conditions required by the Panel, and the antitrust laws, as defined in the first section of the Clayton Act (15 U.S.C. 12), do not apply to parties and other persons with respect to making or carrying out the agreement.

"(b) RECORDS.—The Panel may require an organization established or continued under an agreement approved under this section to maintain records and submit reports. The Panel, or its delegate, may inspect a record maintained under this section, or monitor any organization's compliance with this section.

"(c) REVIEW.—The Panel may review an agreement approved under this section, on its own initiative or on request, and shall change the conditions of approval or terminate it when necessary to protect the public interest. Action of the Panel under this section—

"(1) approving an agreement,

"(2) denying, ending, or changing approval,

"(3) prescribing the conditions on which approval is granted, or

"(4) changing those conditions,

has effect only as related to application of the antitrust laws referred to in subsection (a).

"(d) EXPIRATION OF APPROVALS; RENEWALS.—Subject to subsection (c), approval of an agreement under subsection (a) shall expire 3 years after the date of approval unless renewed under this subsection. The approval may be renewed upon request of the parties to the agreement if such parties resubmit the agreement to the Panel, the agreement is unchanged, and the Panel approves such renewal. The Panel shall approve the renewal unless it finds that the renewal is not in the public interest. Parties to the agreement may continue to undertake activities pursuant to the previously approved agreement while the renewal request is pending.

"(e) EXISTING AGREEMENTS.—Agreements approved under former section 10706(b) and in effect on the day before the effective date of this section shall be treated for purposes of this section as approved by the Panel under this section beginning on such effective date.

"(f) LIMITATIONS ON STATUTORY CONSTRUCTION.—

"(1) UNDERCHARGE CLAIMS.—Nothing in this section shall serve as a basis for any undercharge claim.

"(2) OBLIGATION OF SHIPPER.—Nothing in this title, the ICC Termination Act of 1995, or any amendments or repeals made by such Act shall be construed as creating any obligation for a shipper based solely on a classification that was on file with the Interstate Commerce Commission or elsewhere on the day before the effective date of this section.

"(g) INDUSTRY STANDARD GUIDES.—

"(1) IN GENERAL.—

"(A) PUBLIC AVAILABILITY.—Routes, rates, classifications, mileage guides, and rules established under agreements approved under this section shall be published and made available for public inspection upon request.

"(B) PARTICIPATION OF CARRIERS.—

"(i) IN GENERAL.—A motor carrier of property whose routes, rates, classifications, mileage guides, rules, or packaging are determined or governed by publications established under agreements approved under this section must participate in the determining or governing publication for such provisions to apply.

"(ii) POWER OF ATTORNEY.—The motor carrier of property shall issue a power of attorney to the publishing agent and, upon its acceptance, the agent shall issue a written certification to the motor carrier affirming its participation in the governing publication, and the certification shall be made available for public inspection.

"(2) MILEAGE LIMITATION.—No carrier subject to jurisdiction under subchapter I or III of chapter 135 may enforce collection of its mileage rates unless such carrier—

"(A) uses an independent publication of mileage that is developed independently of any other publication of mileage developed by any other carrier and that can be examined by any interested person upon reasonable request; or

"(B) is a participant in a publication of mileages formulated under an agreement approved under this section.

"(h) SINGLE LINE RATE DEFINED.—In this section, the term 'single line rate' means a rate, charge, or allowance proposed by a single motor carrier that is applicable only over its line and for which the transportation can be provided by that carrier.

"§13704. Household goods rates—estimates; guarantees of service

"(a) IN GENERAL.—

"(1) AUTHORITY.—Subject to the provisions of paragraph (2) of this subsection, a motor carrier providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135 may establish a rate for the transportation of household goods which is based on the carrier's written, binding estimate of charges for providing such transportation.

"(2) NONPREFERENTIAL; NONPREDATORY.—Any rate established under this subsection must be available on a nonpreferential basis to shippers and must not result in charges to shippers which are predatory.

"(b) RATES FOR GUARANTEED SERVICE.—

"(1) AUTHORITY.—Subject to the provisions of paragraph (2) of this subsection, a motor carrier providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135 may establish rates for the transportation of household goods which guarantee that the carrier will pick up and deliver such household goods at the times specified in the contract for such services and provide a penalty or per diem payment in the event the carrier fails to pick up or deliver such household goods at the specified time. The charges, if any, for such guarantee and penalty provision may vary to reflect one or more options available to meet a particular shipper's needs.

"(2) AUTHORITY OF SECRETARY TO REQUIRE NONGUARANTEED SERVICE RATES.—Before a carrier may establish a rate for any service under paragraph (1) of this subsection, the Secretary may require such carrier to have in effect and keep in effect, during any period such rate is in effect under paragraph (1), a rate for such service which does not guarantee the pick up and delivery of household goods at the times specified in the contract for such services and which does not provide a penalty or per diem payment in the event the carrier fails to pick up or deliver household goods at the specified time.

"§13705. Requirements for through routes among motor carriers of passengers

"(a) ESTABLISHMENT; REASONABLENESS.—A motor carrier providing transportation of passengers subject to jurisdiction under subchapter I of chapter 135 shall establish through routes with other carriers of the same type and shall establish individual and joint rates applicable to them. Such through route must be reasonable.

"(b) PRESCRIBED BY PANEL.—When the Panel finds it necessary to enforce the requirements of this section, the Panel may prescribe through routes and the conditions under which those routes must be operated for motor carriers providing transportation of passengers subject to jurisdiction under subchapter I of chapter 135.

"§13706. Liability for payment of rates

"(a) LIABILITY OF CONSIGNEE.—Liability for payment of rates for transportation for a shipment of property by a shipper or consignor to a consignee other than the shipper or consignor, is determined under this section when the transportation is provided by motor carrier under this part. When the shipper or consignor instructs the carrier transporting the property to deliver it to a consignee that is an agent only, not having beneficial title to the property, the consignee is liable for rates billed at the time of delivery for which the consignee is otherwise liable, but not for additional rates that may be found to be due after delivery if the consignee gives written notice to the delivering carrier before delivery of the property—

"(1) of the agency and absence of beneficial title; and

"(2) of the name and address of the beneficial owner of the property if it is reconsigned or diverted to a place other than the place specified in the original bill of lading.

"(b) LIABILITY OF BENEFICIAL OWNER.—When the consignee is liable only for rates billed at the time of delivery under subsection (a), the shipper or consignor, or, if the property is reconsigned or diverted, the beneficial owner is liable for those additional rates regardless of the bill of the lading or contract under which the property was transported. The beneficial owner is liable for all rates when the property is reconsigned or diverted by an agent but is refused or abandoned at its ultimate destination if the agent gave the carrier in the reconsignment or diversion order a notice of agency and the name and address of the beneficial owner. A consignee giving the carrier erroneous information about the identity of the beneficial owner of the property is liable for the additional rates.

"§13707. Payment of rates

"(a) TRANSFER OF POSSESSION UPON PAYMENT.—Except as provided in subsection (b), a carrier providing transportation or service subject to jurisdiction under this part shall give up possession at the destination of the property transported by it only when payment for the transportation or service is made.

"(b) EXCEPTIONS.—

"(1) REGULATIONS.—Under regulations of the Secretary governing the payment for transportation and service and preventing discrimination, those carriers may give up possession at destination of property transported by them before payment for the transportation or service. The regulations of the Secretary may provide for weekly or monthly payment for transportation provided by motor carriers and for periodic payment for transportation provided by water carriers.

"(2) EXTENSIONS OF CREDIT TO GOVERNMENTAL ENTITIES.—Such a carrier (including a motor carrier being used by a household goods freight forwarder) may extend credit for transporting property for the United States Government, a State, a territory or possession of the United States, or a political subdivision of any of them.

"§13708. Billing and collecting practices

"(a) DISCLOSURE.—A motor carrier subject to jurisdiction under subchapter I of chapter 135 shall disclose, when a document is presented or electronically transmitted for payment to the person responsible directly to the motor carrier for payment or agent of such responsible person, the actual rates, charges, or allowances for any transportation service and shall also disclose, at such time, whether and to whom any allowance or reduction in charges is made.

"(b) FALSE OR MISLEADING INFORMATION.—No person may cause a motor carrier to present false or misleading information on a document about the actual rate, charge, or allowance to any party to the transaction.

"(c) ALLOWANCES FOR SERVICES.—When the actual rate, charge, or allowance is dependent upon the performance of a service by a party to the transportation arrangement, such as tendering a volume of freight over a stated period of time, the motor carrier shall indicate in any document presented for payment to the person responsible directly to the motor carrier that a reduction, allowance, or other adjustment may apply.

"§13709. Procedures for resolving claims involving unfiled, negotiated transportation rates

"(a) TRANSPORTATION PROVIDED AT RATES OTHER THAN LEGAL TARIFF RATES.—

"(1) IN GENERAL.—When a claim is made by a motor carrier of property (other than a household goods carrier) providing transportation subject to jurisdiction under subchapter II of chapter 105, as in effect on the day before the effective date of this section, by a freight forwarder (other than a household goods freight forwarder), or under subchapter I of chapter 135 or by a party representing such a carrier or freight forwarder regarding the collection of rates or charges for such transportation in addition to those originally billed and collected by the carrier or freight forwarder for such transportation, the person against whom the claim is made may elect to satisfy the claim under the provisions of subsection (b), (c), or (d), upon showing that—

"(A) the carrier or freight forwarder is no longer transporting property or is transporting property for the purpose of avoiding the application of this section; and

"(B) with respect to the claim—

"(i) the person was offered a transportation rate by the carrier or freight forwarder other than that legally on file with the Interstate Commerce Commission or the Panel, as required for the transportation service;

"(ii) the person tendered freight to the carrier or freight forwarder in reasonable reliance upon the offered transportation rate;

"(iii) the carrier or freight forwarder did not properly or timely file with the Interstate Commerce Commission or the Panel, as required a tariff providing for such transportation rate or failed to enter into an agreement for contract carriage;

"(iv) such transportation rate was billed and collected by the carrier or freight forwarder; and

"(v) the carrier or freight forwarder demands additional payment of a higher rate filed in a tariff.

"(2) FORUM FOR RESOLUTION OF SHOWINGS.—If there is a dispute as to the showing under paragraph (1)(A), such dispute shall be resolved by

the court in which the claim is brought. If there is a dispute as to the showing under paragraph (1)(B), such dispute shall be resolved by the Panel. Pending the resolution of any such dispute, the person shall not have to pay any additional compensation to the carrier or freight forwarder.

"(3) EFFECT OF SATISFACTION OF CLAIMS UNDER DISPUTE RESOLUTION PROCEDURE.—Satisfaction of a claim under subsection (b), (c), or (d) shall be binding on the parties, and the parties shall not be subject to chapter 119, as in effect on the day before the effective date of this section or chapter 149.

"(b) CLAIMS INVOLVING SHIPMENTS WEIGHING 10,000 POUNDS OR LESS.—A person from whom the additional legally applicable and effective tariff rate or charges are sought may elect to satisfy the claim, if the shipments each weighed 10,000 pounds or less, by payment of 20 percent of the difference between the carrier's applicable and effective tariff rate and the rate originally billed and paid. In the event that a dispute arises as to the rate that was legally applicable to the shipment, such dispute shall be resolved by the Panel .

"(c) CLAIMS INVOLVING SHIPMENTS WEIGHING MORE THAN 10,000 POUNDS.—A person from whom the additional legally applicable and effective tariff rate or charges are sought may elect to satisfy the claim, if the shipments each weighed more than 10,000 pounds, by payment of 15 percent of the difference between the carrier's applicable and effective tariff rate and the rate originally billed and paid. In the event that a dispute arises as to the rate that was legally applicable to the shipment, such dispute shall be resolved by the Panel.

"(d) CLAIMS INVOLVING PUBLIC WAREHOUSEMEN.—Notwithstanding subsections (b) and (c), a person from whom the additional legally applicable and effective tariff rate or charges are sought may elect to satisfy the claim by payment of 5 percent of the difference between the carrier's applicable and effective tariff rate and the rate originally billed and paid if such person is a public warehouseman. In the event that a dispute arises as to the rate that was legally applicable to the shipment, such dispute shall be resolved by the Panel.

"(e) EFFECTS OF ELECTION.—When a person from whom additional legally applicable freight rates or charges are sought does not elect to use the provisions of subsections (b), (c) or (d), the person may pursue all rights and remedies existing under this part or, for transportation provided before the effective date of this section, all rights and remedies that existed under this title on the day before the effective date of this section.

"(f) STAY OF ADDITIONAL COMPENSATION.—When a person proceeds under this section to challenge the reasonableness of the legally applicable freight rate or charges being claimed by a carrier or freight forwarder in addition to those already billed and collected, the person shall not have to pay any additional compensation to the carrier or freight forwarder until the Panel has made a determination as to the reasonableness of the challenged rate as applied to the freight of the person against whom the claim is made.

"(g) NOTIFICATION OF ELECTION.—

"(1) GENERAL RULE.—A person must notify the carrier or freight forwarder as to its election to proceed under subsection (b), (c), or (d). Except as provided in paragraphs (2), (3), and (4), such election may be made at any time.

"(2) DEMANDS FOR PAYMENT INITIALLY MADE AFTER DECEMBER 3, 1993.—If the carrier or freight forwarder or party representing such carrier or freight forwarder initially demands the payment of additional freight charges after December 3, 1993, and notifies the person from whom additional freight charges are sought of the provisions of subsections (a) through (f) at the time of the making of such initial demand, the election must be made not later than the later of—

"(A) the 60th day following the filing of an answer to a suit for the collection of such additional legally applicable freight rate or charges, or

"(B) March 5, 1994.

"(3) PENDING SUITS FOR COLLECTION MADE BEFORE DECEMBER 4, 1993.—If the carrier or freight forwarder or party representing such carrier or freight forwarder has filed, before December 4, 1993, a suit for the collection of additional freight charges and notifies the person from whom additional freight charges are sought of the provisions of subsections (a) through (f), the election must be made not later than the 90th day following the date on which such notification is received.

"(4) DEMANDS FOR PAYMENT MADE BEFORE DECEMBER 4, 1993.—If the carrier or freight forwarder or party representing such carrier or freight forwarder has demanded the payment of additional freight charges, and has not filed a suit for the collection of such additional freight charges, before December 4, 1993, and notifies the person from whom additional freight charges are sought of the provisions of subsections (a) through (f), the election must be made not later than the later of—

"(A) the 60th day following the filing of an answer to a suit for the collection of such additional legally applicable freight rate or charges, or

"(B) March 5, 1994.

"(h) CLAIMS INVOLVING SMALL-BUSINESS CONCERNS, CHARITABLE ORGANIZATIONS, AND RECYCLABLE MATERIALS.—

"(1) IN GENERAL.—Notwithstanding subsections (b), (c), and (d), a person from whom the additional legally applicable and effective tariff rate or charges are sought shall not be liable for the difference between the carrier's applicable and effective tariff rate and the rate originally billed and paid—

"(A) if such person qualifies as a small-business concern under the Small Business Act (15 U.S.C. 631 et seq.),

"(B) if such person is an organization which is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code, or

"(C) if the cargo involved in the claim is recyclable materials.

"(2) RECYCLABLE MATERIALS DEFINED.—In this subsection, the term 'recyclable materials' means waste products for recycling or reuse in the furtherance of recognized pollution control programs.

"§13710. Additional billing and collecting practices

"(a) MISCELLANEOUS PROVISIONS.—

"(1) INFORMATION RELATING TO BASIS OF RATE.—A motor carrier of property (other than a motor carrier providing transportation in noncontiguous domestic trade) shall provide to the shipper, on request of the shipper, a written or electronic copy of the rate, classification, rules, and practices, upon which any rate applicable to its shipment or agreed to between the shipper and carrier may have been based.

"(2) REASONABLENESS OF RATES; COLLECTING ADDITIONAL CHARGES.—When the applicability or reasonableness of the rates and related provisions billed by a motor carrier is challenged by the person paying the freight charges, the Panel shall determine whether such rates and provisions are reasonable or applicable based on the record before it.

"(3) BILLING DISPUTES.—

"(A) INITIATED BY MOTOR CARRIERS.—In those cases where a motor carrier (other than a motor carrier providing transportation of household goods or in noncontiguous domestic trade) seeks to collect charges in addition to those billed and collected which are contested by the payor, the carrier may request that the Panel determine whether any additional charges over those billed and collected must be paid. A carrier must issue any bill for charges in addition to those originally billed within 180 days of the receipt of the original bill in order to have the right to collect such charges.

"(B) INITIATED BY SHIPPERS.—If a shipper seeks to contest the charges originally billed or additional charges subsequently billed, the shipper may request that the Panel determine whether the charges billed must be paid. A shipper must contest the original bill or subsequent bill within 180 days of receipt of the bill in order to have the right to contest such charges.

"(4) VOIDING OF CERTAIN TARIFFS.—Any tariff on file with the Interstate Commerce Commission on August 26, 1994, and not required to be filed after that date is null and void beginning on that date. Any tariff on file with the Interstate Commerce Commission on the effective date of this section and not required to be filed after that date is null and void beginning on that date.

"(b) RESOLUTION OF DISPUTES OVER STATUS OF COMMON CARRIER OR CONTRACT CARRIER.—If a motor carrier (other than a motor carrier providing transportation of household goods) that was subject to jurisdiction under subchapter II of chapter 105, as in effect on the day before the effective date of this section, and that had authority to provide transportation as both a motor common carrier and a motor contract carrier and a dispute arises as to whether certain transportation that was provided prior to the effective date of this section was provided in its common carrier or contract carrier capacity and the parties are not able to resolve the dispute consensually, the Panel shall resolve the dispute.

"§13711. Alternative procedure for resolving undercharge disputes

"(a) GENERAL RULE.—It shall be an unreasonable practice for a motor carrier of property (other than a household goods carrier) providing transportation subject to jurisdiction under subchapter I of chapter 135 or, before the effective date of this section, to have provided transportation that was subject to jurisdiction under subchapter II of chapter 105 as in effect on the day before the effective date of this section, a freight forwarder (other than a household goods freight forwarder), or a party representing such a carrier or freight forwarder to attempt to charge or to charge for a transportation service the difference between (1) the applicable rate that was lawfully in effect pursuant to a tariff that was filed in accordance with this chapter or, with respect to transportation provided before the effective date of this section, in accordance with chapter 107 as in effect on the date the transportation was provided by the carrier or freight forwarder applicable to such transportation service and (2) the negotiated rate for such transportation service if the carrier or freight forwarder is no longer transporting property between places described in section 13501(1) or is transporting property between places described in section 13501(1) for the purpose of avoiding application of this section.

"(b) JURISDICTION OF PANEL.—

"(1) DETERMINATION.—The Panel shall have jurisdiction to make a determination of whether or not attempting to charge or the charging of a rate by a motor carrier or freight forwarder or party representing a motor carrier or freight forwarder is an unreasonable practice under subsection (a). If the Panel determines that attempting to charge or the charging of the rate is an unreasonable practice under subsection (a),

the carrier, freight forwarder, or party may not collect the difference described in subsection (a) between the applicable rate and the negotiated rate for the transportation service.

"(2) FACTORS TO CONSIDER.—In making a determination under paragraph (1), the Panel shall consider—

"(A) whether the person was offered a transportation rate by the carrier or freight forwarder or party other than that legally on file with the Interstate Commerce Commission or the Panel, as required at the time of the movement for the transportation service;

"(B) whether the person tendered freight to the carrier or freight forwarder in reasonable reliance upon the offered transportation rate;

"(C) whether the carrier or freight forwarder did not properly or timely file with the Interstate Commerce Commission or the Panel, as required, a tariff providing for such transportation rate or failed to enter into an agreement for contract carriage;

"(D) whether the transportation rate was billed and collected by the carrier or freight forwarder; and

"(E) whether the carrier or freight forwarder or party demands additional payment of a higher rate filed in a tariff.

"(c) STAY OF ADDITIONAL COMPENSATION.—When a person proceeds under this section to challenge the reasonableness of the practice of a motor carrier, freight forwarder, or party described in subsection (a) to attempt to charge or to charge the difference described in subsection (a) between the applicable rate and the negotiated rate for the transportation service in addition to those charges already billed and collected for the transportation service, the person shall not have to pay any additional compensation to the carrier, freight forwarder, or party until the Panel has made a determination as to the reasonableness of the practice as applied to the freight of the person against whom the claim is made.

"(d) TREATMENT.—Subsection (a) is an exception to the requirements of section 13702 and, for transportation provided before the effective date of this section, to the requirements of sections 10761(a) and 10762, as in effect on the day before such effective date, as such sections relate to a filed tariff rate and other general tariff requirements.

"(e) NONAPPLICABILITY OF NEGOTIATED RATE DISPUTE RESOLUTION PROCEDURE.—If a person elects to seek enforcement of subsection (a) with respect to a rate for a transportation or service, section 13709 shall not apply to such rate.

"(f) DEFINITIONS.—In this section, the term "negotiated rate" means a rate, charge, classification, or rule agreed upon by a motor carrier or freight forwarder and a shipper through negotiations pursuant to which no tariff was lawfully and timely filed and for which there is written evidence of such agreement.

"(g) APPLICABILITY TO PENDING CASES.—This section shall apply to all cases and proceedings pending on the effective date of this section.

"§13711. Government traffic

"A carrier providing transportation or service for the United States Government may transport property or individuals for the United States Government without charge or at a rate reduced from the applicable commercial rate. Section 3709 of the Revised Statutes (41 U.S.C. 5) does not apply when transportation for the United States Government can be obtained from a carrier lawfully operating in the area where the transportation would be provided.

"§13712. Food and grocery transportation

"(a) CERTAIN COMPENSATION PROHIBITED.—Notwithstanding any other provision of law, it shall not be unlawful for a seller of food and grocery products using a uniform zone delivered pricing system to compensate a customer who picks up purchased food and grocery products at the shipping point of the seller if such compensation is available to all customers of the seller on a nondiscriminatory basis and does not exceed the actual cost to the seller of delivery to such customer.

"(b) SENSE OF CONGRESS.—It is the sense of the Congress that any savings accruing to a customer by reason of compensation permitted by subsection (a) of this section should be passed on to the ultimate consumer.

"CHAPTER 139—REGISTRATION

"Sec.
"13901. Requirement for registration.
"13902. Registration of motor carriers.
"13903. Registration of freight forwarders.
"13904. Registration of brokers.
"13905. Effective periods of registration.
"13906. Security of motor carriers, brokers, and freight forwarders.
"13907. Household goods agents.
"13908. Registration and other reforms.

"§13901. Requirement for registration

"A person may provide transportation or service subject to jurisdiction under subchapter I or III of chapter 135 or be a broker for transportation subject to jurisdiction under subchapter I of that chapter, only if the person is registered under this chapter to provide the transportation or service.

"§13902. Registration of motor carriers

"(a) MOTOR CARRIER GENERALLY.—

"(1) IN GENERAL.—Except as provided in this section, the Secretary shall register a person to provide transportation subject to jurisdiction under subchapter I of chapter 135 of this title as a motor carrier if the Secretary finds that the person is willing and able to comply with—

"(A) this part and the applicable regulations of the Secretary and the Panel;

"(B) any safety regulations imposed by the Secretary and the safety fitness requirements established by the Secretary under section 31144; and

"(C) the minimum financial responsibility requirements established by the Secretary pursuant to sections 13906 and 31138.

"(2) CONSIDERATION OF EVIDENCE; FINDINGS.—The Secretary shall consider and, to the extent applicable, make findings on, any evidence demonstrating that the registrant is unable to comply with the requirements of subparagraph (A), (B), or (C) of paragraph (1).

"(3) WITHHOLDING.—If the Secretary determines that any registrant under this section does not meet the requirements of paragraph (1), the Secretary shall withhold registration.

"(4) LIMITATION ON COMPLAINTS.—The Secretary may hear a complaint from any person concerning a registration under this subsection only on the ground that the registrant fails or will fail to comply with this part, the applicable regulations of the Secretary and the Panel, the safety regulations of the Secretary, or the safety fitness or minimum financial responsibility requirements of paragraph (1) of this subsection.

"(b) MOTOR CARRIERS OF PASSENGERS.—

"(1) REGISTRATION OF PRIVATE RECIPIENTS OF GOVERNMENTAL ASSISTANCE.—The Secretary shall register under subsection (a)(1) a private recipient of governmental assistance to provide special or charter transportation subject to jurisdiction under subchapter I of chapter 135 as a motor carrier of passengers if the Secretary finds that the recipient meets the requirements of subsection (a)(1), unless the Secretary finds, on the basis of evidence presented by any person objecting to the registration, that the transportation to be provided pursuant to the registration is not in the public interest.

"(2) REGISTRATION OF PUBLIC RECIPIENTS OF GOVERNMENTAL ASSISTANCE.—

"(A) CHARTER TRANSPORTATION.—The Secretary shall register under subsection (a)(1) a public recipient of governmental assistance to provide special or charter transportation subject to jurisdiction under subchapter I of chapter 135 as a motor carrier of passengers if the Secretary finds that—

"(i) the recipient meets the requirements of subsection (a)(1); and

"(ii)(I) no motor carrier of passengers (other than a motor carrier of passengers which is a public recipient of governmental assistance) is providing, or is willing to provide, the transportation; or

"(II) the transportation is to be provided entirely in the area in which the public recipient provides regularly scheduled mass transportation services.

"(B) REGULAR-ROUTE TRANSPORTATION.—The Secretary shall register under subsection (a)(1) a public recipient of governmental assistance to provide regular-route transportation subject to jurisdiction under subchapter I of chapter 135 as a motor carrier of passengers if the Secretary finds that the recipient meets the requirements of subsection (a)(1), unless the Secretary finds, on the basis of evidence presented by any person objecting to the registration, that the transportation to be provided pursuant to the registration is not in the public interest.

"(C) TREATMENT OF CERTAIN PUBLIC RECIPIENTS.—Any public recipient of governmental assistance which is providing or seeking to provide transportation of passengers subject to jurisdiction under subchapter I of chapter 135 shall, for purposes of this part, be treated as a person which is providing or seeking to provide transportation of passengers subject to such jurisdiction.

"(3) INTRASTATE TRANSPORTATION.—A motor carrier of passengers that is registered by the Secretary under subsection (a) is authorized to provide regular-route transportation entirely in one State as a motor carrier of passengers if such intrastate transportation is to be provided on a route over which the carrier provides interstate transportation of passengers.

"(4) PREEMPTION REGARDING CERTAIN SERVICE.—No State or political subdivision thereof and no interstate agency or other political agency of 2 or more States shall enact or enforce any law, rule, regulation, standard or other provision having the force and effect of law relating to the provision of pickup and delivery of express packages, newspapers, or mail in a commercial zone if the shipment has had or will have a prior or subsequent movement by bus in intrastate commerce and, if a city within the commercial zone, is served by a motor carrier of passengers providing regular-route transportation of passengers subject to jurisdiction under subchapter I of chapter 135.

"(5) TREATMENT.—Any intrastate transportation authorized by this subsection shall be treated as transportation subject to jurisdiction under subchapter I of chapter 135 until such time as the carrier takes such action as is necessary to establish under the laws of such State rates, rules, and practices applicable to such transportation, but in no case later than the 30th day following the date on which the motor carrier of passengers first begins providing transportation entirely in one State under this paragraph.

"(6) SPECIAL OPERATIONS.—This subsection shall not apply to any regular-route transportation of passengers provided entirely in one State which is in the nature of a special operation.

"(7) SUSPENSION OR REVOCATION.—Intrastate transportation authorized under this subsection may be suspended or revoked by the Secretary under section 13905 of this title at any time.

"(8) DEFINITIONS.—In this subsection, the following definitions apply:

"(A) PUBLIC RECIPIENT OF GOVERNMENTAL ASSISTANCE.—The term 'public recipient of governmental assistance' means—

"(i) any State,

"(ii) any municipality or other political subdivision of a State,

"(iii) any public agency or instrumentality of one or more States and municipalities and political subdivisions of a State,

"(iv) any Indian tribe,

"(v) any corporation, board, or other person owned or controlled by any entity described in clause (i), (ii), (iii), or (iv), and

which before, on, or after the effective date of this subsection received governmental assistance for the purchase or operation of any bus.

"(B) PRIVATE RECIPIENT OF GOVERNMENT ASSISTANCE.—The term 'private recipient of government assistance' means any person (other than a person described in subparagraph (A)) who before, on, or after the effective date of this paragraph received governmental financial assistance in the form of a subsidy for the purchase, lease, or operation of any bus.

"(c) RESTRICTIONS ON MOTOR CARRIERS DOMICILED IN OR OWNED OR CONTROLLED BY NATIONALS OF A CONTIGUOUS FOREIGN COUNTRY.—

"(1) PREVENTION OF DISCRIMINATORY PRACTICES.—If the President, or the delegate thereof, determines that an act, policy, or practice of a foreign country contiguous to the United States, or any political subdivision or any instrumentality of any such country is unreasonable or discriminatory and burdens or restricts United States transportation companies providing, or seeking to provide, motor carrier transportation to, from, or within such foreign country, the President or such delegate may—

"(A) seek elimination of such practices through consultations; or

"(B) notwithstanding any other provision of law, suspend, modify, amend, condition, or restrict operations, including geographical restriction of operations, in the United States by motor carriers of property or passengers domiciled in such foreign country or owned or controlled by persons of such foreign country.

"(2) EQUALIZATION OF TREATMENT.—Any action taken under paragraph (1)(A) to eliminate an act, policy, or practice shall be so devised so as to equal to the extent possible the burdens or restrictions imposed by such foreign country on United States transportation companies.

"(3) REMOVAL OR MODIFICATION.—The President, or the delegate thereof, may remove or modify in whole or in part any action taken under paragraph (1)(A) if the President or such delegate determines that such removal or modification is consistent with the obligations of the United States under a trade agreement or with United States transportation policy.

"(4) PROTECTION OF EXISTING OPERATIONS.—Unless and until the President, or the delegate thereof, makes a determination under paragraph (1) or (3), nothing in this subsection shall affect—

"(A) operations of motor carriers of property or passengers domiciled in any contiguous foreign country or owned or controlled by persons of any contiguous foreign country permitted in the commercial zones along the United States-Mexico border as such zones were defined on the day before the effective date of this section; or

"(B) any existing restrictions on operations of motor carriers of property or passengers domiciled in any contiguous foreign country or owned or controlled by persons of any contiguous foreign country or any modifications thereof pursuant to section 6 of the Bus Regulatory Reform Act of 1982.

"(5) PUBLICATION; COMMENT.—Unless the President, or the delegate thereof, determines that expeditious action is required, the President shall publish in the Federal Register any determination under paragraph (1) or (3), together with a description of the facts on which such a determination is based and any proposed action to be taken pursuant to paragraph (1)(B) or (3), and provide an opportunity for public comment.

"(6) DELEGATION TO SECRETARY.—The President may delegate any or all authority under this subsection to the Secretary, who shall consult with other agencies as appropriate. In accordance with the directions of the President, the Secretary may issue regulations to enforce this subsection.

"(7) CIVIL ACTIONS.—Either the Secretary or the Attorney General may bring a civil action in an appropriate district court of the United States to enforce this subsection or a regulation prescribed or order issued under this subsection. The court may award appropriate relief, including injunctive relief.

"(8) LIMITATION ON STATUTORY CONSTRUCTION.—This subsection shall not be construed as affecting the requirement for all foreign motor carriers operating in the United States to comply with all applicable laws and regulations pertaining to fitness, safety of operations, financial responsibility, and taxes imposed by section 4481 of the Internal Revenue Code of 1986.

"(d) MOTOR CARRIER DEFINED.—In this section and sections 13905 and 13906, the term 'motor carrier' includes foreign motor carriers and foreign motor private carriers.

"§13903. Registration of freight forwarders

"(a) IN GENERAL.—The Secretary shall register a person to provide service subject to jurisdiction under subchapter III of chapter 135 as a freight forwarder if the Secretary finds that the person is willing and able to provide the service and to comply with this part and applicable regulations of the Secretary and the Panel.

"(b) REGISTRATION AS CARRIER REQUIRED.—The freight forwarder may provide transportation as the carrier itself only if the freight forwarder also has registered to provide transportation as a carrier under this chapter.

"§13904. Registration of brokers

"(a) IN GENERAL.—The Secretary shall register, subject to section 13906(b), a person to be a broker for transportation of property subject to jurisdiction under subchapter I of chapter 135, if the Secretary finds that the person is willing and able to be a broker for transportation and to comply with this part and applicable regulations of the Secretary .

"(b) LIMITATION.—The broker may provide transportation itself only if the broker also has registered to provide transportation as a carrier under this chapter.

"(c) REGULATIONS TO PROTECT SHIPPERS.—Regulations of the Secretary applicable to brokers registered under this section shall provide for the protection of shippers by motor vehicle.

"(d) BOND AND INSURANCE.—The Secretary may impose on brokers for motor carriers of passengers such requirements for bonds or insurance or both as the Secretary determines are needed to protect passengers and carriers dealing with such brokers.

"§13905. Effective periods of registration

"(a) PERSON HOLDING ACC AUTHORITY.—Any person having authority to provide transportation or service as a motor carrier, freight forwarder, or broker under this title, as in effect on the day before the effective date of this section, shall be deemed, for purposes of this part, to be registered to provide such transportation or service under this part.

"(b) IN GENERAL.—Each registration issued under section 13902, 13903, or 13904 shall be effective from the date specified by the Secretary and shall remain in effect, except as otherwise provided in this part.

"(c) SUSPENSION, AMENDMENTS, AND REVOCATIONS.—On application of the registrant, the Secretary may amend or revoke a registration. On complaint or on the Secretary's own initiative and after notice and an opportunity for a proceeding, the Secretary may suspend, amend, or revoke any part of the registration of a motor carrier, broker, or freight forwarder for willful failure to comply with this part, an applicable regulation or order of the Secretary or of the Panel, or a condition of its registration.

"(d) PROCEDURE.—Except on application of the registrant, the Secretary may revoke a registration of a motor carrier, freight forwarder, or broker, only after—

"(1) the Secretary has issued an order to the registrant under section 14701 requiring compliance with this part, a regulation of the Secretary, or a condition of the registration; and

"(2) the registrant willfully does not comply with the order for a period of 30 days.

"(e) EXPEDITED PROCEDURE.—

"(1) PROTECTION OF SAFETY.—Without regard to subchapter II of chapter 5 of title 5, the Secretary may suspend the registration of a motor carrier, a freight forwarder, or a broker for failure to comply with safety requirements of the Secretary or the safety fitness requirements pursuant to section 13904(c), 13906, or 31144, of this title, or an order or regulation of the Secretary prescribed under those sections.

"(2) IMMINENT HAZARD TO PUBLIC HEALTH.—Without regard to subchapter II of chapter 5 of title 5, the Secretary may suspend a registration of a motor carrier of passengers if the Secretary finds that such carrier has been conducting unsafe operations which are an imminent hazard to public health or property.

"(3) NOTICE; PERIOD OF SUSPENSION.—The Secretary may suspend under this subsection the registration only after giving notice of the suspension to the registrant. The suspension remains in effect until the registrant complies with those applicable sections or, in the case of a suspension under paragraph (2), until the Secretary revokes such suspension.

"§13906. Security of motor carriers, brokers, and freight forwarders

"(a) MOTOR CARRIER REQUIREMENTS.—

"(1) LIABILITY INSURANCE REQUIREMENT.—The Secretary may register a motor carrier under section 13902 only if the registrant files with the Secretary a bond, insurance policy, or other type of security approved by the Secretary, in an amount not less than such amount as the Secretary prescribes pursuant to, or as is required by, sections 31138 and 31139, and the laws of the State or States in which the registrant is operating, to the extent applicable. The security must be sufficient to pay, not more than the amount of the security, for each final judgment against the registrant for bodily injury to, or death of, an individual resulting from the negligent operation, maintenance, or use of motor vehicles, or for loss or damage to property (except property referred to in paragraph (3) of this subsection), or both. A registration remains in effect only as long as the registrant continues to satisfy the security requirements of this paragraph.

"(2) AGENCY REQUIREMENT.—A motor carrier shall comply with the requirements of sections 13303 and 13304. To protect the public, the Secretary may require any such motor carrier to file the type of security that a motor carrier is required to file under paragraph (1) of this subsection. This paragraph only applies to a foreign motor private carrier and foreign motor carrier operating in the United States to the extent that such carrier is providing transportation between places in a foreign country or between a place in one foreign country and a place in another foreign country.

"(3) TRANSPORTATION INSURANCE.—The Secretary may require a registered motor carrier to file with the Secretary a type of security sufficient to pay a shipper or consignee for damage

to property of the shipper or consignee placed in the possession of the motor carrier as the result of transportation provided under this part. A carrier required by law to pay a shipper or consignee for loss, damage, or default for which a connecting motor carrier is responsible is subrogated, to the extent of the amount paid, to the rights of the shipper or consignee under any such security.

"(b) BROKER REQUIREMENTS.—The Secretary may register a person as a broker under section 13904 only if the person files with the Secretary a bond, insurance policy, or other type of security approved by the Secretary to ensure that the transportation for which a broker arranges is provided. The registration remains in effect only as long as the broker continues to satisfy the security requirements of this subsection.

"(c) FREIGHT FORWARDER REQUIREMENTS.—

"(1) LIABILITY INSURANCE.—The Secretary may register a person as a freight forwarder under section 13903 of this title only if the person files with the Secretary a bond, insurance policy, or other type of security approved by the Secretary. The security must be sufficient to pay, not more than the amount of the security, for each final judgment against the freight forwarder for bodily injury to, or death of, an individual, or loss of, or damage to, property (other than property referred to in paragraph (2) of this subsection), resulting from the negligent operation, maintenance, or use of motor vehicles by or under the direction and control of the freight forwarder when providing transfer, collection, or delivery service under this part.

"(2) FREIGHT FORWARDER INSURANCE.—The Secretary may require a registered freight forwarder to file with the Secretary a bond, insurance policy, or other type of security approved by the Secretary sufficient to pay, not more than the amount of the security, for loss of, or damage to, property for which the freight forwarder provides service.

"(3) EFFECTIVE PERIOD.—The freight forwarder's registration remains in effect only as long as the freight forwarder continues to satisfy the security requirements of this subsection.

"(d) TYPE OF INSURANCE.—The Secretary may determine the type and amount of security filed under this section. A motor carrier may submit proof of qualifications as a self-insurer to satisfy the security requirements of this section. The Secretary shall adopt regulations governing the standards for approval as a self-insurer. Motor carriers which have been granted authority to self-insure as of the effective date of this section shall retain that authority unless, for good cause shown and after notice and an opportunity for a hearing, the Secretary finds that the authority must be revoked.

"(e) NOTICE OF CANCELLATION OF INSURANCE.—The Secretary shall issue regulations requiring the submission to the Secretary of notices of insurance cancellation sufficiently in advance of actual cancellation so as to enable the Secretary to promptly revoke the registration of any carrier or broker after the effective date of the cancellation.

"(f) FORM OF ENDORSEMENT.—The Secretary shall also prescribe the appropriate form of endorsement to be appended to policies of insurance and surety bonds which will subject the insurance policy or surety bond to the full security limits of the coverage required under this section.

"§13907. Household goods agents

"(a) CARRIERS RESPONSIBLE FOR AGENTS.—Each motor carrier providing transportation of household goods shall be responsible for all acts or omissions of any of its agents which relate to the performance of household goods transportation services (including accessorial or terminal services) and which are within the actual or apparent authority of the agent from the carrier or which are ratified by the carrier.

"(b) STANDARD FOR SELECTING AGENTS.—Each motor carrier providing transportation of household goods shall use due diligence and reasonable care in selecting and maintaining agents who are sufficiently knowledgeable, fit, willing, and able to provide adequate household goods transportation services (including accessorial and terminal services) and to fulfill the obligations imposed upon them by this part and by such carrier.

"(c) ENFORCEMENT.—

"(1) COMPLAINT.—Whenever the Secretary has reason to believe from a complaint or investigation that an agent providing household goods transportation services (including accessorial and terminal services) under the authority of a motor carrier providing transportation of household goods has violated section 14901(e) or 14912 or is consistently not fit, willing, and able to provide adequate household goods transportation services (including accessorial and terminal services), the Secretary may issue to such agent a complaint stating the charges and containing notice of the time and place of a hearing which shall be held no later than 60 days after service of the complaint to such agent.

"(2) RIGHT TO DEFEND.—The agent shall have the right to appear at such hearing and rebut the charges contained in the complaint.

"(3) ORDER.—If the agent does not appear at the hearing or if the Secretary finds that the agent has violated section 14901(e) or 14912 or is consistently not fit, willing, and able to provide adequate household goods transportation services (including accessorial and terminal services), the Secretary may issue an order to compel compliance with the requirement that the agent be fit, willing, and able. Thereafter, the Secretary may issue an order to limit, condition, or prohibit such agent from any involvement in the transportation or provision of services incidental to the transportation of household goods if, after notice and an opportunity for a hearing, the Secretary finds that such agent, within a reasonable time after the date of issuance of a compliance order under this section, but in no event less than 30 days after such date of issuance, has willfully failed to comply with such order.

"(4) HEARING.—Upon filing of a petition with the Secretary by an agent who is the subject of an order issued pursuant to the second sentence of paragraph (3) of this subsection and after notice, a hearing shall be held with an opportunity to be heard. At such hearing, a determination shall be made whether the order issued pursuant to paragraph (3) of this subsection should be rescinded.

"(5) COURT REVIEW.—Any agent adversely affected or aggrieved by an order of the Secretary issued under this subsection may seek relief in the appropriate United States court of appeals as provided by and in the manner prescribed in chapter 158 of title 28, United States Code.

"(d) LIMITATION ON APPLICABILITY OF ANTITRUST LAWS.—

"(1) IN GENERAL.—The antitrust laws, as defined in the first section of the Clayton Act (15 U.S.C. 12), do not apply to discussions or agreements between a motor carrier providing transportation of household goods and its agents (whether or not an agent is also a carrier) related solely to—

"(A) rates for the transportation of household goods under the authority of the principal carrier;

"(B) accessorial, terminal, storage, or other charges for services incidental to the transportation of household goods transported under the authority of the principal carrier;

"(C) allowances relating to transportation of household goods under the authority of the principal carrier; and

"(D) ownership of a motor carrier providing transportation of household goods by an agent or membership on the board of directors of any such motor carrier by an agent.

"(2) PANEL REVIEW.—The Panel, upon its own initiative or request, shall review any activities undertaken under paragraph (1) and shall modify or terminate the activity if necessary to protect the public interest.

"(e) DEFINITIONS.—In this section, the following definitions apply:

"(1) HOUSEHOLD GOODS.—The term 'household goods' has the meaning such term had under section 10102(11) of this title, as in effect on the day before the effective date of this section.

"(2) TRANSPORTATION.—The term 'transportation' means transportation that would be subject to the jurisdiction of the Interstate Commerce Commission under subchapter II of chapter 105 of this title, as in effect on the day before such effective date, if such subchapter were still in effect.

"§13908. Registration and other reforms

"(a) REGULATIONS REPLACING CERTAIN PROGRAMS.—The Secretary, in cooperation with the States, and after notice and opportunity for public comment, shall issue regulations to replace the current Department of Transportation identification number system, the single State registration system under section 14504, the registration system contained in this chapter, and the financial responsibility information system under section 13906 with a single, on-line, Federal system. The new system shall serve as a clearinghouse and depository of information on and identification of all foreign and domestic motor carriers, brokers, and freight forwarders, and others required to register with the Department as well as information on safety fitness and compliance with required levels of financial responsibility. In issuing the regulations, the Secretary shall consider whether or not to integrate the requirements of section 13304 into the new system and may integrate such requirements into the new system.

"(b) FACTORS TO BE CONSIDERED.—In conducting the rulemaking under subsection (a), the Secretary shall, at a minimum, consider the following factors:

"(1) Funding for State enforcement of motor carrier safety regulations.

"(2) Whether the existing single State registration system is duplicative and burdensome.

"(3) The justification and need for collecting the statutory fee for such system under section 14504(c)(2)(B)(iv).

"(4) The public safety.

"(5) The efficient delivery of transportation services.

"(6) How, and under what conditions, to extend the registration system to motor private carriers and to carriers exempt under sections 13502, 13503, and 13506.

"(c) FEE SYSTEM.—The Secretary may establish, under section 9701 of title 31, a fee system for registration and filing evidence of financial responsibility under the new system under subsection (a). Fees collected under the fee system shall cover the costs of operating and upgrading the registration system, including all personnel costs associated with the system. Fees collected under this subsection may be credited to the Department of Transportation appropriations account for purposes for which such fees are collected, and shall be available for expenditure until expended.

"(d) STATE REGISTRATION PROGRAMS.—If the Secretary determines that no State should require insurance filings or collect fees for such filings (including filings and fees authorized under section 14504), the Secretary may prevent any State or political subdivision thereof, or any political authority of 2 or more States, from imposing any insurance filing requirements or fees that are for the same purposes as filings or fees the Secretary requires under the new system under subsection (a).

"(e) DEADLINE FOR CONCLUSION; MODIFICATIONS.—Not later than 24 months after the effective date of this section, the Secretary—

"(1) shall conclude the rulemaking under this section;

"(2) may implement such changes under this section as the Secretary considers appropriate and in the public interest; and

"(3) shall transmit to Congress a report on any findings of the rulemaking and the changes being implemented under this section, together with such recommendations for legislative language necessary to conform this part to such changes.

"CHAPTER 141—OPERATIONS OF CARRIERS

"SUBCHAPTER I—GENERAL REQUIREMENTS

"Sec.

"14101. Providing transportation and service.

"14102. Leased motor vehicles.

"14103. Loading and unloading motor vehicles.

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"SUBCHAPTER II—REPORTS AND RECORDS

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"SUBCHAPTER I—GENERAL REQUIREMENTS

"§14101. Providing transportation and service

"(a) ON REASONABLE REQUEST.—A carrier providing transportation or service subject to jurisdiction under chapter 135 shall provide the transportation or service on reasonable request. In addition, a motor carrier shall provide safe and adequate service, equipment, and facilities.

"(b) CONTRACTS WITH SHIPPERS.—

"(1) IN GENERAL.—A carrier providing transportation or service subject to jurisdiction under chapter 135 may enter into a contract with a shipper, other than for the movement of household goods described in section 13102(9)(A), to provide specified services under specified rates and conditions. If the shipper, in writing, expressly waives all rights and remedies under this part for the transportation covered by the contract, the transportation provided under the contract shall not be subject to this part and may not be subsequently challenged on the ground that it violates a provision of this part.

"(2) REMEDY FOR BREACH OF CONTRACT.—The exclusive remedy for any alleged breach of a contract entered into under this subsection shall be an action in an appropriate State court or United States district court, unless the parties otherwise agree.

"§14102. Leased motor vehicles

"(a) GENERAL AUTHORITY OF SECRETARY.—The Secretary may require a motor carrier providing transportation subject to jurisdiction under subchapter I of chapter 135 that uses motor vehicles not owned by it to transport property under an arrangement with another party to—

"(1) make the arrangement in writing signed by the parties specifying its duration and the compensation to be paid by the motor carrier;

"(2) carry a copy of the arrangement in each motor vehicle to which it applies during the period the arrangement is in effect;

"(3) inspect the motor vehicles and obtain liability and cargo insurance on them; and

"(4) have control of and be responsible for operating those motor vehicles in compliance with requirements prescribed by the Secretary on safety of operations and equipment, and with other applicable law as if the motor vehicles were owned by the motor carrier.

"(b) RESPONSIBLE PARTY FOR LOADING AND UNLOADING.—The Secretary shall require, by regulation, that any arrangement, between a motor carrier of property providing transportation subject to jurisdiction under subchapter I of chapter 135 and any other person, under which such other person is to provide any portion of such transportation by a motor vehicle not owned by the carrier shall specify, in writing, who is responsible for loading and unloading the property onto and from the motor vehicle.

"§14103. Loading and unloading motor vehicles

"(a) SHIPPER RESPONSIBLE FOR ASSISTING.—Whenever a shipper or receiver of property requires that any person who owns or operates a motor vehicle transporting property in interstate commerce (whether or not such transportation is subject to jurisdiction under subchapter I of chapter 135) be assisted in the loading or unloading of such vehicle, the shipper or receiver shall be responsible for providing such assistance or shall compensate the owner or operator for all costs associated with securing and compensating the person or persons providing such assistance.

"(b) COERCION PROHIBITED.—It shall be unlawful to coerce or attempt to coerce any person providing transportation of property by motor vehicle for compensation in interstate commerce (whether or not such transportation is subject to jurisdiction under subchapter I of chapter 135) to load or unload any part of such property onto or from such vehicle or to employ or pay one or more persons to load or unload any part of such property onto or from such vehicle; except that this subsection shall not be construed as making unlawful any activity which is not unlawful under the National Labor Relations Act or the Act of March 23, 1932 (47 Stat. 70; 29 U.S.C. 101 et seq.), commonly known as the Norris-LaGuardia Act.

"§14104. Household goods carrier operations

"(a) GENERAL REGULATORY AUTHORITY.—

"(1) PAPERWORK MINIMIZATION.—The Secretary may issue regulations, including regulations protecting individual shippers, in order to carry out this part with respect to the transportation of household goods by motor carriers subject to jurisdiction under subchapter I of chapter 135. The regulations and paperwork required of motor carriers providing transportation of household goods shall be minimized to the maximum extent feasible consistent with the protection of individual shippers.

"(2) PERFORMANCE STANDARDS.—

"(A) IN GENERAL.—Regulations of the Secretary protecting individual shippers shall include, where appropriate, reasonable performance standards for the transportation of household goods subject to jurisdiction under subchapter I of chapter 135.

"(B) FACTORS TO CONSIDER.—In establishing performance standards under this paragraph, the Secretary shall take into account at least the following—

"(i) the level of performance that can be achieved by a well-managed motor carrier transporting household goods;

"(ii) the degree of harm to individual shippers which could result from a violation of the regulation;

"(iii) the need to set the level of performance at a level sufficient to deter abuses which result in harm to consumers and violations of regulations;

"(iv) service requirements of the carriers;

"(v) the cost of compliance in relation to the consumer benefits to be achieved from such compliance; and

"(vi) the need to set the level of performance at a level designed to encourage carriers to offer service responsive to shipper needs.

"(3) LIMITATIONS ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to limit the Secretary's authority to require reports from motor carriers providing transportation of household goods or to require such carriers to provide specified information to consumers concerning their past performance.

"(b) ESTIMATES.—

"(1) AUTHORITY TO PROVIDE WITHOUT COMPENSATION.—Every motor carrier providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135, upon request of a prospective shipper, may provide the shipper with an estimate of charges for transportation of household goods and for the proposed services. The Secretary shall not prohibit any such carrier from charging a prospective shipper for providing a written, binding estimate for the transportation and proposed services.

"(2) APPLICABILITY OF ANTITRUST LAWS.—Any charge for an estimate of charges provided by a motor carrier to a shipper for transportation of household goods subject to jurisdiction under subchapter I of chapter 135 shall be subject to the antitrust laws, as defined in the first section of the Clayton Act (15 U.S.C. 12).

"(c) FLEXIBILITY IN WEIGHING SHIPMENTS.—The Secretary shall issue regulations that provide motor carriers providing transportation of household goods subject to jurisdiction under subchapter I of chapter 135 with the maximum possible flexibility in weighing shipments, consistent with assurance to the shipper of accurate weighing practices. The Secretary shall not prohibit such carriers from backweighing shipments or from basing their charges on the reweigh weights if the shipper observes both the tare and gross weighings (or, prior to such weighings, waives in writing the opportunity to observe such weighings) and such weighings are performed on the same scale.

"SUBCHAPTER II—REPORTS AND RECORDS

"§14121. Definitions

"In this subchapter, the following definitions apply:

"(1) CARRIER AND BROKER.—The terms 'carrier' and 'broker' include a receiver or trustee of a carrier and broker, respectively.

"(2) ASSOCIATION.—The term 'association' means an organization maintained by or in the interest of a group of carriers or brokers providing transportation or service subject to jurisdiction under chapter 135 that performs a service, or engages in activities, related to transportation under this part.

"§14122. Records: form; inspection; preservation

"(a) FORM OF RECORDS.—The Secretary or the Panel, as applicable, may prescribe the form of records required to be prepared or compiled under this subchapter by carriers and brokers, including records related to movement of traffic and receipts and expenditures of money.

"(b) RIGHT OF INSPECTION.—The Secretary or Panel, or an employee designated by the Secretary or Panel, may on demand and display of proper credentials—

"(1) inspect and examine the lands, buildings, and equipment of a carrier or broker; and

"(2) inspect and copy any record of—

"(A) a carrier, broker, or association; and

"(B) a person controlling, controlled by, or under common control with a carrier if the Secretary or Panel, as applicable, considers inspection relevant to that person's relation to, or transaction with, that carrier.

"(c) PERIOD FOR PRESERVATION OF RECORDS.—The Secretary or Panel, as applicable, may prescribe the time period during which operating, accounting, and financial records must be preserved by carriers and brokers.

"§14123. Financial reporting

"(a) IN GENERAL.—The Secretary shall require Class I motor carriers, and may require Class II motor carriers, to file with the Secretary annual

financial and safety reports, the form and substance of which shall be prescribed by the Secretary; except that, at a minimum, such reports shall include balance sheets and income statements.

"(b) MATTERS TO BE COVERED.—In determining the matters to be covered by any reports to be filed under subsection (a), the Secretary shall consider—

"(1) safety needs;

"(2) the need to preserve confidential business information and trade secrets and prevent competitive harm;

"(3) private sector, academic, and public use of information in the reports; and

"(4) the public interest.

"(c) EXEMPTION FROM PUBLIC RELEASE.—

"(1) IN GENERAL.—The Secretary shall allow, upon request, a filer of a report under subsection (a) that is not a publicly held corporation or that is not subject to financial reporting requirements of the Securities and Exchange Commission, an exemption from the public release of such report.

"(2) PROCEDURE.—After a request under paragraph (1) and notice and opportunity for comment but no event later than 90 days after the date of such request, the Secretary shall approve such request if the Secretary finds that the exemption requested is necessary to avoid competitive harm and to avoid the disclosure of information that qualifies as a trade secret or privileged or confidential information under section 552(b)(4) of title 5.

"(3) USE OF DATA FOR INTERNAL DOT PURPOSES.—If an exemption is granted under this subsection, nothing shall prevent the Secretary from using data from reports filed under this subsection for internal purposes of the Department of Transportation or including such data in aggregate industry statistics released for publication if such inclusion would not render the filer's data readily identifiable.

"(4) PERIOD OF EXEMPTIONS.—Exemptions granted under this subsection shall be for 3-year periods.

"(5) PENDING REQUESTS.—The Secretary shall not release publicly the report of a carrier making a request under paragraph (1) while such request is pending.

"(d) STREAMLINING AND SIMPLIFICATION.—The Secretary shall streamline and simplify, to the maximum extent practicable, any reporting requirements the Secretary imposes under this section.

"CHAPTER 143—FINANCE

"Sec.
"14301. Security interests in certain motor vehicles.
"14302. Pooling and division of transportation or earnings.
"14303. Consolidation, merger, and acquisition of control of motor carriers of passengers.

"§14301. Security interests in certain motor vehicles

"(a) DEFINITIONS.—In this section, the following definitions apply:

"(1) MOTOR VEHICLE.—The term 'motor vehicle' means a truck of rated capacity (gross vehicle weight) of at least 10,000 pounds, a highway tractor of rated capacity (gross combination weight) of at least 10,000 pounds, a property-carrying trailer or semitrailer with at least one load-carrying axle of at least 10,000 pounds, or a motor bus with a seating capacity of at least 10 individuals.

"(2) LIEN CREDITOR.—The term 'lien creditor' means a creditor having a lien on a motor vehicle and includes an assignee for benefit of creditors from the date of assignment, a trustee in a case under title 11 from the date of filing of the petition in that case, and a receiver in equity from the date of appointment of the receiver.

"(3) SECURITY INTEREST.—The term 'security interest' means an interest (including an interest established by a conditional sales contract, mortgage, equipment trust, or other lien or title retention contract, or lease) in a motor vehicle when the interest secures payment or performance of an obligation.

"(4) PERFECTION.—The term 'perfection', as related to a security interest, means taking action (including public filing, recording, notation on a certificate of title, and possession of collateral by the secured party), or the existence of facts, required under law to make a security interest enforceable against general creditors and subsequent lien creditors of a debtor, but does not include compliance with requirements related only to the establishment of a valid security interest between the debtor and the secured party.

"(b) REQUIREMENTS FOR PERFECTION OF SECURITY INTEREST.—A security interest in a motor vehicle owned by, or in the possession and use of, a carrier registered under section 13902 of this title and owing payment or performance of an obligation secured by that security interest is perfected in all jurisdictions against all general, and subsequent lien, creditors of, and all persons taking a motor vehicle by sale (or taking or retaining a security interest in a motor vehicle) from, that carrier when—

"(1) a certificate of title is issued for a motor vehicle under a law of a jurisdiction that requires or permits indication, on a certificate or title, of a security interest in the motor vehicle if the security interest is indicated on the certificate;

"(2) a certificate of title has not been issued and the law of the State where the principal place of business of that carrier is located requires or permits public filing or recording of, or in relation to, that security interest if there has been such a public filing or recording; and

"(3) a certificate of title has not been issued and the security interest cannot be perfected under paragraph (2) of this subsection, if the security interest has been perfected under the law (including the conflict of laws rules) of the State where the principal place of business of that carrier is located.

"§14302. Pooling and division of transportation or earnings

"(a) APPROVAL REQUIRED.—A carrier providing transportation subject to jurisdiction under subchapter I of chapter 135 may not agree or combine with another such carrier to pool or divide traffic or services or any part of their earnings without the approval of the Panel under this section.

"(b) STANDARDS FOR APPROVAL.—The Panel may approve and authorize an agreement or combination between or among motor carriers of passengers, or between a motor carrier of passengers and a rail carrier of passengers if the carriers involved assent to the pooling or division and the Panel finds that a pooling or division of traffic, services, or earnings—

"(1) will be in the interest of better service to the public or of economy of operation; and

"(2) will not unreasonably restrain competition.

"(c) PROCEDURE.—

"(1) APPLICATION.—Any motor carrier of property may apply to the Panel for approval of an agreement or combination with another such carrier to pool or divide traffic or any services or any part of their earnings by filing such agreement or combination with the Panel not less than 50 days before its effective date.

"(2) DETERMINATION OF IMPORTANCE AND RESTRAINT ON COMPETITION.—Prior to the effective date of the agreement or combination, the Panel shall determine whether the agreement or combination is of major transportation importance and whether there is substantial likelihood that the agreement or combination will unduly restrain competition. If the Panel determines that neither of these 2 factors exists, it shall, prior to such effective date and without a hearing, approve and authorize the agreement or combination, under such rules and regulations as the Panel may issue, and for such consideration between such carriers and upon such terms and conditions as shall be found by the Panel to be just and reasonable.

"(3) HEARING.—If the Panel determines either that the agreement or combination is of major transportation importance or that there is substantial likelihood that the agreement or combination will unduly restrain competition, the Panel shall hold a hearing concerning whether the agreement or combination will be in the interest of better service to the public or of economy in operation and whether it will unduly restrain competition and shall suspend operation of such agreement or combination pending such hearing and final decision thereon. After such hearing, the Panel shall indicate to what extent it finds that the agreement or combination will be in the interest of better service to the public or of economy in operation and will not unduly restrain competition and if assented to by all the carriers involved, shall to that extent, approve and authorize the agreement or combination, under such rules and regulations as the Panel may issue, and for such consideration between such carriers and upon such terms and conditions as shall be found by the Panel to be just and reasonable.

"(4) SPECIAL RULES FOR HOUSEHOLD GOODS CARRIERS.—In the case of an application for Panel approval of an agreement or combination between a motor carrier providing transportation of household goods and its agents to pool or divide traffic or services or any part of their earnings, such agreement or combination shall be presumed to be in the interest of better service to the public and of economy in operation and not to restrain competition unduly if the practices proposed to be carried out under such agreement or combination are the same as or similar to practices carried out under agreements and combinations between motor carriers providing transportation of household goods to pool or divide traffic or service of any part of their earnings approved by the Interstate Commerce Commission before the effective date of this section.

"(5) STREAMLINING AND SIMPLIFYING.—The Panel shall streamline, simplify, and expedite, to the maximum extent practicable, the process (including any paperwork) for submission and approval of applications under this section for agreements and combinations between motor carriers providing transportation of household goods and their agents.

"(d) CONDITIONS.—The Panel may impose conditions governing the pooling or division and may approve and authorize payment of a reasonable consideration between the carriers.

"(e) INITIATION OF PROCEEDING.—The Panel may begin a proceeding under this section on its own initiative or on application.

"(f) EFFECT OF APPROVAL.—A carrier may participate in an arrangement approved by or exempted by the Panel under this section without the approval of any other Federal, State, or municipal body. A carrier participating in an approved or exempted arrangement is exempt from the antitrust laws and from all other law, including State and municipal law, as necessary to let that person carry out the arrangement.

"(g) DEFINITIONS.—In this section, the following definitions apply:

"(1) HOUSEHOLD GOODS.—The term 'household goods' has the meaning such term had under section 10102(11) of this title, as in effect on the day before the effective date of this section.

"(2) TRANSPORTATION.—The term 'transportation' means transportation that would be subject to the jurisdiction of the Interstate Commerce Commission under subchapter II of chapter 105 of this title, as in effect on the day before such effective date, if such subchapter were still in effect.

"§14303. Consolidation, merger, and acquisition of control of motor carriers of passengers

"(a) APPROVAL REQUIRED.—The following transactions involving motor carriers of passengers subject to jurisdiction under subchapter I of chapter 135 may be carried out only with the approval of the Panel:

"(1) Consolidation or merger of the properties or franchises of at least 2 carriers into one operation for the ownership, management, and operation of the previously separately owned properties.

"(2) A purchase, lease, or contract to operate property of another carrier by any number of carriers.

"(3) Acquisition of control of a carrier by any number of carriers.

"(4) Acquisition of control of at least 2 carriers by a person that is not a carrier.

"(5) Acquisition of control of a carrier by a person that is not a carrier but that controls any number of carriers.

"(b) STANDARD FOR APPROVAL.—The Panel shall approve and authorize a transaction under this section when it finds the transaction is consistent with the public interest. The Panel shall consider at least the following:

"(1) The effect of the proposed transaction on the adequacy of transportation to the public.

"(2) The total fixed charges that result from the proposed transaction.

"(3) The interest of carrier employees affected by the proposed transaction.

The Panel may impose conditions governing the transaction.

"(c) DETERMINATION OF COMPLETENESS OF APPLICATION.—Within 30 days after the date on which an application is filed under this section, the Panel shall either publish a notice of the application in the Federal Register or reject the application if it is incomplete.

"(d) COMMENTS.—Written comments about an application may be filed with the Panel within 45 days after the date on which notice of the application is published under subsection (c).

"(e) DEADLINES.—The Panel shall conclude evidentiary proceedings by the 240th day after the date on which notice of the application is published under subsection (c). The Panel shall issue a final decision by the 180th day after the conclusion of the evidentiary proceedings. The Panel may extend a time period under this subsection; except that the total of all such extensions with respect to any application shall not exceed 90 days.

"(f) EFFECT OF APPROVAL.—A carrier or corporation participating in or resulting from a transaction approved by the Panel under this section, or exempted by the Panel from the application of this section pursuant to section 13541, may carry out the transaction, own and operate property, and exercise control or franchises acquired through the transaction without the approval of a State authority. A carrier, corporation, or person participating in the approved or exempted transaction is exempt from the antitrust laws and from all other law, including State and municipal law, as necessary to let that person carry out the transaction, hold, maintain, and operate property, and exercise control or franchises acquired through the transaction.

"(g) LIMITATION ON APPLICABILITY.—This section shall not apply to transactions involving carriers whose aggregate gross operating revenues were not more than $2,000,000 during a period of 12 consecutive months ending not more than 6 months before the date of the agreement of the parties.

"CHAPTER 145—FEDERAL-STATE RELATIONS

"Sec.
"14501. Federal authority over intrastate transportation.
"14502. Tax discrimination against motor carrier transportation property.
"14503. Withholding State and local income tax by certain carriers.
"14504. Registration of motor carriers by a State.
"14505. State tax.

"§14501. Federal authority over intrastate transportation

"(a) MOTOR CARRIERS OF PASSENGERS.—No State or political subdivision thereof and no interstate agency or other political agency of 2 or more States shall enact or enforce any law, rule, regulation, standard, or other provision having the force and effect of law relating to scheduling of interstate or intrastate transportation (including discontinuance or reduction in the level of service) provided by motor carrier of passengers subject to jurisdiction under subchapter I of chapter 135 of this title on an interstate route or relating to the implementation of any change in the rates for such transportation or for any charter transportation except to the extent that notice, not in excess of 30 days, of changes in schedules may be required. This subsection shall not apply to intrastate commuter bus operations.

"(b) FREIGHT FORWARDERS AND BROKERS.—

"(1) GENERAL RULE.—Subject to paragraph (2) of this subsection, no State or political subdivision thereof and no intrastate agency or other political agency of 2 or more States shall enact or enforce any law, rule, regulation, standard, or other provision having the force and effect of law relating to intrastate rates, intrastate routes, or intrastate services of any freight forwarder or broker.

"(2) CONTINUATION OF HAWAII'S AUTHORITY.—Nothing in this subsection and the amendments made by the Surface Freight Forwarder Deregulation Act of 1986 shall be construed to affect the authority of the State of Hawaii to continue to regulate a motor carrier operating within the State of Hawaii.

"(c) MOTOR CARRIERS OF PROPERTY.—

"(1) GENERAL RULE.—Except as provided in paragraphs (2) and (3), a State, political subdivision of a State, or political authority of 2 or more States may not enact or enforce a law, regulation, or other provision having the force and effect of law related to a price, route, or service of any motor carrier (other than a carrier affiliated with a direct air carrier covered by section 41713(b)(4)) or any motor private carrier, broker, or freight forwarder with respect to the transportation of property.

"(2) MATTERS NOT COVERED.—Paragraph (1)—

"(A) shall not restrict the safety regulatory authority of a State with respect to motor vehicles, the authority of a State to impose highway route controls or limitations based on the size or weight of the motor vehicle or the hazardous nature of the cargo, or the authority of a State to regulate motor carriers with regard to minimum amounts of financial responsibility relating to insurance requirements and self-insurance authorization;

"(B) does not apply to the transportation of household goods; and

"(C) does not apply to the authority of a State or a political subdivision of a State to enact or enforce a law, regulation, or other provision relating to the price of for-hire motor vehicle transportation by a tow truck, if such transportation is performed without the prior consent or authorization of the owner or operator of the motor vehicle.

"(3) STATE STANDARD TRANSPORTATION PRACTICES.—

"(A) CONTINUATION.—Paragraph (1) shall not affect any authority of a State, political subdivision of a State, or political authority of 2 or more States to enact or enforce a law, regulation, or other provision, with respect to the intrastate transportation of property by motor carriers, related to—

"(i) uniform cargo liability rules,

"(ii) uniform bills of lading or receipts for property being transported,

"(iii) uniform cargo credit rules, or

"(iv) antitrust immunity for joint line rates or routes, classifications, and mileage guides,

if such law, regulation, or provision meets the requirements of subparagraph (B).

"(B) REQUIREMENTS.—A law, regulation, or provision of a State, political subdivision, or political authority meets the requirements of this subparagraph if—

"(i) the law, regulation, or provision covers the same subject matter as, and compliance with such law, regulation, or provision is no more burdensome than compliance with, a provision of this part or a regulation issued by the Secretary or the Panel under this part; and

"(ii) the law, regulation, or provision only applies to a carrier upon request of such carrier.

"(C) ELECTION.—Notwithstanding any other provision of law, a carrier affiliated with a direct air carrier through common controlling ownership may elect to be subject to a law, regulation, or provision of a State, political subdivision, or political authority under this paragraph.

"(4) This subsection shall not apply with respect to the State of Hawaii until August 22, 1997.

"§14502. Tax discrimination against motor carrier transportation property

"(a) DEFINITIONS.—In this section, the following definitions apply:

"(1) ASSESSMENT.—The term 'assessment' means valuation for a property tax levied by a taxing district.

"(2) ASSESSMENT JURISDICTION.—The term 'assessment jurisdiction' means a geographical area in a State used in determining the assessed value of property for ad valorem taxation.

"(3) MOTOR CARRIER TRANSPORTATION PROPERTY.—The term 'motor carrier transportation property' means property, as defined by the Secretary, owned or used by a motor carrier providing transportation in interstate commerce whether or not such transportation is subject to jurisdiction under subchapter I of chapter 135.

"(4) COMMERCIAL AND INDUSTRIAL PROPERTY.—The term 'commercial and industrial property' means property, other than transportation property and land used primarily for agricultural purposes or timber growing, devoted to a commercial or industrial use, and subject to a property tax levy.

"(b) ACTS BURDENING INTERSTATE COMMERCE.—The following acts unreasonably burden and discriminate against interstate commerce and a State, subdivision of a State, or authority acting for a State or subdivision of a State may not do any of them:

"(1) EXCESSIVE VALUATION OF PROPERTY.—Assess motor carrier transportation property at a value that has a higher ratio to the true market value of the motor carrier transportation property than the ratio that the assessed value of other commercial and industrial property in the same assessment jurisdiction has to the true market value of the other commercial and industrial property.

"(2) TAX ON ASSESSMENT.—Levy or collect a tax on an assessment that may not be made under paragraph (1).

"(3) AD VALOREM TAX.—Levy or collect an ad valorem property tax on motor carrier transportation property at a tax rate that exceeds the

tax rate applicable to commercial and industrial property in the same assessment jurisdiction.

"(c) JURISDICTION.—

"(1) IN GENERAL.—Notwithstanding section 1341 of title 28 and without regard to the amount in controversy or citizenship of the parties, a district court of the United States has jurisdiction, concurrent with other jurisdiction of courts of the United States and the States, to prevent a violation of subsection (b) of this section.

"(2) LIMITATION IN RELIEF.—Relief may be granted under this subsection only if the ratio of assessed value to true market value of motor carrier transportation property exceeds, by at least 5 percent, the ratio of assessed value to true market value of other commercial and industrial property in the same assessment jurisdiction.

"(3) BURDEN OF PROOF.—The burden of proof in determining assessed value and true market value is governed by State law.

"(4) VIOLATION.—If the ratio of the assessed value of other commercial and industrial property in the assessment jurisdiction to the true market value of all other commercial and industrial property cannot be determined to the satisfaction of the district court through the random-sampling method known as a sales assessment ratio study (to be carried out under statistical principles applicable to such a study), the court shall find, as a violation of this section—

"(A) an assessment of the motor carrier transportation property at a value that has a higher ratio to the true market value of the motor carrier transportation property than the assessment value of all other property subject to a property tax levy in the assessment jurisdiction has to the true market value of all such other property; and

"(B) the collection of ad valorem property tax on the motor carrier transportation property at a tax rate that exceeds the tax ratio rate applicable to taxable property in the taxing district.

"§14503. Withholding State and local income tax by certain carriers

"(a) SINGLE STATE TAX WITHHOLDING.—

"(1) IN GENERAL.—No part of the compensation paid by a motor carrier providing transportation subject to jurisdiction under subchapter I of chapter 135 or by a motor private carrier to an employee who performs regularly assigned duties in 2 or more States as such an employee with respect to a motor vehicle shall be subject to the income tax laws of any State or subdivision of that State, other than the State or subdivision thereof of the employee's residence.

"(2) EMPLOYEE DEFINED.—In this subsection, the term 'employee' has the meaning given such term in section 31132.

"(b) SPECIAL RULES.—

"(1) CALCULATION OF EARNINGS.—In this subsection, an employee is deemed to have earned more than 50 percent of pay in a State or subdivision of that State in which the time worked by the employee in the State or subdivision is more than 50 percent of the total time worked by the employee while employed during the calendar year.

"(2) WATER CARRIERS.—A water carrier providing transportation subject to jurisdiction under subchapter II of chapter 135 shall file income tax information returns and other reports only with—

"(A) the State and subdivision of residence of the employee (as shown on the employment records of the carrier); and

"(B) the State and subdivision in which the employee earned more than 50 percent of the pay received by the employee from the carrier during the preceding calendar year.

"(3) APPLICABILITY TO SAILORS.—This subsection applies to pay of a master, officer, or sailor who is a member of the crew on a vessel engaged in foreign, coastwise, intercoastal, or noncontiguous trade or in the fisheries of the United States.

"(c) FILING OF INFORMATION.—A motor and motor private carrier withholding pay from an employee under subsection (a) of this section shall file income tax information returns and other reports only with the State and subdivision of residence of the employee.

"§14504. Registration of motor carriers by a State

"(a) DEFINITIONS.—In this section, the terms 'standards' and 'amendments to standards' mean the specification of forms and procedures required by regulations of the Secretary to prove the lawfulness of transportation by motor carrier referred to in section 13501.

"(b) GENERAL RULE.—The requirement of a State that a motor carrier, providing transportation subject to jurisdiction under subchapter I of chapter 135 and providing transportation in that State, must register with the State is not an unreasonable burden on transportation referred to in section 13501 when the State registration is completed under standards of the Secretary under subsection (c). When a State registration requirement imposes obligations in excess of the standards of the Secretary, the part in excess is an unreasonable burden.

"(c) SINGLE STATE REGISTRATION SYSTEM.—

"(1) IN GENERAL.—The Secretary shall maintain standards for implementing a system under which—

"(A) a motor carrier is required to register annually with only one State by providing evidence of its Federal registration under chapter 139;

"(B) the State of registration shall fully comply with standards prescribed under this section; and

"(C) such single State registration shall be deemed to satisfy the registration requirements of all other States.

"(2) SPECIFIC REQUIREMENTS.—

"(A) EVIDENCE OF FEDERAL REGISTRATION; PROOF OF INSURANCE; PAYMENT OF FEES.—Under the standards of the Secretary implementing the single State registration system described in paragraph (1) of this subsection, only a State acting in its capacity as registration State under such single State system may require a motor carrier registered by the Secretary under this part—

"(i) to file and maintain evidence of such Federal registration;

"(ii) to file satisfactory proof of required insurance or qualification as a self-insurer;

"(iii) to pay directly to such State fee amounts in accordance with the fee system established under subparagraph (B)(iv) of this paragraph, subject to allocation of fee revenues among all States in which the carrier operates and which participate in the single State registration system; and

"(iv) to file the name of a local agent for service of process.

"(B) RECEIPTS; FEE SYSTEM.—The standards of the Secretary—

"(i) shall require that the registration State issue a receipt, in a form prescribed under the standards, reflecting that the carrier has filed proof of insurance as provided under subparagraph (A)(ii) of this paragraph and has paid fee amounts in accordance with the fee system established under clause (iv) of this subparagraph;

"(ii) shall require that copies of the receipt issued under clause (i) of this subparagraph be kept in each of the carrier's commercial motor vehicles;

"(iii) shall not require decals, stamps, cab cards, or any other means of registering or identifying specific vehicles operated by the carrier;

"(iv) shall establish a fee system for the filing of proof of insurance as provided under subparagraph (A)(ii) of this paragraph that—

"(I) is based on the number of commercial motor vehicles the carrier operates in a State and on the number of States in which the carrier operates;

"(II) minimizes the costs of complying with the registration system; and

"(III) results in a fee for each participating State that is equal to the fee, not to exceed $10 per vehicle, that such State collected or charged as of November 15, 1991; and

"(v) shall not authorize the charging or collection of any fee for filing and maintaining a certificate or permit under subparagraph (A)(i) of this paragraph.

"(C) PROHIBITED FEES.—The charging or collection of any fee under this section that is not in accordance with the fee system established under subparagraph (B)(iv) of this paragraph shall be deemed to be a burden on interstate commerce.

"(D) LIMITATION ON PARTICIPATION BY STATES.—Only a State which, as of January 1, 1991, charged or collected a fee for a vehicle identification stamp or number under part 1023 of title 49, Code of Federal Regulations, shall be eligible to participate as a registration State under this subsection or to receive any fee revenue under this subsection.

"§14505. State tax

"A State or political subdivision thereof may not collect or levy a tax, fee, head charge, or other charge on—

"(1) a passenger traveling in interstate commerce by motor carrier;

"(2) the transportation of a passenger traveling in interstate commerce by motor carrier;

"(3) the sale of passenger transportation in interstate commerce by motor carrier; or

"(4) the gross receipts derived from such transportation.

"CHAPTER 147—ENFORCEMENT; INVESTIGATIONS; RIGHTS; REMEDIES

"Sec.

"14701. General authority.

"14702. Enforcement by the regulatory authority.

"14703. Enforcement by the Attorney General.

"14704. Rights and remedies of persons injured by carriers or brokers.

"14705. Limitation on actions by and against carriers.

"14706. Liability of carriers under receipts and bills of lading.

"14707. Private enforcement of registration requirement.

"14708. Dispute settlement program for household goods carriers.

"14709. Tariff reconciliation rules for motor carriers of property.

"§14701. General authority

"(a) INVESTIGATIONS.—The Secretary or the Panel, as applicable, may begin an investigation under this part on the Secretary's or the Panel's own initiative or on complaint. If the Secretary or Panel, as applicable, finds that a carrier or broker is violating this part, the Secretary or Panel, as applicable, shall take appropriate action to compel compliance with this part. If the Secretary finds that a foreign motor carrier or foreign motor private carrier is violating chapter 139, the Secretary shall take appropriate action to compel compliance with that chapter. The Secretary or Panel, as applicable, may take action under this subsection only after giving the carrier or broker notice of the investigation and an opportunity for a proceeding.

"(b) COMPLAINTS.—A person, including a governmental authority, may file with the Secretary or Panel, as applicable, a complaint about a violation of this part by a carrier providing, or broker for, transportation or service subject to jurisdiction under this part or a foreign motor carrier or foreign motor private carrier providing transportation registered under

section 13902 of this title. The complaint must state the facts that are the subject of the violation. The Secretary or Panel, as applicable, may dismiss a complaint that it determines does not state reasonable grounds for investigation and action.

"(c) DEADLINE.—A formal investigative proceeding begun by the Secretary or Panel under subsection (a) of this section is dismissed automatically unless it is concluded with administrative finality by the end of the 3d year after the date on which it was begun.

"(d) LIMITATION.—The Secretary and the Panel only have authority under this section with respect to matters within their respective jurisdictions under this part.

"§14702. Enforcement by the regulatory authority

"(a) IN GENERAL.—The Secretary or the Panel, as applicable, may bring a civil action—

"(1) to enforce section 14103 of this title; or

"(2) to enforce this part, or a regulation or order of the Secretary or Panel, as applicable, when violated by a carrier or broker providing transportation or service subject to jurisdiction under subchapter I or III of chapter 135 of this title or by a foreign motor carrier or foreign motor private carrier providing transportation registered under section 13902 of this title.

"(b) VENUE.—In a civil action under subsection (a)(2) of this section—

"(1) trial is in the judicial district in which the carrier, foreign motor carrier, foreign motor private carrier, or broker operates;

"(2) process may be served without regard to the territorial limits of the district or of the State in which the action is instituted; and

"(3) a person participating with a carrier or broker in a violation may be joined in the civil action without regard to the residence of the person.

"(c) STANDING.—The Panel may bring or participate in any civil action involving motor carrier undercharges.

"§14703. Enforcement by the Attorney General

"The Attorney General may, and on request of either the Secretary or the Panel shall, bring court proceedings—

"(1) to enforce this part or a regulation or order of the Secretary or Panel or terms of registration under this part; and

"(2) to prosecute a person violating this part or a regulation or order of the Secretary or Panel or term of registration under this part.

"§14704. Rights and remedies of persons injured by carriers or brokers

"(a) IN GENERAL.—

"(1) ENFORCEMENT OF ORDER.—A person injured because a carrier or broker providing transportation or service subject to jurisdiction under chapter 135 does not obey an order of the Secretary or the Panel, as applicable, under this part, except an order for the payment of money, may bring a civil action to enforce that order under this subsection. A person may bring a civil action for injunctive relief for violations of sections 14102 and 14103.

"(2) DAMAGES FOR VIOLATIONS.—A carrier or broker providing transportation or service subject to jurisdiction under chapter 135 is liable for damages sustained by a person as a result of an act or omission of that carrier or broker in violation of this part.

"(b) LIABILITY AND DAMAGES FOR EXCEEDING TARIFF RATE.—A carrier providing transportation or service subject to jurisdiction under chapter 135 is liable to a person for amounts charged that exceed the applicable rate for transportation or service contained in a tariff in effect under section 13702.

"(c) ELECTION.—

"(1) COMPLAINT TO DOT OR PANEL; CIVIL ACTION.—A person may file a complaint with the Panel or the Secretary, as applicable, under section 14701(b) or bring a civil action under subsection (b)(1) or (2) of this section to enforce liability against a carrier or broker providing transportation or service subject to jurisdiction under chapter 135.

"(2) ORDER OF DOT OR PANEL.—

"(A) IN GENERAL.—When the Panel or Secretary, as applicable, makes an award under subsection (b) of this section, the Panel or Secretary, as applicable, shall order the carrier to pay the amount awarded by a specific date. The Panel or Secretary, as applicable, may order a carrier or broker providing transportation or service subject to jurisdiction under chapter 135 to pay damages only when the proceeding is on complaint.

"(B) ENFORCEMENT BY CIVIL ACTION.—The person for whose benefit an order of the Panel or Secretary requiring the payment of money is made may bring a civil action to enforce that order under this paragraph if the carrier or broker does not pay the amount awarded by the date payment was ordered to be made.

"(d) PROCEDURE.—

"(1) IN GENERAL.—When a person begins a civil action under subsection (b) of this section to enforce an order of the Panel or Secretary requiring the payment of damages by a carrier or broker providing transportation or service subject to jurisdiction under chapter 135 of this title, the text of the order of the Panel or Secretary must be included in the complaint. In addition to the district courts of the United States, a State court of general jurisdiction having jurisdiction of the parties has jurisdiction to enforce an order under this paragraph. The findings and order of the Panel or Secretary are competent evidence of the facts stated in them. Trial in a civil action brought in a district court of the United States under this paragraph is in the judicial district in which the plaintiff resides or in which the principal operating office of the carrier or broker is located. In a civil action under this paragraph, the plaintiff is liable for only those costs that accrue on an appeal taken by the plaintiff.

"(2) PARTIES.—All parties in whose favor the award was made may be joined as plaintiffs in a civil action brought in a district court of the United States under this subsection and all the carriers that are parties to the order awarding damages may be joined as defendants. Trial in the action is in the judicial district in which any one of the plaintiffs could bring the action against any one of the defendants. Process may be served on a defendant at its principal operating office when that defendant is not in the district in which the action is brought. A judgment ordering recovery may be made in favor of any of those plaintiffs against the defendant found to be liable to that plaintiff.

"(e) ATTORNEY'S FEES.—The district court shall award a reasonable attorney's fee under this section. The district court shall tax and collect that fee as a part of the costs of the action.

"§14705. Limitation on actions by and against carriers

"(a) IN GENERAL.—A carrier providing transportation or service subject to jurisdiction under chapter 135 must begin a civil action to recover charges for transportation or service provided by the carrier within 18 months after the claim accrues.

"(b) OVERCHARGES.—A person must begin a civil action to recover overcharges within 18 months after the claim accrues. If the claim is against a carrier providing transportation subject to jurisdiction under chapter 135 and an election to file a complaint with the Panel or Secretary, as applicable, is made under section 14704(c)(1), the complaint must be filed within 3 years after the claim accrues.

"(c) DAMAGES.—A person must file a complaint with the Panel or Secretary, as applicable, to recover damages under section 14704(b)(2) within 2 years after the claim accrues.

"(d) EXTENSIONS.—The limitation periods under subsection (b) of this section are extended for 6 months from the time written notice is given to the claimant by the carrier of disallowance of any part of the claim specified in the notice if a written claim is given to the carrier within those limitation periods. The limitation periods under subsections (b) and (c) of this section are extended for 90 days from the time the carrier begins a civil action under subsection (a) to recover charges related to the same transportation or service, or collects (without beginning a civil action under that subsection) the charge for that transportation or service if that action is begun or collection is made within the appropriate period.

"(e) PAYMENT.—A person must begin a civil action to enforce an order of the Panel or Secretary against a carrier for the payment of money within 1 year after the date the order required the money to be paid.

"(f) GOVERNMENT TRANSPORTATION.—This section applies to transportation for the United States Government. The time limitations under this section are extended, as related to transportation for or on behalf of the United States Government, for 3 years from the later of the date of—

"(1) payment of the rate for the transportation or service involved;

"(2) subsequent refund for overpayment of that rate; or

"(3) deduction made under section 3726 of title 31.

"(g) ACCRUAL DATE.—A claim related to a shipment of property accrues under this section on delivery or tender of delivery by the carrier.

"§14706. Liability of carriers under receipts and bills of lading

"(a) GENERAL LIABILITY.—

"(1) MOTOR CARRIERS AND FREIGHT FORWARDERS.—A carrier providing transportation or service subject to jurisdiction under subchapter I or III of chapter 135 shall issue a receipt or bill of lading for property it receives for transportation under this part. That carrier and any other carrier that delivers the property and is providing transportation or service subject to jurisdiction under subchapter I or III of chapter 135 or chapter 105 are liable to the person entitled to recover under the receipt or bill of lading. The liability imposed under this paragraph is for the actual loss or injury to the property caused by (A) the receiving carrier, (B) the delivering carrier, or (C) another carrier over whose line or route the property is transported in the United States or from a place in the United States to a place in an adjacent foreign country when transported under a through bill of lading and, except in the case of a freight forwarder, applies to property reconsigned or diverted under a tariff under section 13702. Failure to issue a receipt or bill of lading does not affect the liability of a carrier. A delivering carrier is deemed to be the carrier performing the line-haul transportation nearest the destination but does not include a carrier providing only a switching service at the destination.

"(2) FREIGHT FORWARDER.—A freight forwarder is both the receiving and delivering carrier. When a freight forwarder provides service and uses a motor carrier providing transportation subject to jurisdiction under subchapter I of chapter 135 to receive property from a consignor, the motor carrier may execute the bill of lading or shipping receipt for the freight forwarder with its consent. With the consent of the freight forwarder, a motor carrier may deliver property for a freight forwarder on the freight forwarder's bill of lading, freight bill, or shipping receipt to the consignee named in it, and receipt for the property may be made on the freight forwarder's delivery receipt.

"(b) APPORTIONMENT.—The carrier issuing the receipt or bill of lading under subsection (a) of this section or delivering the property for which the receipt or bill of lading was issued is entitled to recover from the carrier over whose line or route the loss or injury occurred the amount required to be paid to the owners of the property, as evidenced by a receipt, judgment, or transcript, and the amount of its expenses reasonably incurred in defending a civil action brought by that person.

"(c) SPECIAL RULES.—

"(1) LIMITATION OF LIABILITY.—A carrier may limit liability imposed under subsection (a) by establishing rates for the transportation of property (other than household goods) under which the liability of the carrier for such property (A) is limited to a value established by written or electronic declaration of the shipper or by a mutual written agreement between the carrier and shipper, or (B) is contained in a schedule of rules and rates maintained by the carrier and provided to the shipper upon request. The schedule shall clearly state its dates of applicability.

"(2) WATER CARRIERS.—If loss or injury to property occurs while it is in the custody of a water carrier, the liability of that carrier is determined by its bill of lading and the law applicable to water transportation. The liability of the initial or delivering carrier is the same as the liability of the water carrier.

"(d) CIVIL ACTIONS.—

"(1) AGAINST DELIVERING CARRIER.—A civil action under this section may be brought against a delivering carrier in a district court of the United States or in a State court. Trial, if the action is brought in a district court of the United States is in a judicial district, and if in a State court, is in a State through which the defendant carrier operates.

"(2) AGAINST CARRIER RESPONSIBLE FOR LOSS.—A civil action under this section may be brought against the carrier alleged to have caused the loss or damage, in the judicial district in which such loss or damage is alleged to have occurred.

"(3) JURISDICTION OF COURTS.—A civil action under this section may be brought in a United States district court or in a State court.

"(4) JUDICIAL DISTRICT DEFINED.—In this section, 'judicial district' means—

"(A) in the case of a United States district court, a judicial district of the United States; and

"(B) in the case of a State court, the applicable geographic area over which such court exercises jurisdiction.

"(e) MINIMUM PERIOD FOR FILING CLAIMS.—

"(1) IN GENERAL.—A carrier may not provide by rule, contract, or otherwise, a period of less than 9 months for filing a claim against it under this section and a period of less than 2 years for bringing a civil action against it under this section. The period for bringing a civil action is computed from the date the carrier gives a person written notice that the carrier has disallowed any part of the claim specified in the notice.

"(2) SPECIAL RULES.—For the purposes of this subsection—

"(A) an offer of compromise shall not constitute a disallowance of any part of the claim unless the carrier, in writing, informs the claimant that such part of the claim is disallowed and provides reasons for such disallowance; and

"(B) communications received from a carrier's insurer shall not constitute a disallowance of any part of the claim unless the insurer, in writing, informs the claimant that such part of the claim is disallowed, provides reason for such disallowance, and informs the claimant that the insurer is acting on behalf of the carrier.

"(f) LIMITING LIABILITY OF HOUSEHOLD GOODS CARRIERS TO DECLARED VALUE.—A carrier or group of carriers subject to jurisdiction under subchapter I or III of chapter 135 may petition the Panel to modify, eliminate, or establish rates for the transportation of household goods under which the liability of the carrier for that property is limited to a value established by written declaration of the shipper or by a written agreement.

"(g) MODIFICATIONS AND REFORMS.—

"(1) STUDY.—The Secretary shall conduct a study to determine whether any modifications or reforms should be made to the loss and damage provisions of this section.

"(2) FACTORS TO CONSIDER.—In conducting the study, the Secretary, at a minimum, shall consider—

"(A) the efficient delivery of transportation services;

"(B) international and intermodal harmony;

"(C) the public interest; and

"(D) the interest of carriers and shippers.

"(3) REPORT.—Not later than 18 months after the effective date of this section, the Secretary shall submit to Congress a report on the results of the study, together with any recommendations of the Secretary (including legislative recommendations) for implementing modifications or reforms identified by the Secretary as being appropriate.

"§14707. Private enforcement of registration requirement

"(a) IN GENERAL.—If a person provides transportation by motor vehicle or service in clear violation of section 13901–13904 or 13906, a person injured by the transportation or service may bring a civil action to enforce any such section. In a civil action under this subsection, trial is in the judicial district in which the person who violated that section operates.

"(b) PROCEDURE.—A copy of the complaint in a civil action under subsection (a) shall be served on the Secretary and a certificate of service must appear in the complaint filed with the court. The Secretary may intervene in a civil action under subsection (a). The Secretary may notify the district court in which the action is pending that the Secretary intends to consider the matter that is the subject of the complaint in a proceeding before the Secretary. When that notice is filed, the court shall stay further action pending disposition of the proceeding before the Secretary.

"(c) ATTORNEY'S FEES.—In a civil action under subsection (a), the court may determine the amount of and award a reasonable attorney's fee to the prevailing party. That fee is in addition to costs allowable under the Federal Rules of Civil Procedure.

"§14708. Dispute settlement program for household goods carriers

"(a) OFFERING SHIPPERS ARBITRATION.—As a condition of registration under section 13902 or 13903, a carrier providing transportation of household goods subject to jurisdiction under subchapter I or III of chapter 135 must agree to offer in accordance with this section to shippers of household goods arbitration as a means of settling disputes between such carriers and shippers of household goods concerning damage or loss to the household goods transported.

"(b) ARBITRATION REQUIREMENTS.—

"(1) PREVENTION OF SPECIAL ADVANTAGE.—The arbitration that is offered must be designed to prevent a carrier from having any special advantage in any case in which the claimant resides or does business at a place distant from the carrier's principal or other place of business.

"(2) NOTICE OF ARBITRATION PROCEDURE.—The carrier must provide the shipper an adequate notice of the availability of neutral arbitration, including a concise easy-to-read, accurate summary of the arbitration procedure, any applicable fees, and disclosure of the legal effects of election to utilize arbitration. Such notice must be given to persons for whom household goods are to be transported by the carrier before such goods are tendered to the carrier for transportation.

"(3) PROVISION OF FORMS.—Upon request of a shipper, the carrier must promptly provide such forms and other information as are necessary for initiating an action to resolve a dispute under arbitration.

"(4) INDEPENDENCE OF ARBITRATOR.—Each person authorized to arbitrate or otherwise settle disputes must be independent of the parties to the dispute and must be capable, as determined under such regulations as the Secretary may issue, to resolve such disputes fairly and expeditiously. The carrier must ensure that each person chosen to settle the disputes is authorized and able to obtain from the shipper or carrier any material and relevant information to the extent necessary to carry out a fair and expeditious decision making process.

"(5) LIMITATION ON FEES.—No fee of more than $25 may be charged a shipper for instituting an arbitration proceeding under this subsection. The arbitrator may determine which party shall pay the cost or a portion of the cost of the arbitration proceeding.

"(6) REQUESTS.—The carrier must not require the shipper to agree to utilize arbitration prior to the time that a dispute arises. If the dispute involves a claim for $1,000 or less and the shipper requests arbitration, such arbitration shall be binding on the parties. If the dispute involves a claim for more than $1,000 and the shipper requests arbitration, such arbitration shall be binding on the parties only if the carrier agrees to arbitration.

"(7) ORAL PRESENTATION OF EVIDENCE.—The arbitrator may provide for an oral presentation of a dispute concerning transportation of household goods by a party to the dispute (or a party's representative), but such oral presentation may be made only if all parties to the dispute expressly agree to such presentation and the date, time, and location of such presentation.

"(8) DEADLINE FOR DECISION.—The arbitrator must, as expeditiously as possible but at least within 60 days of receipt of written notification of the dispute, render a decision based on the information gathered; except that, in any case in which a party to the dispute fails to provide in a timely manner any information concerning such dispute which the person settling the dispute may reasonably require to resolve the dispute, the arbitrator may extend such 60-day period for a reasonable period of time. A decision resolving a dispute may include any remedies appropriate under the circumstances, including repair, replacement, refund, reimbursement for expenses, and compensation for damages.

"(c) LIMITATION ON USE OF MATERIALS.—Materials and information obtained in the course of a decision making process to settle a dispute by arbitration under this section may not be used to bring an action under section 14905.

"(d) ATTORNEY'S FEES TO SHIPPERS.—In any court action to resolve a dispute between a shipper of household goods and a carrier providing transportation or service subject to jurisdiction under subchapter I or III of chapter 135 concerning the transportation of household goods by such carrier, the shipper shall be awarded reasonable attorney's fees if—

"(1) the shipper submits a claim to the carrier within 120 days after the date the shipment is delivered or the date the delivery is scheduled, whichever is later;

"(2) the shipper prevails in such court action; and

"(3)(A) a decision resolving the dispute was not rendered through arbitration under this section within the period provided under subsection (b)(8) of this section or an extension of such period under such subsection; or

"(B) the court proceeding is to enforce a decision rendered through arbitration under this section and is instituted after the period for performance under such decision has elapsed.

"(e) ATTORNEY'S FEES TO CARRIERS.—In any court action to resolve a dispute between a shipper of household goods and a carrier providing transportation, or service subject to jurisdiction under subchapter I or III of chapter 135 concerning the transportation of household goods by such carrier, such carrier may be awarded reasonable attorney's fees by the court only if the shipper brought such action in bad faith—

"(1) after resolution of such dispute through arbitration under this section; or

"(2) after institution of an arbitration proceeding by the shipper to resolve such dispute under this section but before—

"(A) the period provided under subsection (b)(8) for resolution of such dispute (including, if applicable, an extension of such period under such subsection) ends; and

"(B) a decision resolving such dispute is rendered.

"(f) LIMITATION OF APPLICABILITY TO COLLECT-ON-DELIVERY TRANSPORTATION.—The provisions of this section shall apply only in the case of collect-on-delivery transportation of household goods.

"(g) REVIEW BY SECRETARY.—Not later than 36 months after the effective date of this section, the secretary shall complete a review of the dispute settlement program established under this section. If, after notice and opportunity for comment, the Secretary determines that changes are necessary to such program to ensure the fair and equitable resolution of disputes under this section, the Secretary shall implement such changes and transmit a report to Congress on such changes.

"§14709. Tariff reconciliation rules for motor carriers of property

"Subject to review and approval by the Panel, motor carriers subject to jurisdiction under subchapter I of chapter 135 (other than motor carriers providing transportation of household goods) and shippers may resolve, by mutual consent, overcharge and under-charge claims resulting from incorrect tariff provisions or billing errors arising from the inadvertent failure to properly and timely file and maintain agreed upon rates, rules, or classifications in compliance with section 13702 or, with respect to transportation provided before the effective date of this section, sections 10761 and 10762, as in effect on the day before the effective date of this section. Resolution of such claims among the parties shall not subject any party to the penalties for departing from a tariff.

"CHAPTER 149—CIVIL AND CRIMINAL PENALTIES

Sec.

"14901. General civil penalties.
"14902. Civil penalty for accepting rebates from carrier.
"14903. Tariff violations.
"14904. Additional rate violations.
"14905. Penalties for violations of rules relating to loading and unloading motor vehicles.
"14906. Evasion of regulation of carriers and brokers.
"14907. Record keeping and reporting violations.
"14908. Unlawful disclosure of information.
"14909. Disobedience to subpoenas.
"14910. General criminal penalty when specific penalty not provided.
"14911. Punishment of corporation for violations committed by certain individuals.
"14912. Weight-bumping in household goods transportation.
"14913. Conclusiveness of rates in certain prosecutions.

"§14901. General civil penalties

"(a) REPORTING AND RECORDKEEPING.—A person required to make a report to the Secretary or the Panel, answer a question, or make, prepare, or preserve a record under this part concerning transportation subject to jurisdiction under subchapter I or III of chapter 135 or transportation by a foreign carrier registered under section 13902, or an officer, agent, or employee of that person that—

"(1) does not make the report;

"(2) does not specifically, completely, and truthfully answer the question;

"(3) does not make, prepare, or preserve the record in the form and manner prescribed;

"(4) does not comply with section 13901; or

"(5) does not comply with section 13902(c);

is liable to the United States Government for a civil penalty of not less than $500 for each violation and for each additional day the violation continues; except that, in the case of a person who is not registered under this part to provide transportation of passengers, or an officer, agent, or employee of such person, that does not comply with section 13901 with respect to providing transportation of passengers, the amount of the civil penalty shall not be less than $2,000 for each violation and for each additional day the violation continues.

"(b) TRANSPORTATION OF HAZARDOUS WASTES.—A person subject to jurisdiction under subchapter I of chapter 135, or an officer, agent, or employee of that person, and who is required to comply with section 13901 of this title but does not so comply with respect to the transportation of hazardous wastes as defined by the Environmental Protection Agency pursuant to section 3001 of the Solid Waste Disposal Act (but not including any waste the regulation of which under the Solid Waste Disposal Act has been suspended by Congress) shall be liable to the United States for a civil penalty not to exceed $20,000 for each violation.

"(c) FACTORS TO CONSIDER IN DETERMINING AMOUNT.—In determining and negotiating the amount of a civil penalty under subsection (a) or (d) concerning transportation of household goods, the degree of culpability, any history of prior such conduct, the degree of harm to shipper or shippers, ability to pay, the effect on ability to do business, whether the shipper has been adequately compensated before institution of the proceeding, and such other matters as fairness may require shall be taken into account.

"(d) PROTECTION OF HOUSEHOLD GOODS SHIPPERS.—If a carrier providing transportation of household goods subject to jurisdiction under subchapter I or III of chapter 135 or a receiver or trustee of such carrier fails or refuses to comply with any regulation issued by the Secretary or the Panel relating to protection of individual shippers, such carrier, receiver, or trustee is liable to the United States for a civil penalty of not less than $1,000 for each violation and for each additional day during which the violation continues.

"(e) VIOLATION RELATING TO TRANSPORTATION OF HOUSEHOLD GOODS.—Any person that knowingly engages in or knowingly authorizes an agent or other person—

"(1) to falsify documents used in the transportation of household goods subject to jurisdiction under subchapter I or III of chapter 135 which evidence the weight of a shipment; or

"(2) to charge for accessorial services which are not performed or for which the carrier is not entitled to be compensated in any case in which such services are not reasonably necessary in the safe and adequate movement of the shipment;

is liable to the United States for a civil penalty of not less than $2,000 for each violation and of not less than $5,000 for each subsequent violation. Any State may bring a civil action in the United States district courts to compel a person to pay a civil penalty assessed under this subsection.

"(f) VENUE.—Trial in a civil action under subsections (a) through (e) of this section is in the judicial district in which—

"(1) the carrier or broker has its principal office;

"(2) the carrier or broker was authorized to provide transportation or service under this part when the violation occurred;

"(3) the violation occurred; or

"(4) the offender is found.

Process in the action may be served in the judicial district of which the offender is an inhabitant or in which the offender may be found.

"§14902. Civil penalty for accepting rebates from carrier

"A person—

"(1) delivering property to a carrier providing transportation or service subject to jurisdiction under chapter 135 for transportation under this part or for whom that carrier will transport the property as consignor or consignee for that person from a State or territory or possession of the United States to another State or possession, territory, or to a foreign country; and

"(2) knowingly accepting or receiving by any means a rebate or offset against the rate for transportation for, or service of, that property contained in a tariff required under section 13702;

is liable to the United States Government for a civil penalty in an amount equal to 3 times the amount of money that person accepted or received as a rebate or offset and 3 times the value of other consideration accepted or received as a rebate or offset. In a civil action under this section, all money or other consideration received by the person during a period of 6 years before an action is brought under this section may be included in determining the amount of the penalty, and if that total amount is included, the penalty shall be 3 times that total amount.

"§14903. Tariff violations

"(a) CRIMINAL PENALTY FOR UNDERCHARGING.—A person that knowingly offers, grants, gives, solicits, accepts, or receives by any means transportation or service provided for property by a carrier subject to jurisdiction under chapter 135 at less than the rate in effect under section 13702 shall be fined at least $1,000 but not more than $20,000, imprisoned for not more than 2 years, or both.

"(b) GENERAL CRIMINAL PENALTY.—A carrier providing transportation or service subject to jurisdiction under chapter 135 or an officer, director, receiver, trustee, lessee, agent, or employee of a corporation that is subject to jurisdiction under that chapter, that willfully does not observe its tariffs as required under section 13702, shall be fined at least $1,000 but not more than $20,000, imprisoned for not more than 2 years, or both.

"(c) ACTIONS OF AGENTS AND EMPLOYEES.—When acting in the scope of their employment, the actions and omissions of persons acting for or employed by a carrier or shipper that is subject to this section are considered to be the actions and omissions of that carrier or shipper as well as that person.

"(d) VENUE.—Trial in a criminal action under this section is in the judicial district in which any part of the violation is committed or through which the transportation is conducted.

"§14904. Additional rate violations

"(a) REBATES BY AGENTS.—A person, or an officer, employee, or agent of that person, that—

"(1) knowingly offers, grants, gives, solicits, accepts, or receives a rebate for concession, in

violation of a provision of this part related to motor carrier transportation subject to jurisdiction under subchapter I of chapter 135; or

(2) by any means knowingly and willfully assists or permits another person to get transportation that is subject to jurisdiction under that subchapter at less than the rate in effect for that transportation under section 13702,

shall be fined at least $200 for the first violation and at least $250 for a subsequent violation.

"(b) UNDERCHARGING.—

"(1) FREIGHT FORWARDER.—A freight forwarder providing service subject to jurisdiction under subchapter III of chapter 135, or an officer, agent, or employee of that freight forwarder, that knowingly and willfully assists a person in getting, or willingly permits a person to get, service provided under that subchapter at less than the rate in effect for that service under section 13702, shall be fined not more than $500 for the first violation and not more than $2,000 for a subsequent violation.

"(2) OTHERS.—A person that knowingly and willfully by any means gets, or attempts to get, service provided under subchapter III of chapter 135 at less than the rate in effect for that service under section 13702, shall be fined not more than $500 for the first violation and not more than $2,000 for a subsequent violation.

"§14905. Penalties for violations of rules relating to loading and unloading motor vehicles

"(a) CIVIL PENALTIES.—Any person who knowingly authorizes, consents to, or permits a violation of subsection (a) or (b) of section 14103 or who knowingly violates subsection (a) of such section is liable to the United States Government for a civil penalty of not more than $10,000 for each violation.

"(b) CRIMINAL PENALTIES.—Any person who knowingly violates section 14103(b) of this title shall be fined not more than $10,000, imprisoned for not more than 2 years, or both.

"§14906. Evasion of regulation of carriers and brokers

"A person, or an officer, employee, or agent of that person, that by any means knowingly and willfully tries to evade regulation provided under this part for carriers or brokers shall be fined at least $200 for the first violation and at least $250 for a subsequent violation.

"§14907. Record keeping and reporting violations

"A person required to make a report to the Secretary or the Panel, as applicable, answer a question, or make, prepare, or preserve a record under this part about transportation subject to jurisdiction under subchapter I or III of chapter 135, or an officer, agent, or employee of that person, that—

"(1) willfully does not make that report;

"(2) willfully does not specifically, completely, and truthfully answer that question in 30 days from the date the Secretary or Panel, as applicable, requires the question to be answered;

"(3) willfully does not make, prepare, or preserve that record in the form and manner prescribed;

"(4) knowingly and willfully falsifies, destroys, mutilates, or changes that report or record;

"(5) knowingly and willfully files a false report or record;

"(6) knowingly and willfully makes a false or incomplete entry in that record about a business related fact or transaction; or

"(7) knowingly and willfully makes, prepares, or preserves a record in violation of an applicable regulation or order of the Secretary or Panel;

shall be fined not more than $5,000.

"§14908. Unlawful disclosure of information

"(a) DISCLOSURE OF SHIPMENT AND ROUTING INFORMATION.—

"(1) VIOLATIONS.—A carrier or broker providing transportation subject to jurisdiction under subchapter I, II, or III of chapter 135 or an officer, receiver, trustee, lessee, or employee of that carrier or broker, or another person authorized by that carrier or broker to receive information from that carrier or broker may not knowingly disclose to another person, except the shipper or consignee, and another person may not solicit, or knowingly receive, information about the nature, kind, quantity, destination, consignee, or routing of property tendered or delivered to that carrier or broker for transportation provided under this part without the consent of the shipper or consignee if that information may be used to the detriment of the shipper or consignee or may disclose improperly to a competitor the business transactions of the shipper or consignee.

"(2) FINE; VENUE.—A person violating paragraph (1) of this subsection shall be fined not less than $2,000. Trial in a criminal action under this paragraph is in the judicial district in which any part of the violation is committed.

"(b) LIMITATION ON STATUTORY CONSTRUCTION.—This part does not prevent a carrier or broker providing transportation subject to jurisdiction under chapter 135 from giving information—

"(1) in response to legal process issued under authority of a court of the United States or a State;

"(2) to an officer, employee, or agent of the United States Government, a State, or a territory or possession of the United States; or

"(3) to another carrier or its agent to adjust mutual traffic accounts in the ordinary course of business.

"§14909. Disobedience to subpoenas

"A person not obeying a subpoena or requirement of the Secretary or the Panel to appear and testify or produce records shall be fined not less than $5,000, imprisoned for not more than 1 year, or both.

"§14910. General criminal penalty when specific penalty not provided

"When another criminal penalty is not provided under this chapter, a person that knowingly and willfully violates a provision of this part or a regulation or order prescribed under this part, or a condition of a registration under this part related to transportation that is subject to jurisdiction under subchapter I or III of chapter 135 or a condition of a registration of a foreign motor carrier or foreign motor private carrier under section 13902, shall be fined at least $500 for the first violation and at least $500 for a subsequent violation. A separate violation occurs each day the violation continues.

"§14911. Punishment of corporation for violations committed by certain individuals

"An act or omission that would be a violation of this part if committed by a director, officer, receiver, trustee, lessee, agent, or employee of a carrier providing transportation or service subject to jurisdiction under chapter 135 that is a corporation is also a violation of this part by that corporation. The penalties of this chapter apply to that violation. When acting in the scope of their employment, the actions and omissions of individuals acting for or employed by that carrier are considered to be the actions and omissions of that carrier as well as that individual.

"§14912. Weight-bumping in household goods transportation

"(a) WEIGHT-BUMPING DEFINED.—For the purposes of this section, 'weight-bumping' means the knowing and willful making or securing of a fraudulent weight on a shipment of household goods which is subject to jurisdiction under subchapter I or III of chapter 135.

"(b) PENALTY.—Any individual who has been found to have committed weight-bumping shall, for each offense, be fined at least $1,000 but not more than $10,000, imprisoned for not more than 2 years, or both.

"§14913. Conclusiveness of rates in certain prosecutions

"When a carrier publishes or files a particular rate under section 13702 or participates in such a rate, the published or filed rate is conclusive proof against that carrier, its officers, and agents that it is the legal rate for that transportation or service in a proceeding begun under section 14902 or 14903. A departure, or offer to depart, from that published or filed rate is a violation of those sections.".

SEC. 104. MISCELLANEOUS MOTOR CARRIER PROVISIONS.

(a) MULTIPLE INSURERS.—Section 31138(c) of title 49, United States Code, is amended by adding at the end thereof the following new paragraph:

"(3) A motor carrier may obtain the required amount of financial responsibility from more than one source provided the cumulative amount is equal to the minimum requirements of this section.".

(b) MINIMUM FINANCIAL RESPONSIBILITY REQUIREMENTS WITH RESPECT TO CERTAIN MASS TRANSPORTATION SERVICE.—Section 31138(e) is amended—

(1) by striking "or" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting "; or"; and

(3) by adding at the end the following:

"(4) providing mass transportation service within a transit service area in other than urbanized areas under an agreement with a State or local government funded, in whole or in part, with a grant under section 5310 or 5311, including transportation designed and carried out to meet the special needs of elderly individuals and individuals with disabilities; provided that, in any case in which the transit service area is located in more than 1 State, the minimum level of financial responsibility for such motor vehicle will be at least the highest level required for any of such States.".

(c) TRANSPORTERS OF PROPERTY.—Section 31139(e) of such title is amended by adding at the end thereof the following:

"(3) A motor carrier may obtain the required amount of financial responsibility from more than one source provided the cumulative amount is equal to the minimum requirements of this section.".

(d) COMMERCIAL MOTOR VEHICLE DEFINED.—Section 31132(1) of such title is amended—

(1) by redesignating subparagraph (C) as subparagraph (D); and

(2) by striking subparagraph (B) and inserting the following:

"(B) is designed or used to transport passengers for compensation, but excluding vehicles providing taxicab service and having a capacity of not more than 6 passengers and not operated on a regular route or between specified places;

"(C) is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; or".

(e) SELF-INSURANCE RULES.—The Secretary of Transportation shall continue to enforce the rules and regulations of the Interstate Commerce Commission, as in effect on July 1, 1995, governing the qualifications for approval of a motor carrier as a self-insurer, until such time as the Secretary finds it in the public interest to revise such rules. The revised rules must provide for—

(1) continued ability of motor carriers to qualify as self-insurers; and

(2) the continued qualification of all carriers then so qualified under the terms and conditions

set by the Interstate Commerce Commission or Secretary at the time of qualification.

(f) AUTOMOBILE TRANSPORTERS DEFINED.—The Secretary of Transportation shall issue a regulation amending the definition of automobile transporters under part 658 of title 23, Code of Federal Regulations, to mean any vehicle combination designed and used specifically for the transport of assembled (capable of being driven) highway vehicles, race car transporters, or specialty trailers designed for the racing industry with a 10-foot 1-inch spread axle setting.

AMENDMENT OFFERED BY MR. SAM JOHNSON OF TEXAS

Mr. SAM JOHNSON of Texas. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SAM JOHNSON of Texas: Page 207, line 21, before the semicolon insert "in vehicles with a gross vehicle weight rating of at least 26,001 pounds".

Page 208, line 20, strike "or".

Page 208, line 23, after the comma insert "or".

Page 208, after line 23, insert the following:

"(vi) consumer protection rules directly related to the transportation of household goods,".

Mr. SAM JOHNSON of Texas (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. SAM JOHNSON of Texas. Mr. Chairman, I would like to conduct a colloquy with the chairman of the committee, the gentleman from Pennsylvania.

Mr. Chairman, in September of last year we passed by voice vote an expansive deregulation bill that had wide bipartisan support. The sponsor believed, as I do, that deregulating the trucking industry would be valuable, not only to the trucking industry, but to consumers. That has proven true. By deregulating trucking, we created a balanced playing field.

I believe that the gentleman from California [Mr. MINETA], who was a prime sponsor of that bill summed up the intent by saying we will have accomplished not just agency reduction, but also regulatory reduction.

Today, Mr. Chairman, this amendment wants to try to expand on the positive steps that were taken just one year ago by expanding the process and exempting small movers, those under 26,000 pounds, from burdensome regulation. They provide a unique service, I think, which the large carriers are unable to provide. They cater to families and individuals that do not require a large van line. They typically make moves within the same city and take only several hours to complete a move.

I think the gentleman from Pennsylvania [Mr. SHUSTER], the chairman, would agree with me that deregulation is really important, and that while this does deregulate the States, it contains consumer protection rules related to transportation of household goods. I think he has indicated he would support those consumer protection rules.

What I would like to do is ask that you would consider this in any conference that might come up with the Senate.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. SAM JOHNSON of Texas. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, it is my understanding that while we have problems with the way this particular amendment is crafted, it would be my intent to work with the gentleman, so that as I understand it, he will withdraw the amendment at this point and we will work with him to see if we cannot craft one in conference. I would certainly make that commitment to the gentleman. That would be my intent.

Mr. SAM JOHNSON of Texas. Mr. Chairman, I appreciate the gentleman's remarks.

Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. OBERSTAR. Reserving the right to object, Mr. Chairman, I heard the discussion. If I understood it, the chairman intends to work with the gentleman from Texas [Mr. SAM JOHNSON] to further refine his language and address his concerns?

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Pennsylvania.

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Mr. SHUSTER. Mr. Chairman, as I have said, I will be happy to try to work with the gentleman so that we can consider it in conference.

Mr. OBERSTAR. Mr. Chairman, further reserving the right to object, the amendment offered by the gentleman from Texas would change a law that took effect only 10 months ago. It would jeopardize timely enactment of the legislation before us.

Mr. Chairman, we think on our side that it is an issue without a problem. We have had no testimony on the subject matter. So I would really appreciate if the gentleman would withdraw the amendment and both sides would work together to address the concerns of the gentleman.

Mr. SHUSTER. Mr. Chairman, I thank the gentleman for his comments.

Mr. OBERSTAR. Mr. Chairman, I withdraw by reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The amendment is withdrawn.

AMENDMENT OFFERED BY MR. LATHAM

Mr. LATHAM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LATHAM: Page 32, after line 6, insert the following new subsection:

"(f) The Panel shall implement by regulation administrative complaint remedies substantively equivalent to the provisions of section 10713 of this title, as in effect before the date of the enactment of the ICC Termination Act of 1995, with regard to contracts for the transportation of agricultural commodities. Such regulations shall be adopted no later than 90 days after the date of the enactment of the ICC Termination Act of 1995.

Mr. LATHAM (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. LATHAM. Mr. Chairman, I would like to thank the gentleman from Pennsylvania [Mr. SHUSTER], the chairman of the committee, for his dedication to working with Members from the agricultural districts to clarify language in the ICC Elimination Act of 1995.

The amendment I am proposing will put in place administrative complaint remedies substantially equivalent to the provisions in current law. This amendment will ensure that each railroad operates as a common carrier and fulfills its obligations to distribute its cars equitably among its customers.

Under current law, railroads must keep at least 60 percent of the cars available for regular services. This requirement has helped ensure adequate numbers of cars available to meet agricultural seasonal demands.

This amendment will enable the new Transportation Advisory Panel to maintain an assurance that sufficient cars and locomotives are made available to handle the demands of crops production cycles and market needs.

Mr. Chairman, I urge support of this amendment.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. LATHAM. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, I thank the gentleman for yielding. We support the amendment of the gentleman from Iowa [Mr. LATHAM].

Mr. OBERSTAR. Mr. Chairman, if the gentleman will yield, we have looked at this issue, and although it has come up very suddenly, it is an issue of longstanding; it has long been a problem of grain shippers to get hopper cars and locomotives to serve their area. We have seen that for many years, and there is provision in the existing ICC law that gives the Commission authority to order a carrier to provide rates and services, "substantially similar to the contract at issue with such differentials in terms and conditions as are justified by the evidence."

Mr. Chairman, if I could inquire of the gentleman, the gentleman really wants to keep that language in place?

Mr. LATHAM. Mr. Chairman, if the gentleman will yield, in essence, yes, to provide for those protections for the shipper.

Mr. OBERSTAR. Mr. Chairman, we certainly support that objective, and we have no objection to the amendment of the gentleman from Iowa.

Mr. LATHAM. Mr. Chairman, I yield to the gentleman from Minnesota [Mr. MINGE].

Mr. MINGE. Mr. Chairman, I rise in support of the amendment and I would like to associate myself with the amendment offered by the gentleman from Iowa [Mr. LATHAM]. I certainly recognize, as he, that from time to time agricultural commodities cannot receive adequate shipping services, and 1995 turns out to be one of those times.

Mr. Chairman, we have piles of grain sitting on the ground, some of it being exposed to moisture, some of it now heating up, and this is going to cause loss for farmers and for elevators. What we need is greater shipping resources.

At the same time, I know that many elevators and farmers are troubled because they see rail rates increasing dramatically, and although they have not utilized the ICC on numerous occasions, they certainly do not want to lose whatever remedial enforcement power the Interstate Commerce Commission may have in this context. Therefore, I applaud the gentleman from Iowa for offering this amendment to continue the protections that exist in the Interstate Commerce Act for the benefit of agricultural shippers.

Mr. LATHAM. Mr. Chairman, if the gentleman will yield, I thank the gentleman, and I thank very much the gentleman from Pennsylvania [Mr. SHUSTER] for accepting this amendment, and I would urge the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa [Mr. LATHAM].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title I?

AMENDMENT OFFERED BY MR. WHITFIELD

Mr. WHITFIELD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WHITFIELD: Page 37, in the table of sections for chapter 107, amend the item relating to section 10702 to read as follows:

"10702. Short line purchases by Class II and Class III rail carriers.

Page 38, line 3 and 4, strike "rail carrier providing transportation subject to the jurisdiction of the Panel under this part" and insert in lieu thereof "person".

Page 38, lines 8 through 11, amend paragraphs (3) and (4) to read as follows:

"(3) provide transportation over, or by means of, an extended or additional railroad line; or

"(4) in the case of a person other than a rail carrier, acquire a railroad line or acquire or operate an extended or additional railroad line,

Page 39, line 2, strike "or section 10702".

Page 39, line 20, through page 40, line 4, strike subsections (e) and (f).

Page 40, line 5, through page 43, line 7, amend section 10702 to read as follows:

"§ 10702. Short line purchases by Class II and Class III rail carriers

"(a) A Class II or Class III rail carrier providing transportation subject to the jurisdiction of the Panel under this part may acquire or operate an extended or additional rail line under this section only if the Panel issues a certificate authorizing such activity under subsection (c).

"(b) A proceeding to grant authority under subsection (a) of this section begins when an application is filed. On receiving the application, the Panel shall give reasonable public notice of the beginning of such proceeding.

"(c) The Panel shall issue a certificate authorizing activities for which such authority is requested in an application filed under subsection (b) unless the Panel finds that such activities are inconsistent with the public convenience and necessity. Such certificate may approve the application as filed, or with modifications, and may require compliance with conditions the Panel finds necessary in the public interest.

"(d) The Panel shall require any Class II rail carrier which receives a certificate under subsection (c) of this section to provide a fair and equitable arrangement for the protection of the interests of employees who may be affected thereby to the same extent as an arrangement established pursuant to section 11126(b) of this title. The Panel shall not require such an arrangement from a Class III rail carrier which receives a certificate under subsection (c) of this section

"(e) For purposes of this section, the terms 'Class II rail carrier' and 'Class III rail carrier' have the meaning given those terms by the Panel.

Page 46, line 2, insert "(a)" after "under sections 11126".

Page 68, Line 18, strike "(a)".

Page 69, lines 7 through 11, strike subsection (b).

Page 74, after line 22, insert the following new subsection:

"(e) No transaction described in section 11126(b) may have the effect of avoiding a collective bargaining agreement or shifting work from a rail carrier with a collective bargaining agreement to a rail carrier without a collective bargaining agreement.

Page 74, line 23, strike "(e)" and insert in lieu thereof "(f)".

Page 79, line 12, strike "When" and insert in lieu thereof "(a) Except as otherwise provided in this section, when".

Page 80, after line 3, insert the following new subsections:

"(b) When approval is sought under sections 11124 and 11125 for a transaction involving one Class II and one or more Class III rail carriers, there shall be an arrangement as required under subsection (a) of this section, except that the arrangement shall be limited to one year of severance pay, which shall not exceed the amount of earnings from the railroad employment of that employee during the 12-month period immediately preceding the date on which the application for approval of such transaction is filed with the Panel. The amount of such severance pay shall be reduced by the amount of earnings from railroad employment of that employee with the acquiring carrier during the 12-month period immediately following the effective date of the transaction. The parties may agree to terms other than as provided in this subsection.

"(c) When approval is sought under sections 11124 and 11125 for a transaction involving only Class III rail carriers, this section shall not apply.

"(d) For purposes of this section, the terms 'Class II rail carrier' and 'Class III rail carrier' have the meaning given those terms by the Panel.

Mr. WHITFIELD (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. WHITFIELD. Mr. Chairman, first of all, I would like to take this opportunity to congratulate the Members of the committee for the hard work that they did on this very complicated piece of legislation. I think that all of us agree that the ICC has outlived its usefulness and that the transportation industry will be much better with the sunsetting of the ICC and the acquisition of the authority to regulate the remaining portions of regulation over at the Department of Transportation.

Mr. Chairman, as my colleagues may know, there are three classes of railroads in the United States today. Class 1 carriers have operating revenues in excess of $250 million. Class 2 carriers have operating revenues between $20 million and $250 million, and class 3 carriers have operating revenues of less than $20 million a year.

The amendment that I am offering provides certainty regarding labor protection associated with the sale or merger of short-line railroads. It will benefit railway labor and short-line operators.

Mr. Chairman, I would like to point out that this amendment does not in any way affect labor protection in class 1 railroads. I would also like to point out that it is not our intention, and we made this very clear with legislative counsel, that we would exempt all railway labor protection in class 3 carriers. However, we do keep labor protection and we specify specifically what it should be for class 2 carriers.

In addition to that, if a railway carrier would like to establish a nonrailway subsidiary and acquire a short-line railroad, they are exempt from this bill and they go to the ICC for imposition of labor protection, as is the existing law. Mr. Chairman, as my colleagues know, the ICC has the authority today on short-line acquisitions and mergers to impose up to 6 years labor protection.

So my amendment is a very simple amendment that provides certainty. For example, if a class 3 railway acquires a line from any carrier or merges with another class 3 carrier, there is no labor protection. That is the same as is in the Chairman's bill.

If a class 2 railway acquires a line from a class 1 or another class 2, labor

protection will be limited to 1 year severance pay. Under existing law, the ICC has the authority to require 6 years protection. If a class 2 railway merges with a class 3 railway, labor protection will be limited to 1 year severance.

Finally, in my amendment, a class 2 railroad and only a class 2 railroad would be prohibited from using a merger between a union and a nonunion railroad to avoid a collective bargaining agreement.

Mr. Chairman, I think that labor has come very far in supporting this amendment, because under existing law, they have the opportunity to get 6 years protection. In many instances today, and in the last few years, as we have had a lot of acquisitions of short lines, railway labor has received zero benefit.

At the same time, many class 2 carriers, and I know the association of class 2 carriers, are opposed to this amendment, but many class 2 carriers like the certainty of 1-year severance that is clear to them without any doubt.

As I stated, this amendment removes uncertainty regarding labor protection in the case of railway acquisitions and mergers. It is a fair and equitable solution for short-line operations and railroad employees, and I would like to stress once more, it does not affect labor protection for class 1 railroads and it exempts, it is our intent to exempt, labor protection for class 3 railways.

Mr. Chairman, I urge support of the amendment.

Mr. WISE. Mr. Chairman, will the gentleman yield?

Mr. WHITFIELD. I yield to the gentleman from West Virginia.

Mr. WISE. Mr. Chairman, I appreciate the gentleman yielding, and I have a question.

If I wanted to come from a very hard labor standpoint, would I not see this as being some concessions from, particularly from what existing law is?

I look for instance, at class 3, which are your smallest railroads, those under $20 million of operating revenue, and I note that under existing law, if there is a merger, they would have 6 years; am I correct? Under the gentleman's amendment, they have what?

Mr. WHITFIELD. Mr. Chairman, reclaiming my time, under my amendment they have 1 year, you are right, if it is a carrier by a class 3. If it is a carrier acquisition, a class 3 is mandatory for 6 years. They can form a nonrail subsidiary and then the ICC has the option of imposing whatever labor protection they want up to 6 years, but this is a concession on the part of labor.

Mr. WISE. Mr. Chairman, if the gentleman will continue to yield, what about class 3s, because class 3s, it was my understanding, have no labor protection at all.

Mr. WHITFIELD. Mr. Chairman, if I could respond to the gentleman from West Virginia, in the bill, they have no labor protection at all.

Mr. WISE. So with the gentleman's amendment, there is some provisions where under existing law there is labor protection; under your amendment, there is not. So I would say that in some cases, labor has made a concession.

Mr. WHITFIELD. Mr. Chairman, reclaiming my time, I think they certainly have. I think it is a balanced approach to this issue, and I think the gentleman is correct.

Mr. WISE. Knowing the gentleman's experience in the rail industry and the time he spent in it, we appreciate very much, I do, the gentleman offering this amendment, which seems to be a good, commonsense compromise.

Mr. SHUSTER. Mr. Chairman, I rise in strong opposition to this amendment.

Mr. Chairman, I would say to my colleagues, if we want to see wholesale abandonments, particularly in rural America of small railroad lines, this is the amendment, if it passes, which will cause that to happen. Indeed, while I am sure the gentleman from Kentucky [Mr. WHITFIELD] does not mean to create uncertainty; in fact, he said this amendment of his would remove uncertainty, the fact is it will create extraordinary uncertainty, and I will attempt to prove that as I continue in this opposition.

First of all, Mr. Chairman, this amendment requires mandatory 1-year severance on Class 2s, which could be as small as a railroad with revenue of only $21 million a year.

Second, this amendment gives the panel, the new adjudicatory panel, the authority to impose optional labor protection on Class 2 mergers of line sales under the guise of public interest. This means that the panel could impose 6 years if it chose to do so. So we have no guarantee here that it only would be a 1-year labor protection.

Now, if this is not bad enough, the amendment will allow the panel to impose optional labor protection on Class 3 line sales, again, under the guise of public interest.

Mr. Chairman, let me share with my colleagues now what the real neutron bomb is in the amendment, something that is silent, but deadly.

This amendment, and I doubt that the gentleman from Kentucky really intends this to be the case, but this amendment wipes out the provisions in existing law which makes the panel the exclusive Federal authority of proving the merger. Beyond that, it wipes out the provisions in existing law that insulate the merger from State laws, so State law could be interposed.

□ 1700

Further, this amendment wipes out the provisions in existing law which insulate the merger from Federal antitrust laws. Fourth, this amendment wipes out the provisions in existing law which give the panel the authority to exempt the merger from any Federal, State, or local law necessary to carry out the transaction. In a nutshell, a merger or a line sale could never be carried out under this amendment.

If Members want to see wholesale abandonments across America with the smaller railroad lines, if we pass this amendment, that is what we are going to see. That is the reason why we so vigorously oppose this amendment.

In closing, I again emphasize, we do not touch labor protection for class I, for the big railroads. We leave that in place. But do not impose upon these small railroads this kind of labor protection, because if Members do, we will simply be inviting them to abandon their lines rather than swallow these extraordinary costs.

Mr. LIPINSKI. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to express my very, very strong support for the amendment offered by the gentleman from Kentucky. This amendment is a very reasonable compromise—in fact, as far as I am concerned, it is probably far too reasonable—to the contentious issues surrounding labor protection for rail employees.

As reported by the Committee on Transportation and Infrastructure, H.R. 2539 contains a provision which wipes out statutory safeguards for rail employees who are affected by mergers, acquisitions, and other transactions. The provision applies to employees of class 2 railroads, that is, railroads with annual revenues up to $250 million. I repeat that. These are class 2 railroads that have annual revenues up to $250 million.

Instead of completely wiping out the labor protection currently afforded these employees, the Whitfield amendment provides 1 year of severance for those with years of employment on midsize railroads. This 1 year of severance is a dramatic reduction from the current 6-year requirement.

Mr. Chairman, many times in the past I have stood in this well and advocated maintaining or increasing the good benefits provided for union members in this country. I am not doing that today. Instead, I propose that we slash the severance benefits given to class 2 railroad employees from 6 years to 1 year. I know that is a big cut, but I am willing to support it in order to pass this bill and to protect the American working man and woman in class 2 railroads.

After passage of this amendment, this legislation will provide 1 year of severance for class 2 railroads and essentially eliminate severance for class 3 carriers, those with annual revenues less than $20 million. That is because the short line and the regional railroads do not have the same financial

resources that the big class 2 carriers do. But those who oppose this amendment will say that even the limited benefits provided in this amendment are too much. They will say that class 2 railroads simply cannot afford them.

Let me tell Members about one class 2 railroad that runs through my congressional district, the Wisconsin Central Railroad, a class 2 railroad that made Business Week's list of 1,000 largest companies in the United States. Wisconsin Central's stock value is $800 million. That is higher than J.B. Hunt. I can tell you, Wisconsin Central can afford 1 year of severance for its employees.

The Chicago Tribune recently reported that middle-class Americans are having a tough time getting by, that their money does not go as far and they are facing layoffs, they are facing cutbacks in their benefits and skyrocketing college tuition for their children. These are the same people this bill has targeted, pulling the rug out from under their feet.

I am not suggesting the status quo. I am not advocating 6 years of labor protection. I stand in support of the gentleman's amendment because it is very, very, very reasonable.

I expect this amendment to pass today. If it does not, though, I expect H.R. 2539 to be defeated. Pass the amendment and then pass the bill. It is the right thing to do for all Americans.

Ms. MOLINARI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong opposition to this amendment. The railroad industry is the only one in the United States singled out for the original unfunded mandate, labor protection. The word "protection" here is a euphemism, not unlike its use in Chicago during prohibition. The protection here is a statutory form of extortion, the writing into Federal law of a mandatory wage scheme with no Federal funds to offset the costs inflicted by the law.

In response to some of the prior speeches, let us be clear. There is nothing in the change in this law that denies labor and management in negotiating a severance package just like every other business has to in these United States.

It is bad enough that such policy has become enshrined in laws affecting large railroads but it is truly outrageous to impose these debilitating costs on the small railroads who are the salvation of rail service in our small towns and rural communities. How many Members are willing to face their constituents and say, "I killed the possibility of continued rail service in your community because rail labor demanded that I continue a completely unjustified benefit. By doing so, I prevented the rescue of rail lines up for abandonment in my district."

That is exactly what it is at stake in this amendment. The committee-reported bill establishes a clear, simple set of ground rules for all line sales and merger transactions involving smaller railroads. This amendment would eliminate the safe harbor for the so-called class 2's by requiring a mandatory severance payment of 1 year. In addition, it would allow for unlimited labor protection on class 2 and 3 line sales to be imposed at the discretion of the Transportation Adjudicatory Panel. If class 2 and 3 carriers are subjected to costs imposed by the Whitfield amendment, thousands of miles of rail lines are likely to be abandoned. Is this what our small towns and rural communities want?

One major problem with the Whitfield amendment is the unlimited discretionary labor protection on class 2 and 3 line sales, which is in addition to the mandatory requirement of 1-year severance. Any time you confer this kind of optional or discretionary authority on an agency, you are guaranteeing protracted litigation at the agency and probably in court for every transaction.

Let me give one example of why we are so concerned. In 1993, the holdover Bush ICC approved a purchase of a 3.7-mile line by the Bradford Industrial Railroad with no labor protection. This new company has total annual revenues of $250,000. Two years later, the Clinton ICC revoked the exemption decision approving the sale and ordering a full 6-year labor protection, which the Transportation Adjudicatory Panel could still do. This labor protection alone will cost this company at least $300,000, more than the company's entire annual revenues.

Another thing the proponents of this amendment do not tell is that they have cleverly included in it a complete disruption of the existing law concerning the process of implementing a merger once it has been approved by the agency. The current law says that other law gives way to the extent necessary to carry out the transaction. This amendment eliminates this standard, including provisions that exempt rail mergers from antitrust laws, and instead gives labor a virtual veto power over post-merger matters, such as work reassignments. This is very, very dangerous. This amendment also allows for the extension of this veto power to line sales.

Mr. Chairman, it is no secret that many more miles will be abandoned in the next several years as the industry continues to restructure through merger and otherwise. If Members want to assure that the maximum number of these lines are abandoned forever and the maximum number of businesses and communities lose their rail service entirely, then vote for this amendment. But if Members want to strengthen our rail system and keep as much service to as many communities as possible, then I strongly urge a "no" vote.

Mr. WISE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, welcome to the world of rail labor, because there are a lot of different situations here. You might think from the preceding speaker that we are talking about labor situations that we are used to in the private sector where, for instance, you have a company that negotiates a collective-bargaining agreement with its union, the machinists in a chemical company, for instance, and the regular labor that most of us are familiar with. That is not what rail labor is about.

What the gentlewoman has just talked about might be fine in the private sector, but there has been an accord reached over many, many years in which rail labor gave up certain rights, such as being able to walk off the job, such as being able to call a strike without going through a long, arduous process, and the rail companies also gave up certain things.

The interesting thing is, it is the rail companies that have asked to be considered as a unique industry. It is the short line railroads and the class 1's that ask to be treated in a different way, and so that is the reason you have this delicate balance.

In the private sector, if you have a collective bargaining agreement, you can have it enforced by the courts. In the rail industry, if you have a collective bargaining agreement, you can have it reversed or overturned by the ICC. And so these are the issues that are at stake.

The amendment of the gentleman from Kentucky goes a long way, I happen to think, a long way toward changing existing law and indeed in some cases undoing existing labor protection. We all understand it is a new day, we all understand that we have to make compromises, but I think people ought to understand that this is not a regular collective bargaining situation.

I would like to address some of the other points that have been made. The specter has been raised of wholesale abandonments. Mr. Chairman, there is no one that worries more about abandonments, living in a rural area, than I do, and we are dealing with a tough one right now.

But my concern is that without this kind of legislation, we are going to likely see more of that. Incidentally, nobody ever talks about abandoning the working people that made that railroad run for many, many years, abandoning the community that helped make that railroad thrive for many years.

But let me give some examples of how the Whitfield amendment makes the situation far better, particularly, than current law. The Whitfield amendment, for instance, if a midsize

railroad, a class 2, has a line sale, buys from the class 1, the large railroad, the largest, then all it gets is 1 year, 1-year labor protection for those workers. Presently it can be up to 6 years.

If a class 3, the smallest railroad, those under $20 million in revenues, if they acquire from each other or buy from each other, there is no protection, no labor protection whatsoever. If a class 2, the midsize railroad, merges with a small railroad, a class 3, they get 1 year. That is a change from existing law, 6 years.

If a nonrail carrier, a railroad sets up a nonrail subsidiary or a nonrail carrier comes in, there is no labor protection in that situation. And if a class 3, a small railroad, acquires a piece of a class 1, no labor protection. All of this is a change from the existing law, when in most of these cases there could be up to 6 years of labor protection. So there is a significant retrenchment.

I am also interested because of the language that some are concerned about, that would permit the ICC to look at situations dealing with the public interest. Well, I understand the concerns that were raised, except as I read the existing bill, the chairman's mark, that language is in there as well. "In the public interest" is in both versions, in the Whitfield amendment and in the existing legislation before us.

Finally, should the ICC not be able to look at what is in the public interest? That has always, it seemed to me, been a fairly important criterion in here.

This is obviously a very complex subject, the situation dealing with class 1, class 2, and class 3, but in quickly rehashing, let me just run down.

Class 1, those are your biggest railroads, over $250 million of operating revenue. Oh, that we all could be on the board of directors of one of these. They maintain the same labor protection. They do not have a dog in this fight to speak of. That is why you have not been besieged, I do not think, by them opposing this amendment, because they are covered regardless.

Class 2's, those are $20 million to $250 million of operating revenue. They have their labor protection provisions cut back significantly.

The CHAIRMAN. The time of the gentleman from West Virginia [Mr. WISE] has expired.

(By unanimous consent, Mr. WISE was allowed to proceed for 2 additional minutes.)

Mr. WISE. Mr. Chairman, only in the case of a class 2 merging with a class 2 can there be up to 6 years. In most cases it drops back to 1 year.

A class 3 that merges or acquires line from another class 3, two small railroads, those under $20 million of operating revenue, they lose their labor protection. No discretion. They lose it.

□ 1715

So for these reasons the amendment offered by the gentleman from Kentucky significantly does change the labor law, does not endanger abandonments, abandonment situations; I think, in fact, only facilitates them. It certainly improves existing law and also provides some measure of concern for workers, and I might say preserves some of this delicate balance.

I will get back to the point I made on the rule. If you want to do away with the collective bargaining procedures, that is fine. Then let people be truly in the free market. But what that means is no presidential finding boards, no cooling-off periods, none of that. You give people the same rights they have got in the private sector.

Let me just tell a quick story, Mr. Chairman. A few years ago, if you remember, rail labor was trying to go out on strike, and I went to a Labor Day rally, and one side I saw a group of blue shirts coming from an aluminum mill. They were out. They wanted the Government to go to work to put them back to work. On the other side came the rail labor people who wanted to go out and wanted the Government to stop imposing constraints upon them.

So, what we have here is we have two segments of labor treated differently, and we have to remember that very delicate balance that has been reached.

I would urge my colleagues to support the Whitfield amendment.

Mr. EHLERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong opposition to this amendment. This amendment is not about labor protection. It is not about worker protection. It is not about job protection. It is about killing jobs.

Let me recite some of the experience we have had in the State of Michigan. Michigan is in a unique situation because it is an industrial State but it is not on the main line between other major industrial areas. It is, in a sense, an offshoot going up in a peninsula. We have a number of lines that were in financial difficulty, and it was only through the good graces of the ICC, in providing that labor protection as proposed in this amendment need not be applied, that these lines were able to sell off the unprofitable sections, and these small lines have proved to be marginally profitable over the years.

Unfortunately, under the current administration, the ICC is no longer giving those waivers against the labor protection, and I believe it is very important to remove this amendment from the floor and defeat it, simply because if this amendment is adopted, those small lines such as we have in Michigan will not be purchased or formed but rather the jobs will be lost because the lines will be closed.

Furthermore, the jobs of the railroad workers are not the only ones lost, but there are a number of companies that are dependent upon rail transportation, and if the railroads close, these companies are likely to close because of increased costs of transportation, using other forms of transportation.

I think we have to address the situation directly, get rid of this unfunded mandate which is being imposed on them.

Why in the world should Federal law govern labor practices—and for a company such as this—whereas we do not do it for 120 other companies which are larger than many of these railroads and who have successfully operated mergers, acquisitions, and in fact have participated fully in the expansion of the economy for the past few years?

I think it is time to get the Federal Government out of the business of insuring these long-term labor protection practices and make the railroads meet the competition of the marketplace.

Now, lest I be considered heartless for proposing this, let me tell you that there are many success stories in Michigan, but not just in Michigan. Here I have an article which appeared in the St. Albans Messenger, Vermont's oldest evening newspaper, where the workers tell the story of a small railroad which was going bankrupt but was acquired by a new firm, and they were able to streamline the operations and, through good participation between workers and management, it finally turned a profit after many, many years, and it looks as if the railroad is going to survive now.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. EHLERS. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. I thank the gentleman for yielding.

Apropos to that point, since the Reagan-Bush ICC began exempting the small railroads from the mandatory labor protection, over 300 new small railroads have been formed, preserving 30,000 miles of track and saving 10,000 jobs that otherwise would have been lost to abandonment.

Mr. EHLERS. I thank the gentleman for making that point so eloquently. That is precisely the point that should be raised here, and that is why we should defeat this amendment. If we do not, we will end the acquisition and expansion of these lines. We will end the addition of jobs. We will see more lines closing marginal sections, and we will see more jobs lost both at the railroads and at the factories which use these railroads.

I urge defeat of this amendment.

Mr. DEFAZIO. Mr. Chairman, I move to strike the requisite number of words.

Earlier I heard some confusing statements from the other side talking about the Clinton ICC. You know, two of the three current sitting commissioners are Reagan-Bush appointees. They talked about the reversal of this decision by the Clinton ICC. Would

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that it were. Would that there were five members, would that, you know, five members sitting, that a majority had been appointed by President Clinton and confirmed by the Senate. But that is not the case.

So this precedent which was talked about earlier is not the result of the current administration reversing the field here.

But what I rise to do is speak in support of the Whitfield amendment. There is a question of equity here now with the recent Burlington Northern-Santa Fe merger. We have the top seven executives at Burlington Northern getting golden parachutes worth $35 million.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield on the point be made about ICC membership?

Mr. DEFAZIO. If I could at the end of my remarks.

Mr. SHUSTER. Surely the gentleman would not want to misstate what he previously reported. I will be happy to ask for additional time for the gentleman if I simply might.

Mr. DEFAZIO. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, I simply want to point out the three commissioners, two of them were appointed by Clinton and one was a holdover. So the majority of the ICC are in fact Clinton appointees.

Mr. DEFAZIO. I got my information on this side. It was the reverse of that. Perhaps we can straighten that out later. I thank the gentleman.

The ranking member of the committee tells me that one of the appointees was a Republican, but was a Clinton appointee. So I stand partially corrected.

The point here is there is an issue of equity with the recent Santa Fe-Burlington Northern merger. The top seven executives of Burlington Northern got golden parachutes worth $35 million. That is an average of $5 million each. There were a few thousand employees, line employees, who worked for the same railroad for a lifetime. They got nothing. They did not even get a year's severance.

So there is a question of equity. This is an industry that enjoys an unusual degree of Federal regulation, a degree which actually deprives the collective bargaining rights of thousands of Americans who work for rail. They are denied the right to use the one most effective tool they have to get better wages and working conditions and contracts, including provisions in the contracts for severance. That is the right to go out and stay out on strike.

So if that law is to remain, then we must provide some balance and some equity, and the Whitfield amendment, despite all of what has been said on the floor here, is very modest. With the Whitfield amendment, if a small railroad purchases a line, lays off employees, get nothing, does not change anything. I think it should go further, and we should do something for them. But it does provide a year's severance when a midsized railroad purchases a rail line or merges with a smaller railroad, not a $35 million golden parachute, not $5 million each like the executives at Burlington Northern, but 1 year's severance for someone who has dedicated their life to a company and been a productive employee. I do not think that is too much to ask for line workers.

The bill preserves the Interstate Commerce Commission under a new name at the Department of Transportation. It preserves a number of the essential functions of the ICC. It is essentially a status quo bill. It is a modest solution. It really is.

This agency has the unique authority to break collective bargaining agreements. Balance is restored only by telling the agency that at least when midsized railroads are involved, they have to provide some sort of balance and equity for the restrictions that have been placed on those employees over the years, and that is one of severance for the employees who lose their jobs.

I would argue strongly that the Whitfield amendment is modest. It is an improvement to the bill. I personally would go much further. But it is a modest compromise that is the bare minimum needed to make this a bill acceptable, I believe, to a majority of the Members of this House.

Mr. CAMP. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the Whitfield amendment. In the 1970's and early 1980's, my State of Michigan was hard hit by rail line abandonment in our rural areas. This was particularly hard on our grain shippers who depend on competitively priced rail service to sell their product.

Fortunately, the ICC of the 1980's understood that if they could get rid of the archaic Federal mandate known as labor protection, that these light density lines could be sold to new owners instead of abandoned. Substantial pieces of rail line were saved in Michigan as a result of that policy known as the 10901 exemption process. The exemption process recognized it was better to preserve the service and save as many jobs as possible by forming a new, lower-cost operator than to lose everything to abandonment.

With Conrail's announcement it is going to shed another 4,000 miles of marginal line and with restructuring taking place with the Grand Trunk Railroad, Michigan and much of the Midwest is going to be facing another round of abandonment or sales.

I ask the Members to keep two facts in mind: First, the 1995 ICC favors the imposition of mandated labor protection payments. Twice in the last year they have used their discretion under the 10901 exemption process to impose labor protection, an absolute reversal of the previous ICC's protection.

Second, the Whitfield amendment undercuts the current statute in a way that makes it statutorily easier to impose labor protection in 10901 cases and to litigate if labor protection is not opposed.

The combination of an ICC that does not fully appreciate the value of the exemption and a new statute that offers the opportunity for new legal challenge to the exemption is a lethal combination.

I believe the labor protection provisions in H.R. 2539 will preserve railroad lines, will preserve service to rural shippers and will preserve jobs.

I encourage my colleague to oppose the Whitfield amendment, which would substantially weaken those provisions.

Ms. BROWN of Florida. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, here we go again, another attack against working people.

Last time, they tried a sneak attack to take away the collective-bargaining rights of our Nation's transit workers.

This time, it's to eliminate job protections for railroad workers.

In its current form, the bill destroys the longstanding rights of workers of middle size or small railroads that are merged or sold.

Supporters claim that the only way to ensure the success of railroad deals involving small rail lines is to eliminate employee protections. I disagree.

This bill should not be used to gut major labor protections agreed to by labor, management, and the Government more than 50 years ago.

That's why I support the Whitfield amendment, supported by rail workers, which addresses the concerns of the rail industry by exempting short line rail deals from any worker protection obligations.

At the same time, it protects rail workers' collective-bargaining rights when middle- or large-size rail carriers are sold or merged and ensures that employees' interests are addressed before such transactions are completed.

Just as this House voted to preserve section 13(c) for mass transit workers, I urge my colleagues to vote to preserve the employee protections for the thousands of hard-working railroad employees nationwide.

Mr. RAHALL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by the brave and courageous gentleman from Kentucky [Mr. WHITFIELD].

It is a fact that whenever Congress has taken action to deregulate a transportation mode—be it aviation, rail, motor carrier, or intercity bus—we have incorporated provisions aimed at mitigating the impact of deregulation on transportation workers.

For it is also a fact that transportation workers are the innocent victims of deregulation, with many thousands having lost their jobs since the late 1970's when Congress first acted to deregulate the transportation industry.

Today, we have before us a bill that among other items would further deregulate the railroad industry. It would make sense, then, for this legislation to maintain existing rail employee protections. But it does not.

This legislation puts in jeopardy the jobs of those workers who are employed by what are known as class 2 and 3 railroads. The short lines, the smaller railroads, of this country.

And it does so for no particularly good reason.

The Whitfield amendment is a compromise. The smallest of railroads, the class 3's, would no longer be subject to existing law labor protections.

But the class 2's, many of them which are not especially that small, would be subject to modified labor protections.

Not the rarely used 6 years of labor protections that opponents of labor often mention. And rarely invoked it is.

But rather, a dramatically reduced 1 year of severance pay, when the employee is eligible, in the event he or she loses their job as a result of a merger or other transaction of that nature.

Let us not turn our backs on the working men and women of the rail industry. Let not greed take precedence over human decency.

I urge the adoption of the Whitfield amendment.

□ 1730

Mr. NADLER. Mr. Chairman, will the gentleman yield?

Mr. RAHALL. I yield to the gentleman from New York.

Mr. NADLER. Mr. Chairman, I rise today in strong support of the amendment offered by the gentleman from Kentucky. This amendment is not perfect, in my opinion, but it does maintain some basic rights for railroad workers. Without this amendment, the bill would allow for collective-bargaining agreements to be abrogated at the whim of the newly created Federal panel that will replace the ICC functions, without the current balancing provision that provides labor protections for workers involved in merger situations. The amendment will maintain some of these labor protections. The amendment will leave railroad workers with some sense of security by ensuring workers terminated as a result of mergers of a year of severance pay.

This is a reasonable provision, although obviously much less of a protection than the requirement in current law of 6 years severance pay. Many of the people who work on these railroads have done so for decades and have sons and daughters who have followed in their footsteps. These are working people just trying to stay above water. They are the kinds of people who are the backbone of our economy and the kinds of people that have made the United States the great country it is today.

Without this amendment, we are telling these men and women that we do not care if their jobs are swept away by a merger, so be it. I believe, Mr. Chairman, that we owe this small piece of security to the American worker, and I urge my colleagues to support the amendment of the gentleman from Kentucky.

Mr. WILLIAMS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment of the gentleman from Kentucky. My colleagues, you hear that whistle blowing? She is coming down the track, the Highball Express, with green lights flashing all the way to the horizon.

We know what that train is carrying. We have seen it go by a time or two before. It is carrying abandonments, and restructuring, and leveraged buyouts. It is carrying mergers and takeovers. And my colleagues, the supporters of this bill, who are opposing this amendment, want to keep those green lights flashing, so that what the American people have come to believe is financial shenanigans and golden parachutes can continue to happen, and happen at the expense of workers in this Nation.

We have to protect agreements that were arrived at between management and the workers at the bargaining table. Normally, under current law, if a contract is broken, the ICC assures that employees, the workers, will have some protection because the ICC can require the railroad to protect the employees. This bill allows a contract to be broken, no protection for the employees.

What does the gentleman from Kentucky's amendment do? It flashes a yellow light. It throws up a caution signal. It says to that speeding Highball, golden parachute, Cannonball Express, "Slow down. Let's slow down and be cautious long enough to provide some small, very small, less than today, some small protections for the workers when they bargain successfully for those protections with management."

There is no one in this Chamber that does not understand why that whistle is blowing. We all understand that the leveraged buyouts and the mergers are going to keep coming in this country. We should not let that train run right over its workers. Let us slow it down. Let us try to protect the railroad labor people in this country, and at least provide for them a portion of the agreement that they bargained collectively with the railroad managers.

Mr. SANDERS. Mr. Chairman, will the gentleman yield?

Mr. WILLIAMS. I yield to the gentleman from Vermont.

Mr. SANDERS. Mr. Chairman, I thank the gentleman for yielding. A few moments ago the gentleman from Michigan mentioned St. Albans, VT and the takeover there. I know a little bit about that because I was intimately involved in that entire struggle.

The gentleman neglects to tell us how many workers, many of whom were employed by that company for decades, were laid off and lost their jobs. The gentleman neglects to tell us what the wages are of the new workers who came into that job as compared to the other workers. The gentleman neglects to say that to the degree we got a halfway decent severance package for those workers who were laid off, it is because we fought and the union fought over a period of a year and rallied community support for decency.

What this whole discussion is about is a phenomenon taking place all over this country called the race to the bottom. How do we pay workers lower and lower wages to make them competitive with other low wage workers? How do American workers compete with Mexican workers and Chinese workers?

The problem today is not that railroad workers have too strong worker protection. The problem is that other workers have too weak worker protection. Let us not lower the strong benefits that workers in the railroads have now, but let us increase the benefits that other workers have.

Mr. WILLIAMS. Mr. Chairman, reclaiming my time, I thank the gentleman from Vermont, and I urge my colleagues to listen to his words, the race for the bottom. The decreasing of the standard of living of American workers is a new phenomenon in this country, and it is wrong.

Mr. BACHUS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the Whitfield amendment. Mr. Chairman, this year there are 132,000 miles of railroad in America, 132,000 miles. Last year there were 137,000 miles. We lost 5,000 miles of railroad.

You have to go back to get to 135,000 miles of railroad, what we have now, you have to go back to 1885. That was the last year we had 135,000 miles. So we have got the same mileage that we had in 1885. We have come 110 years, and we are back to the same number of railroad miles.

Mr. Chairman, I would hope that those of us in this Congress could agree that if there is not a railroad, there are no railroad jobs; and the ultimate way to protect a railroad job is to protect these rails.

I can remember when they pulled the rails out of the back of the farm that my cousin lived on, and he asked my

grandfather, who was a locomotive engineer, "When are they going to put the rails back?" And my grandfather, who worked 58 years for the Southern Railroad said "Son, when they pull the rails up, they don't put them back." And he was right. Those rails are still up. They still are not back down.

Now, just to give you some statistics or facts, in 1960 we had 220,000 miles of railroad, trains running on those tracks and workers working on those railroads; 1970, it dropped to 208,000; 1980, 178,000; 1990, we lost another 382,000, almost 20 percent of our rails in 10 years, 146,000; 1995, we have hit 133,000 miles. And presently railroads want to abandon another 15,000 miles.

Eighty percent of that rail, the high bid will be class 2 railroads, the railroads that we want to saddle with this additional expense. If we want, just to show in one State what has happened, Pennsylvania, 1950, the chairman's home State, almost 10,000 miles of rails; 1978, 8,000; 1980, 7,000; by 1990, in 10 years, they lost half their rails.

But let me tell you what did happen in the last 2 years. Let me tell you some good news. We had eight States this last year, eight States, that actually put new rail, that increased their rail mileage. Do you know how they did that? They did that because class 2 railroads bought track that was going to be abandoned.

Let me say this to those who are advocating for unions. This amendment is bad for the unions, because if you look at those railroads who have taken over those tracks, and in Mississippi alone, 700 miles of new class 1, the class 1 came in and bought a union carrier, it went from a class 1 to a class 2, and the class 2 bought it without any labor protection, without having to pay any labor protection.

Now it has gone back to the Kansas City Southern, and union members are running trains over those tracks every day.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. BACHUS. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Apropos to that point, Mr. Chairman, when these transactions have occurred, the average pay after the small railroad survives and takes it over is 75 percent of the class 1, which is, therefore, average pay, $34,500 a year. Not bad. Further, the average percentage of former employees picked up by the new operator is 85 percent.

So do we want to save 85 percent of the jobs? Do you want to have a $35,000-a-year job? Defeat the Whitfield amendment.

Mr. BACHUS. Mr. Chairman, reclaiming my time, there are eight States which have added class 1 railroad track this year, which was class 2. Class 2 has bought it as opposed to abandoning it. These include Alabama, Florida, and Kentucky.

Mr. Chairman, I would like more time to pursue this, to show some other reasons why I think this is going to boomerang on the unions. The unions, the last railroads that they have organized, have been class 2 railroads.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Whitfield amendment. I have heard much of the debate and I know that change is on the horizon, and I am not opposed to change. But I think that as we make the change, we ought to consider that we are manipulating the lives of people. This is all about people who have worked. This is all about protecting those persons who have not sat around and waited for us to give them something, but people who have been on jobs, people who are losing their proetction within the jobs. We understand change.

The Whitfield amendment eliminates labor protection for all class 3 railroad labor transactions, whether it is purchasing another short line, or merging several class 3 railroads.

The new ICC may not provide for labor protection. The amendment eliminates 6 years of labor protection when class 2 railroad purchases a short line or merges with a small railroad. Employees who lose their jobs get a 1 year severance, if they have the seniority to earn it.

The amendment does not affect H.R. 2539 with respect to large class 1 railroads.

Unfortunately, H.R. 2539 is about much more than the sale of short lines and the imposition of labor protection. It would allow a Federal agency to break privately negotiated collective bargaining agreements when two railroads merge, railroads with up to $250 million of annual revenue. In return, the employees would have no protection of any kind.

No Federal agency has this extraordinary power. The amendment would counterbalance the power of the Federal agency to break collective bargaining agreements with the requirement that employees be treated fairly with up to 1 year severance pay.

It is simply unfair to allow a Federal agency the authority to break private collective bargaining agreements without any protections for the workers, the people who have kept it going. The Whitfield amendment prohibits the new ICC from using its power over small railroad mergers to shift work from a union to a nonunion railroad. The Whitfield amendment is a sensible compromise. It is about protecting people, people, working people.

Mr. Chairman, I would ask all of us to support the workers.

□ 1745

Mr. KNOLLENBERG. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to Mr. WHITFIELD's amendment to H.R. 2539, the ICC Termination Act of 1995.

Every so often people inform me of a law which shocks one's conscience and you say to yourself, that cannot be true. Well, today there is a law on the books called labor protection which requires employers to pay up to 6 years of income and benefits to employees who are adversely affected by a railroad transaction. When I heard this, I was amazed. So I had to repeat it to myself, Federal law mandates employers to pay up to 6 years of wages and benefits to an adversely affected employer no matter what their status is.

In the 1980's the ICC understood that this archaic mandate was the thorn in the side of small railroad owners who wanted to buy light density lines—they could just not afford paying these wages on top of buying the lines.

Fortunately, under a policy know as 10901 exemption, there was a realization that it was better to preserve the service of railroads and save jobs than facing line abandonment. In many ways, and I know the gentleman from Pennsylvania [Mr. SHUSTER] alluded to this, it saved 30,000 miles of track and created 10,000 jobs. In effect, it spawned a great deal of new business, small business, and jobs were retained at high levels. This has also been confirmed by the chairman.

However, in 1995 the ICC twice has imposed labor protection. This is a complete reversal of previous ICC's position.

Mr. Chairman, it is not the place of Government to mandate labor protection. Let us leave that to the unions and management. Unfortunately, the Whitfield amendment keeps the Government's hand in railroad transactions.

I would like to also add that in my home State of Michigan, Conrail announced that it is looking to sell approximately 2,500 miles of light rail. I want to see these lines in use—not abandoned. So I ask my colleagues to vote against the Whitfield amendment and support H.R. 2539 in its original form.

Mr. KENNEDY of Massachusetts. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, several years ago the gentleman from Ohio, JOHN KASICH, and I got together to try to determine how we might deal with some of the budgetary problems that this country faces, and we thought that maybe because the two of us strongly advocated and supported the balanced budget amendment that we had some responsibility of actually trying to find ways of actually cutting back and making significant changes in our Federal spending.

At that time I asked the gentleman to come to a meeting and he came with a list of the cuts that he was in favor

of and I came with a list of cuts that I was in favor of. I found that everything I wanted to cut, he wanted to spend more on; and everything he wanted to cut, I wanted to spend more on, excepting one thing. And the one thing we both could agree on was the ICC.

Mr. Chairman, here is an agency whose mission has to do with regulating the trucking industry, regulating the bussing industry, regulating the railroad industry, and all three of which this Congress has chosen to deregulate. So we have a regulatory agency that is set up gaining millions and millions of dollars worth of Federal support regulating industries that no longer need regulation. It seemed patently ridiculous. And the two of us got together and put in some legislation to call for the ending of the ICC.

I am proud to see finally this legislation is now receiving support on both sides of the aisle. I think this is a very positive development. The reason why I am here to speak on behalf of this Whitfield amendment is because, once again, we see the Republicans go a bridge too far. In what could be, in fact, good bipartisan spirit and support for ending a Federal agency that no longer serves a useful purpose, they, instead, come up with a mean-spirited way of hurting working people.

Mr. Chairman, people that cite 6-year provisions, in terms of the kind of protections, ought to first and foremost recognize that the workers' unions that agree to having their future bound up by a government regulatory agency do so by giving up their right to strike, the most fundamental right of any union in this country. Second, the bill itself calls for the elimination of all the protections for our unions that work in the railroad industry.

Mr. Chairman, what the Whitfield amendment does is simply provide some base level protections for the working people. Now, what will happen once we see all the mergers and acquisitions we have seen recently in the railroad industry? What will happen is a lot of shareholders and stockholders and owners of these unions and the management of these unions are going to stand to make millions and millions of dollars and, at the same time, they will do so, in many cases, by laying off the working people that work for those unions.

This bill—and the Whitfield amendment, if it passes—contains some reasonable protections for the working people, while recognizing that, in fact, we do have to make some changes in our railroad industry. But let us not be mean-spirited about it. Let us not take what is good bipartisan legislation in the elimination of the ICC and try somehow to find a needle to stick into working people whose blood and sweat and tears built up the railroads of this country and whose railroads built up America.

Let us, in fact, Mr. Chairman, come up with a way to compromise this and to make this legislation that can work, that can make this legislation be signed by the President of the United States, make this legislation have the kind of broad-spirited support that lead the gentleman from Ohio, JOHN KASICH, and I toward offering legislation that ended the ICC as we know it today to begin with. That is where we should go.

That is what the challenge is. It is not to find some way of taking broad-based support for legislation and using it as a way to once again tweak the unions, tweak the working people, and line the pockets of the wealthiest and most powerful people in this country.

Mr. Chairman, let us support the Whitfield amendment. Let us support ending the ICC as we know it today, and let us have one bill pass this House this week that the President of the United States can sign.

Mr. GILCHREST. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in reluctant opposition to the good-faith effort by the gentleman from Kentucky [Mr. WHITFIELD], who is offering his amendment; but I think what we see here is a very fundamental difference in philosophy.

What is the government's role in the private sector and in the economy? In our judgment, I guess we could say the government's role is to create an environment that is conductive for economic productivity in the private sector. It is not to unduly or unfairly interfere in that particular area but to create an environment where jobs can prosper.

Mr. Chairman, this is not a race to the bottom of the ladder. If we look at a free market economy we need to do whatever we can to make a free market thrive.

What does a thriving free market do? It encourages hard work. It encourages enthusiasm. It encourages the initiative of individuals to have a sense of curiosity, to go out and create jobs. It encourages a free market economy and encourages cooperation. It encourages cooperation between the workers and management.

In this particular bill, we are creating an environment that will create jobs. We are creating an environment that will preserve jobs. We are encouraging collective bargaining.

We are not doing away with collective bargaining. We want laborers' rights to continue in collective bargaining. I have heard through phone calls into my office that we are eliminating retirement for Class I railroads. We are not, but I have heard that kind of discussion.

Mr. Chairman, in my geographic area of the mid-Atlantic States in Maryland, our area is conductive for small rail lines. Many industries moved to the State of Maryland, especially to the eastern shore, because there are small railroads there that can take their produce to the Port of Baltimore or bring it from the Port of Baltimore to other areas of Maryland.

In my area of Maryland, small rail lines bring grain products to another area of our agricultural region to farmers that grow livestock. So small rail lines are the life's blood of our particular region.

This is or should be a bipartisan effort, and we should have support from both sides of the aisle. There are environmental regulations that are still intact. There are safety regulations that are still intact. People can continue to bargain in a cooperative, collective fashion.

Mr. Chairman, how do we ensure protection for workers? We ensure that there are jobs for those workers.

I again rise reluctantly to oppose the gentleman's amendment, and I encourage my colleagues to vote down this amendment and vote for the bill.

Mr. TRAFICANT. Mr. Chairman, I move to strike the requisite number of words.

I support the Whitfield amendment; and I will, with the Whitfield amendment, support the bill.

I think we are getting to a point down here, though, where we are looking for some trophies. I look at the railroads, for example. There are not too many trains crossing under the Central Street Bridge. I look at the jobs situation in the country, and even Fruit of the Loom just left: 3,200 jobs went to Mexico. We will not even be making underwear around here.

Mr. Chairman, when we look at basic workers' rights, I look at some of these issues. We even talk about workers' right to strike, and we are afraid to death about workers that go on strike in America. The truth of the matter is that when we take away the right to strike, we take away the rights of workers. There is a fine line in between here, folks.

Under the ICC, we have a 6-year severance remuneration. In this bill, we get a 60-day notice. The Whitfield amendment says we will give a 1-year severance pay. That seems like some basic fairness. We have already gone though so many workers in this industry. And some of the deregulation, I might say, has produced some cannibalism in America that has produced an awful lot of bankruptcy, that has produced an awful lot of individual debt, that has produced an awful lot of national debt.

Mr. Chairman, I would hope Members would look at the Whitfield amendment. There has been a lot of philosophy and ideology discussed. Look at it as a basic fairness issue. I believe the Whitfield amendment makes sense.

Mr. Chairman, I rise in strong support of the amendment offered by the gentleman from Kentucky [Mr. WHITFIELD].

I want to first commend Chairman SHUSTER, the ranking member, Mr. OBERSTAR, the gentlewoman from New York, Ms. MOLINARI, and my two colleagues BILL LIPINSKI and BOB WISE. They have all worked hard to craft a bill that is fair, that reduces unnecessary regulation, and one that ensures an orderly transfer of responsibility to a special DOT panel. They have put together a solid bill. But the bill does have one shortcoming. In its current form the bill is highly unfair to railroad employees who lose their jobs in mergers. The bill eliminates provisions in existing law providing severance pay for employees of class 2 and 3 railroads.

What is worse, the bill gives the ICC's successor the right to terminate severance pay agreements reached through the collective bargaining process—agreements made in good faith between a rail company and its employees.

The Whitfield amendment restores fairness to rail employees and protects the integrity of the collective bargaining process. Significantly, the Whitfield amendment would eliminate mandatory severance pay for small transactions in instances where mandatory severance pay would discourage a purchaser from acquiring a struggling small rail carrier.

The Whitfield amendment is a sensible and fair compromise, it encourages short-line rail service while protecting collective bargaining rights of employees. The amendment eliminates federally-mandated labor protection for all transactions involving small—class 3—railroads.

For mid-size, or class 2, railroad transactions, labor protection is reduced from the current mandatory 6-year severance payment to a more reasonable 1-year severance payment.

Class 2 railroads have annual revenues of up to $250 million annually, and transactions involving such rail lines can impact a significant number of rail workers. It is only fair and just that long-time employees of class 2 railroads receive a modest severance package.

Under H.R. 2539, labor protection for class 2 employees is doubly important because the bill gives the Federal Government the authority to break a collective bargaining agreement and eliminate any labor protections it might have contained.

I think all of us agree that completing the deregulation process in the transportation industry is long overdue. On balance, this is a good bill.

But the bill unnecessarily and unfairly destroys the collective bargaining rights of rail employees.

The Whitfield amendment restores some balance and fairness to the bill. I urge all my colleagues to support the amendment.

Mr. OBERSTAR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think that this will conclude debate, certainly for our side, and I understand in consultation with the chairman it will conclude the other side as well.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, the distinguished whip has appeared on the floor, and I understand he will seek recognition. But, as far as I know, that will be our final speaker.

Mr. OBERSTAR. Mr. Chairman, the debate has been a constructive one; a positive one. There are some sort of misunderstandings, misstatements, perhaps. There was an allusion some time ago, and I do not recall who it was that said that, that there had been 10,000 new jobs created over the last 10 years in the short lines, but that statement conveniently left out the reality that 265,000 jobs have been terminated since the Staggers Act, and most of them did not get labor protection.

We are just talking about a matter of fairness and decency as we move this last step in the economic deregulation of the rail industry.

□ 1800

The Whitfield amendment before us today is a compromise. It is not the compromise I would have liked. It is not the protection for labor that I would have liked, but I am willing to accept it. It is a modicum, the very basic and the least we could do, of fair treatment of employees with legitimate concerns of their own against the legitimate financial concerns of the medium- and smaller-sized carriers.

Mr. Chairman, rail labor has given up a great deal in this legislative package that we have. If we are to stay with current law, there is labor protection for all railroad mergers, for all line sales to carriers. The Whitfield amendment continues labor protection only for the largest-sized railroads, class 1 railroads, that have annual revenues of $250 million and more. For all the others, the amendment we are considering now would eliminate or would significantly modify labor protection. Under this amendment, no labor protection would be provided for the smallest or the class 3 railroads.

The Whitfield amendment affects the medium-sized railroads, those with revenues up to $250 million a year—and some of those are very big carriers, as my colleague the gentleman from Illinois has rightly pointed out. One of them has a stock value of over $800 million. That is not small. That is no small potatoes where I come from. It is only fair to employees in that class that they should have at least a year. They give up 5 years of potential labor protection to get a maximum of 1 year.

Mr. Chairman, I want to remind my colleagues that this is not a gift. They do not get a full year's pay and sit on their can and do nothing. If they take another job, they get the wages from that job deducted from their pay from the railroad. They are on call. They can be called back to work at any time. This is not a big deal, giveaway, labor protective provision.

The bill would allow the ICC successor agency to abrogate labor protection in collective bargaining agreements. No other agency of Government has that power. None other.

Mr. Chairman, to those who object to any kind of labor protective provisions for the railroad workers, I say fine. Then let us throw the whole thing out and treat rail labor as we do industrial unions, as we do the industrial workplace. Let them collectively bargain. Let them strike. Let them shut down the rails of this country if they want to, if they have to, if they are pushed to the wall and they have to.

But because the railroads have been so vital to America's economy, they have been treated differently than the building trades, than the industrial unions who represent workers in the industrial marketplace of this country—the International Association of Machinists, the UAW, the rubberworkers, and the steelworkers.

The CHAIRMAN. The time of the gentleman from Minnesota [Mr. OBERSTAR] has expired.

(By unanimous consent, Mr. OBERSTAR was allowed to proceed for 2 additional minutes.)

Mr. OBERSTAR. Mr. Chairman, we are talking about a very controlled workplace: Railroads. Rail labor.

They give up the freedom that others have in order that an agency of the Federal Government mediate between their employer and themselves.

Mr. Chairman, I grew up believing that a union contract was a bond with your employer. That is what I learned from my father. That is what I learned at our dinner table at home in Chisholm, MN, in the heart of the iron ore mining country.

Railroading is different. It is a whole different set of public policy interests that come before a labor and management contract; that come before the interests of the railroad company.

In deregulation, we have passed away a lot of those protections. One small modicum of protection ought to remain. If in the next round of mergers and acquisitions and downsizing of this industry workers lose their jobs in those smaller railroads, they ought to have the decency of protection, having given their lifetime of work, that they are treated fairly and decently with labor protective provisions.

Mr. Chairman, that is what this amendment will do. If we cannot do that, then we ought not to pass this bill. We ought not to hang labor on this cross.

Mr. DELAY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the Whitfield amendment for many reasons. I just ask the Members to listen, because labor issues sometimes can be very, very complicated and in some other cases can be misrepresented. But, they all have effects on the ability for railroads to run effectively and efficiently and provide jobs for railroad workers.

That is what we are talking about here, to provide more jobs for more workers. If we put these kinds of labor protection measures on this bill, we are going to cost people their jobs, because there will be some railroad lines abandoned because they cannot afford these kinds of labor protections.

Our Members particularly need to understand that this is not an easy labor vote; that they can just throw labor. This is a very interesting application to an age-old problem that we, as part of the new revolution, are trying to throw off so that we can have an economy that runs efficiently and provides the most number of jobs and not just single out one group of people and protect one group of people.

Mr. Chairman, these kinds of labor protections are more. Members talk about fairness to the workers. This is more fairness than any other union workers in any other kind of union get to enjoy. When we are talking about 6 years of full wages and benefits that have been removed by bringing this bill to the floor, and now the gentleman from Kentucky [Mr. WHITFIELD] is trying to offer an amendment to this bill that preserves that mandate in whole or in part, depending on the size of the transaction, we are talking about restoring a labor protection that goes way beyond even the most wide definition of common sense; way beyond what is normal in labor protection for other unions and other kinds of contracts.

Let me just address one of perhaps the most egregious misrepresentations being made by some of the proponents of the Whitfield amendment. That is that the bill somehow abrogates collective bargaining agreements. In fact, the bill retains exactly the same standard that has been the merger statute for decades: That agency approval of a merger displaces any other laws to the extent necessary to implement the merger.

Mr. Chairman, this does not abrogate contracts, but the Whitfield amendment does alter this law. It gives labor the power to halt the implementation of approved mergers involving the smaller railroads. This amendment forbids, forbids work reassignments and shift of work from a union workforce. This directly contravenes existing law. So, the Whitfield amendment goes way beyond what existing law is.

Mr. Chairman, I just think if we are going to develop an economy that is efficient and moves efficiently and creates jobs, we cannot afford to pass the Whitfield amendment. This bill eliminates one of the oldest and most costly mandates in the books today. And because these railroads cannot afford to operate under this provision, they simply will go out of business, and both consumers who need rail service and labor will lose.

Since the Reagan-Bush exemption policy was put into place, over 330 new railroads have purchased 30,000 miles of line that was headed for abandonment. Those lines today employ 10,000 people that were headed for unemployment. This amendment would result in the abandonment of most light-density railroad lines in rural America and everybody loses.

Mr. Chairman, this is a very, very important amendment that affects this bill, and I hope my colleagues, particularly on this side of the aisle, will think very seriously before they would vote for this amendment. I urge that they vote against the Whitfield amendment and vote for the bill.

Mr. SPRATT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I support the Whitfield amendment, and urge others to do the same.

Mr. Chairman, I support the Whitfield amendment, which protects railroad workers when their railroads merge or sell.

For years, the Interstate Commerce Commission [ICC] has reviewed and approved mergers and acquisitions. As part of its role, the ICC has had extraordinary authority: it has been able to change collective bargaining agreements to help transactions happen when it finds them in the public interest.

In connection with this power, Congress gave the ICC discretion to require 6-year severance payments to rail workers displaced by mergers or acquisitions. This is a power rarely used, but it has had an indirect effect: It has been a disincentive to radical changes and an incentive to railroad lines, especially in rural areas.

The bill before the committee would transfer the ICC's power to amend collective bargaining agreements to the newly created Transportation Adjudication Panel, but it would not transfer the associated authority to grant labor protection to workers on Class 2 and Class 3 railroads.

The supporters of this bill argue that this change is necessary to allow medium and small railroads to survive in a competitive environment; and insofar as the smaller, class 3 railroads are concerned, the Whitfield amendment agrees. But for the larger, class 2 railroads, the Whitfield amendment would grant the adjudication panel the discretion to grant 1 year's severance pay to workers displaced by rail mergers or line acquisitions, in lieu of 6 years, which the law now provides.

Trading from 6 years down to 1 year's severance pay strikes me as more than fair for class 2 carriers. This is a good deal for carriers and compromise rail workers have agreed to accept. I urge adoption of the Whitfield amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kentucky [Mr. WHITFIELD].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SHUSTER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 241, noes 184, not voting 7, as follows:

[Roll No. 792]

AYES—241

Abercrombie	Gillmor	Ortiz
Ackerman	Gilman	Orton
Andrews	Gonzalez	Owens
Baesler	Gordon	Pallone
Baldacci	Green	Pastor
Barcia	Gutierrez	Payne (NJ)
Barrett (WI)	Hall (OH)	Payne (VA)
Becerra	Hall (TX)	Pelosi
Beilenson	Hamilton	Peterson (FL)
Bentsen	Harman	Peterson (MN)
Berman	Hastings (FL)	Pickett
Bevill	Hayes	Pomeroy
Bilirakis	Hefner	Poshard
Bishop	Hilliard	Quillen
Blute	Hinchey	Quinn
Bonior	Hoke	Rahall
Borski	Holden	Rangel
Boucher	Horn	Reed
Brewster	Houghton	Regula
Browder	Hoyer	Richardson
Brown (CA)	Jackson-Lee	Rivers
Brown (FL)	Jacobs	Roemer
Brown (OH)	Jefferson	Rogers
Brownback	Johnson (CT)	Ros-Lehtinen
Bryant (TX)	Johnson (SD)	Rose
Bunn	Johnson, E. B.	Roybal-Allard
Burr	Johnston	Rush
Cardin	Kanjorski	Sabo
Chapman	Kaptur	Sanders
Clay	Kelly	Sawyer
Clayton	Kennedy (MA)	Schiff
Clement	Kennedy (RI)	Schroeder
Clyburn	Kennelly	Schumer
Coleman	Kildee	Scott
Collins (IL)	King	Serrano
Collins (MI)	Kleczka	Sisisky
Condit	Klink	Skaggs
Conyers	LaFalce	Skelton
Costello	Lantos	Slaughter
Coyne	LaTourette	Smith (NJ)
Cramer	Lazio	Smith (WA)
Cremeans	Leach	Solomon
Danner	Levin	Spratt
de la Garza	Lewis (GA)	Stark
DeFazio	Lincoln	Stenholm
DeLauro	Lipinski	Stockman
Dellums	Lofgren	Stokes
Deutsch	Lowey	Studds
Diaz-Balart	Luther	Stupak
Dicks	Maloney	Tanner
Dingell	Manton	Taylor (NC)
Dixon	Markey	Tejeda
Doggett	Martinez	Thompson
Dooley	Martini	Thornton
Doyle	Mascara	Thurman
Duncan	Matsui	Torkildsen
Durbin	McCarthy	Torres
Edwards	McDade	Torricelli
Engel	McDermott	Towns
English	McHale	Traficant
Eshoo	McHugh	Velazquez
Evans	McKinney	Vento
Everett	McNulty	Visclosky
Farr	Meehan	Walsh
Fattah	Meek	Wamp
Fazio	Menendez	Ward
Fields (TX)	Metcalf	Waters
Filner	Mfume	Watt (NC)
Flanagan	Miller (CA)	Waxman
Foglietta	Minge	Weldon (PA)
Forbes	Moakley	Weller
Ford	Mollohan	Whitfield
Frank (MA)	Moran	Williams
Franks (NJ)	Murtha	Wilson
Frisa	Nadler	Wise
Frost	Neal	Woolsey
Furse	Neumann	Wyden
Gejdenson	Ney	Wynn
Gephardt	Oberstar	Young (AK)
Geren	Obey	
Gibbons	Olver	

NOES—184

Allard	Baker (LA)	Barton
Archer	Ballenger	Bass
Armey	Barr	Bateman
Bachus	Barrett (NE)	Bereuter
Baker (CA)	Bartlett	Bilbray

Bliley	Greenwood	Nussle
Boehlert	Gunderson	Oxley
Boehner	Gutknecht	Packard
Bonilla	Hancock	Parker
Bono	Hansen	Paxon
Bryant (TN)	Hastert	Petri
Bunning	Hastings (WA)	Pombo
Burton	Hayworth	Porter
Buyer	Hefley	Portman
Calvert	Heineman	Pryce
Camp	Herger	Radanovich
Canady	Hilleary	Ramstad
Castle	Hobson	Riggs
Chabot	Hoekstra	Roberts
Chambliss	Hostettler	Rohrabacher
Chenoweth	Hunter	Roth
Christensen	Hutchinson	Roukema
Chrysler	Hyde	Royce
Clinger	Inglis	Salmon
Coble	Istook	Sanford
Coburn	Johnson, Sam	Saxton
Collins (GA)	Jones	Scarborough
Combest	Kasich	Schaefer
Cooley	Kim	Seastrand
Cox	Kingston	Sensenbrenner
Crane	Klug	Shadegg
Crapo	Knollenberg	Shaw
Cubin	Kolbe	Shays
Cunningham	LaHood	Shuster
Davis	Largent	Skeen
Deal	Latham	Smith (MI)
DeLay	Laughlin	Smith (TX)
Dickey	Lewis (CA)	Souder
Doolittle	Lewis (KY)	Spence
Dornan	Lightfoot	Stearns
Dreier	Linder	Stump
Dunn	Livingston	Talent
Ehlers	LoBiondo	Tate
Ehrlich	Longley	Tauzin
Emerson	Lucas	Taylor (MS)
Ensign	Manzullo	Thomas
Ewing	McCollum	Thornberry
Fawell	McCrery	Tiahrt
Foley	McInnis	Upton
Fowler	McIntosh	Vucanovich
Fox	McKeon	Waldholtz
Franks (CT)	Meyers	Walker
Frelinghuysen	Mica	Watts (OK)
Funderburk	Miller (FL)	Weldon (FL)
Gallegly	Molinari	White
Ganske	Montgomery	Wicker
Gekas	Moorhead	Wolf
Gilchrest	Morella	Young (FL)
Goodlatte	Myers	Zeliff
Goodling	Myrick	Zimmer
Goss	Nethercutt	
Graham	Norwood	

NOT VOTING—7

Callahan	Mink	Yates
Fields (LA)	Tucker	
Flake	Volkmer	

□ 1830

Mr. BEREUTER and Mr. SMITH of Michigan changed their vote from "aye" to "no."

Messrs. HAYES, WAMP, CONYERS, and STENHOLM changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments to title I?

AMENDMENT OFFERED BY MR. DAVIS

Mr. DAVIS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DAVIS: Page 256, after line 17, insert the following new section:

SEC. 105. CREDITABILITY OF ANNUAL LEAVE FOR PURPOSES OF MEETING MINIMUM ELIGIBILITY REQUIREMENTS FOR AN IMMEDIATE ANNUITY.

(a) IN GENERAL.—An employee of the Interstate Commerce Commission who is separated from Government service pursuant to the abolition of that agency under section 101 shall, upon appropriate written application, be given credit, for purposes of determining eligibility for and computing the amount of any annuity under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, for accrued annual leave standing to such employee's credit at the time of separation.

(b) LIMITATION AND OTHER CONDITIONS.—Any regulations necessary to carry out this section shall be prescribed by the Office of Personnel Management. Such regulations shall include provisions—

(1) defining the types of leave for which credit may be given under this section (such definition to be similar to the corresponding provisions of the regulations under section 351.608(c)(2) of title 5 of the Code of Federal Regulations, as in effect on the date of the enactment of this Act);

(2) limiting the amount of accrued annual leave which may be used for the purposes specified in subsection (a) to the minimum period of time necessary in order to permit such employee to attain first eligibility for an immediate annuity under section 8336, 8412, or 8414 of title 5, United States Code (in a manner similar to the corresponding provisions of the regulations referred to in paragraph (1));

(3) under which contributions (or arrangements for the making of contributions) shall be made so that—

(A) employee contributions for any period of leave for which retirement credit may be obtained under this section shall be made by the employee; and

(B) Government contributions with respect to such period shall similarly be made by the Interstate Commerce Commission or other appropriate officer or entity (out of appropriations otherwise available for such contributions); and

(4) under which subsection (a) shall not apply with respect to an employee who declines a reasonable offer of employment in another position in the Department of Transportation made under this Act or any amendment made by this Act.

(c) EXTINGUISHMENT OF ELIGIBILITY FOR LUMP-SUM PAYMENT.—A lump-sum payment under section 5551 of title 5, United States Code, shall not be payable with respect to any leave for which retirement credit is obtained under this section.

Mr. DAVIS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. DAVIS. Mr. Chairman, I rise in support of my short and noncontroversial amendment. This amendment simply makes a technical addition to the bill to allow a handful of ICC employees who are being separated from Federal service as a result of this bill to apply their unused annual leave for purposes of qualifying for a Federal annuity. This amendment is limited to apply only to Federal workers who are on the verge of becoming eligible for an annuity, but who are losing their jobs as a result of this bill before qualifying for a pension.

Mr. Chairman, several constituents have described a predicament that no Member of this body would want to allow to go unresolved. Imagine working for 24 years and 11 months only to be told that you are terminated for no fault of your own and that you may not use the 5 weeks of annual leave that you have accumulated in order to reach the 25 year eligibility threshold for an annuity free of the penalties that we have in place to discourage early retirement.

This amendment will only apply to the handful of employees who are: First, not being offered employment elsewhere in the Federal Government; second, who are within several days or weeks of becoming eligible for an immediate annuity; and third, who have accrued enough annual leave, in accordance with OPM regulations, to reach the date on which an immediate annuity would be owed. Mr. Chairman, approximately 400 Federal workers are employed at the ICC. Approximately 180 workers will remain in the Federal work force carrying out the functions that will continue under this bill. Of the 220 workers who may be losing their jobs, a few are on the verge of qualifying for an immediate retirement annuity. Most of these workers are enrolled in the Civil Service Retirement System [CSRS] which means that they do not receive Social Security benefits for the years of service they have performed.

The Davis amendment simply says to those veteran ICC workers who have reached the proverbial 26 mile marker in the Federal career marathon, that we will allow them to complete the last two-tenths of a mile in order to end their Federal career with dignity and adequate financial security. I urge my colleagues to unanimously support this good-government amendment.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. DAVIS. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Mr. Chairman, I have examined the gentleman's amendment, and we accept it on this side.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. DAVIS. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Chairman, we are prepared to accept the gentleman's amendment on this side, too.

Mr. DAVIS. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia [Mr. DAVIS].

The amendment was agreed to.

Mr. SHUSTER. Mr. Chairman, I move to strike the last word to urge all of my colleagues to vote in favor of final passage because it is absolutely imperative that this legislation be passed.

We would not have this bill before the House today without an extraordinary effort over several months by a number of staff members.

Eliminating an agency and revising the entire Interstate Commece Act turned out to be a very complicated proposition.

In particular, I would like to thank Glenn Scammel, Roger Nober, Alice Davis, and Debbie Gebhard of the majority staff and Trinita Brown and Rosalyn Millman of the minority staff.

Special thanks go to Henri Rush, general counsel of the ICC, and Ellen Hanson of the ICC for the many hours they devoted to this bill, and to Tim Brown and David Mendelsohn of the Legislative Counsel's Office for their assistance in drafting the bill.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Chairman, I join my colleague, chairman of our committee, in urging all Members on both sides of the aisle to support this bipartisan legislation.

Mr. SHUSTER. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Are there further amendments to title I?

If not, the Clerk will designate title II.

The text of title II is as follows:

TITLE II—TRANSPORTATION ADJUDICATION PANEL

SEC. 201. TITLE 49 AMENDMENT.

(a) AMENDMENT.—Subtitle I of title 49, United States Code, is amended by adding at the end the following new chapter:

"CHAPTER 7—TRANSPORTATION ADJUDICATION PANEL

"SUBCHAPTER I—ESTABLISHMENT

"Sec.
"701. Establishment of Panel.
"702. Functions.
"703. Administrative provisions.
"704. Annual report.
"705. Authorization of appropriations.
"706. Reporting official action.

"SUBCHAPTER II—ADMINISTRATIVE

"721. Powers.
"722. Panel action.
"723. Service of notice in Panel proceedings.
"724. Service of process in court proceedings.
"725. Administrative support.
"726. Definitions.

"SUBCHAPTER I—ESTABLISHMENT

"§701. Establishment of Panel

"(a) ESTABLISHMENT.—There is hereby established within the Department of Transportation the Transportation Adjudication Panel.

"(b) MEMBERSHIP.—(1) The Panel shall consist of 3 members, to be appointed by the President, by and with the advice and consent of the Senate. Not more than 2 members may be appointed from the same political party.

"(2) At any given time, at least 2 members of the Panel shall be individuals with professional standing and demonstrated knowledge in the fields of transportation or transportation regulation, and at least one member shall be an individual with professional or business experience in the private sector.

"(3) The term of each member of the Panel shall be 5 years and shall begin when the term of the predecessor of that member ends. An individual appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of that individual was appointed, shall be appointed for the remainder of that term. When the term of office of a member ends, the member may continue to serve until a successor is appointed and qualified, but for a period not to exceed one year. The President may remove a member for inefficiency, neglect of duty, or malfeasance in office.

"(4) On the effective date of this section, the members of the Interstate Commerce Commission then serving unexpired terms shall become members of the Panel, to serve for a period of time equal to the remainder of the term for which they were originally appointed to the Interstate Commerce Commission.

"(5) No individual may serve as a member of the Panel for more than 2 terms. In the case of an individual who becomes a member of the Panel pursuant to paragraph (4), or an individual appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of that individual was appointed, such individual may not be appointed for more than one additional term.

"(6) A member of the Panel may not have a pecuniary interest in, hold an official relation to, or own stock in or bonds of, a carrier providing transportation by any mode and may not engage in another business, vocation, or employment.

"(7) A vacancy in the membership of the Panel does not impair the right of the remaining members to exercise all of the powers of the Panel. The Panel may designate a member to act as Director during any period in which there is no Director designated by the President.

"(c) DIRECTOR.—(1) There shall be at the head of the Panel a Director, who shall be designated by the President from among the members of the Panel. The Director shall receive compensation at the rate prescribed for level III of the Executive Schedule under section 5314 of title 5.

"(2) Subject to the general policies, decisions, findings, and determinations of the Panel the Director shall be responsible for administering the Panel. The Director may delegate the powers granted under this paragraph to an officer, employee, or office of the Panel. The Director shall—

"(A) appoint and supervise, other than regular and full time employees in the immediate offices of another member, the officers and employees of the Panel, including attorneys to provide legal aid and service to the Panel and its members, and to represent the Panel in any case in court;

"(B) appoint the heads of offices with the approval of the Panel;

"(C) distribute Panel responsibilities among officers and employees and offices of the Panel;

"(D) prepare requests for appropriations for the Panel and submit those requests to the President and Congress with the prior approval of the Panel; and

"(E) supervise the expenditure of funds allocated by the Panel for major programs and purposes.

"§702. Functions

"Except as otherwise provided in the ICC Termination Act of 1995, or the amendments made thereby, the Panel shall perform all functions that, immediately before the effective date of such Act, were functions of the Interstate Commerce Commission or were performed by any officer or employee of the Interstate Commerce Commission in the capacity as such officer or employee.

"§703. Administrative provisions

"(a) EXECUTIVE REORGANIZATION.—Chapter 9 of title 5, United States Code, shall apply to the Panel in the same manner as it does to an independent regulatory agency.

"(b) OPEN MEETINGS.—For purposes of section 552b of title 5, United States Code, the Panel shall be deemed to be an agency.

"(c) INDEPENDENCE.—In the performance of their functions, the members, employees, and other personnel of the Panel shall not be responsible to or subject to the supervision or direction of any officer, employee, or agent of any other part of the Department of Transportation.

"(d) REPRESENTATION BY ATTORNEYS.—Attorneys designated by the Director of the Panel may appear for, and represent the Panel in, any civil action brought in connection with any function carried out by the Panel pursuant to this chapter or subtitle IV or as otherwise authorized by law.

"(e) ADMISSION TO PRACTICE.—Subject to section 500 of title 5, the Panel may regulate the admission of individuals to practice before it and may impose a reasonable admission fee.

"(f) BUDGET REQUESTS.—In each annual request for appropriations by the President, the Secretary of Transportation shall identify the portion thereof intended for the support of the Panel and include a statement by the Panel—

"(1) showing the amount requested by the Panel in its budgetary presentation to the Secretary and the Office of Management and Budget; and

"(2) an assessment of the budgetary needs of the Panel.

"(g) DIRECT TRANSMITTAL TO CONGRESS.—The Panel shall transmit to Congress copies of budget estimates, requests, and information (including personnel needs), legislative recommendations, prepared testimony for congressional hearings, and comments on legislation at the same time they are sent to the Secretary of Transportation. An officer of an agency may not impose conditions on or impair communications by the Panel with Congress, or a committee or member of Congress, about the information.

"§704. Annual report

"The Panel shall annually transmit to the Congress a report on its activities.

"§705. Authorization of appropriations

"There are authorized to be appropriated to the Secretary of Transportation for the activities of the Panel—

"(1) $8,421,000 for fiscal year 1996;

"(2) $12,000,000 for fiscal year 1997; and

"(3) $12,000,000 for fiscal year 1998.

"§706. Reporting official action

"(a) The Panel shall make a written report of each proceeding conducted on complaint or on its own initiative and furnish a copy to each party to that proceeding. The report shall include the findings, conclusions, and the order of the Panel and, if damages are awarded, the findings of fact supporting the award. The Panel may have its reports published for public use. A published report of the Panel is competent evidence of its contents.

"(b)(1) When action of the Panel in a matter related to a rail carrier is taken by the Panel, an individual member of the Panel, or another individual or group of individuals designated to take official action for the Panel, the written statement of that action (including a report, order, decision and order, vote, notice, letter, policy statements, or regulation) shall indicate—

"(A) the official designation of the individual or group taking the action;

"(B) the name of each individual taking, or participating in taking, the action; and

"(C) the vote or position of each participating individual.

"(2) If an individual member of a group taking an official action referred to in paragraph (1) of this subsection does not participate in it, the written statement of the action shall indicate that the member did not participate. An individual participating in taking an official action is entitled to express the views of that individual as part of the written statement of the action. In addition to any publication of the written statement, it shall be made available to the public under section 552(a) of title 5.

"SUBCHAPTER II—ADMINISTRATIVE

"§721. Powers

"(a) The Panel shall carry out this chapter and subtitle IV. Enumeration of a power of the Panel in this chapter or subtitle IV does not exclude another power the Panel may have in carrying out this chapter or subtitle IV. The Panel may prescribe regulations in carrying out this chapter and subtitle IV.

"(b) The Panel may—

"(1) inquire into and report on the management of the business of carriers providing, and brokers for, transportation and services subject to subtitle IV;

"(2) inquire into and report on the management of the business of a person controlling, controlled by, or under common control with those carriers or brokers to the extent that the business of that person is related to the management of the business of that carrier or broker;

"(3) obtain from those carriers, brokers, and persons information the Panel decides is necessary to carry out subtitle IV; and

"(4) when necessary to prevent irreparable harm, issue an appropriate order without regard to subchapter II of chapter 5 of title 5.

"(c)(1) The Panel may subpoena witnesses and records related to a proceeding of the Panel from any place in the United States, to the designated place of the proceeding. If a witness disobeys a subpoena, the Panel, or a party to a proceeding before the Panel, may petition a court of the United States to enforce that subpoena.

"(2) The district courts of the United States have jurisdiction to enforce a subpoena issued under this section. Trial is in the district in which the proceeding is conducted. The court may punish a refusal to obey a subpoena as a contempt of court.

"(d)(1) In a proceeding, the Panel may take the testimony of a witness by deposition and may order the witness to produce records. A party to a proceeding pending before the Panel may take the testimony of a witness by deposition and may require the witness to produce records at any time after a proceeding is at issue on petition and answer.

"(2) If a witness fails to be deposed or to produce records under paragraph (1) of this subsection, the Panel may subpoena the witness to take a deposition, produce the records, or both.

"(3) A deposition may be taken before a judge of a court of the United States, a United States magistrate judge, a clerk of a district court, or a chancellor, justice, or judge of a supreme or superior court, mayor or chief magistrate of a city, judge of a county court, or court of common pleas of any State, or a notary public who is not counsel or attorney of a party or interested in the proceeding.

"(4) Before taking a deposition, reasonable notice must be given in writing by the party or the attorney of that party proposing to take a deposition to the opposing party or the attorney of record of that party, whoever is nearest. The notice shall state the name of the witness and the time and place of taking the deposition.

"(5) The testimony of a person deposed under this subsection shall be taken under oath. The person taking the deposition shall prepare, or cause to be prepared, a transcript of the testimony taken. The transcript shall be subscribed by the deponent.

"(6) The testimony of a witness who is in a foreign country may be taken by deposition before an officer or person designated by the Panel or agreed on by the parties by written stipulation filed with the Panel. A deposition shall be filed with the Panel promptly.

"(e) Each witness summoned before the Panel or whose deposition is taken under this section and the individual taking the deposition are entitled to the same fees and mileage paid for those services in the courts of the United States.

"§722. Panel action

"(a) Unless otherwise provided in subtitle IV, the Panel may determine, within a reasonable time, when its actions, other than an action ordering the payment of money, take effect.

"(b) An action of the Panel remains in effect under its own terms or until superseded. The Panel may change, suspend, or set aside any such action on notice. Notice may be given in a manner determined by the Panel. A court of competent jurisdiction may suspend or set aside any such action.

"(c) The Panel may, at any time on its own initiative because of material error, new evidence, or substantially changed circumstances—

"(1) reopen a proceeding;

"(2) grant rehearing, reargument, or reconsideration of an action of the Panel; or

"(3) change an action of the Panel.

An interested party may petition to reopen and reconsider an action of the Panel under this subsection under regulations of the Panel.

"(d) Notwithstanding subtitle IV, an action of the Panel under this section is final on the date on which it is served, and a civil action to enforce, enjoin, suspend, or set aside the action may be filed after that date.

"§723. Service of notice in Panel proceedings

"(a) A carrier providing transportation subject to the jurisdiction of the Panel under subtitle IV shall designate an agent in the District of Columbia, on whom service of notices in a proceeding before, and of actions of, the Panel may be made.

"(b) A designation under subsection (a) of this section shall be in writing and filed with the Panel.

"(c) Except as otherwise provided, notices of the Panel shall be served on its designated agent at the office or usual place of residence in the District of Columbia of that agent. A notice of action of the Panel shall be served immediately on the agent or in another manner provided by law. If that carrier does not have a designated agent, service may be made by posting the notice in the office of the Panel.

"(d) In a proceeding involving the lawfulness of classifications, rates, or practices of a rail carrier that has not designated an agent under this section, service of notice of the Panel on an attorney in fact for the carrier constitutes service of notice on the carrier.

"§724. Service of process in court proceedings

"(a) A carrier providing transportation subject to the jurisdiction of the Panel under subtitle IV shall designate an agent in the District of Columbia on whom service of process in an action before a district court may be made. Except as otherwise provided, process in an action before a district court shall be served on the designated agent of that carrier at the office or usual place of residence in the District of Columbia of that agent. If the carrier does not have a designated agent, service may be made by posting the notice in the office of the Panel.

"(b) A designation under this section may be changed at any time in the same manner as originally made.

"§725. Administrative support

"The Secretary of Transportation shall provide appropriate administrative support for the Panel.

"§726. Definitions

"All terms used in this chapter that are defined in subtitle IV shall have the meaning given those terms in that subtitle.".

(b) TABLE OF CHAPTERS AMENDMENT.—The table of chapters of subtitle I of title 49, United States Code, is amended by adding at the end the following new item:

"7. TRANSPORTATION ADJUDICATION PANEL ..... 701".

SEC. 202. REORGANIZATION.

The Director of the Transportation Adjudication Panel (in this Act referred to as the "Panel") may allocate or reallocate any function of the Panel, consistent with this title and subchapter I of chapter 7, as amended by section 201 of this title, among the members or employees of the Panel, and may establish, consolidate, alter, or discontinue in the Panel any organizational entities that were entities of the Interstate Commerce Commission, as the Director considers necessary or appropriate.

SEC. 203. TRANSFER OF ASSETS.

Except as otherwise provided in this Act and the amendments made by this Act, so much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with a function transferred to the Panel or the Secretary by this Act shall be available to the Panel or the Secretary at such time and to such extent as the President directs for use in connection with the functions transferred.

SEC. 204. SAVING PROVISIONS.

(a) LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, grants, loans, contracts, agreements, certificates, licenses, and privileges—

(1) that have been issued, made, granted, or allowed to become effective by the President, the Interstate Commerce Commission, any officer or employee of the Interstate Commerce Commission, or any other Government official, or by a court of competent jurisdiction, in the performance of any function that is transferred by this Act or the amendments made by this Act; and

(2) that are in effect on the effective date of such transfer (or become effective after such date pursuant to their terms as in effect on such effective date),

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Panel, any other authorized official, a court of competent jurisdiction, or operation of law. The Panel shall promptly rescind all regulations established by the Interstate Commerce Commission that are based on provisions of law repealed and not substantively reenacted by this Act.

(b) PROCEEDINGS.—(1) Except as provided in paragraph (2), the Panel shall assume responsibility for the continuation of all proceedings pending before the Interstate Commerce Commission, and shall complete such proceedings in accordance with law and regulations as in effect before the date of the enactment of this Act.

(2) In the case of a proceeding under a provision of law repealed, and not reenacted, by this Act, such proceeding shall be terminated.

(c) SUITS.—(1) This Act shall not affect suits commenced before the date of the enactment of this Act, except that the Panel shall assume the position of the Interstate Commerce Commission, and, except as provided in paragraph (2), in all such suits, proceeding shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this Act had not been enacted.

(2) If the court in a suit described in paragraph (1) remands a case to the Panel, subsequent proceedings related to such case shall proceed in accordance with applicable law and regulations as in effect at the time of such subsequent proceedings.

(d) EXERCISE OF AUTHORITIES.—Except as otherwise provided by law, an officer or employee of the Panel may, for purposes of performing a function transferred by this Act or the amendments made by this Act, exercise all authorities under any other provision of law that were available with respect to the performance of that function to the official responsible for the

performance of the function immediately before the effective date of the transfer of the function under this Act or the amendments made by this Act.

SEC. 205. REFERENCES.

Any reference to the Interstate Commerce Commission in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to the Interstate Commerce Commission or an officer or employee of the Interstate Commerce Commission, is deemed to refer to the Panel or a member or employee of the Panel, as appropriate.

The CHAIRMAN. Are there any amendments to title II?

If not, the Clerk will designate title III.

The text of title III is as follows:

TITLE III—CONFORMING AMENDMENTS

Subtitle A—Amendments to United States Code

SEC. 301. TITLE 5 AMENDMENTS.

(a) COMPENSATION FOR POSITIONS AT LEVEL III.—Section 5314 of title 5, United States Code, is amended by striking "Chairman, Interstate Commerce Commission." and inserting in lieu thereof "Director, Transportation Adjudication Panel.".

(b) COMPENSATION FOR POSITIONS AT LEVEL IV.—Section 5315 of title 5, United States Code, is amended by striking "Members, Interstate Commerce Commission." and inserting in lieu thereof "Members, Transportation Adjudication Panel.".

SEC. 302. TITLE 11 AMENDMENTS.

Subchapter IV of chapter 11 of title 11, United States Code, is amended—

(1) by amending section 1162 to read as follows:

"§1162. Definition

"In this subchapter, 'Panel' means the 'Transportation Adjudication Panel'."; and

(2) by striking "Commission" each place it appears and inserting in lieu thereof "Panel".

SEC. 303. TITLE 18 AMENDMENT.

Section 6001(1) of title 18, United States Code, is amended by striking "Interstate Commerce Commission" and inserting in lieu thereof "Transportation Adjudication Panel".

SEC. 304. INTERNAL REVENUE CODE OF 1986 AMENDMENTS.

(a) SECTION 3231.—Section 3231 of the Internal Revenue Code of 1986 is amended—

(1) by striking "Interstate Commerce Commission" in subsection (a) and inserting in lieu thereof "Transportation Adjudication Panel"; and

(2) by striking "an express carrier, sleeping car carrier, or" in subsection (g) and inserting in lieu thereof "a".

(b) SECTION 7701.—Section 7701 of the Internal Revenue Code of 1986 is amended—

(1) in paragraph (33)(B), by striking "Federal Power Commission" and inserting in lieu thereof "Federal Energy Regulatory Commission";

(2) in paragraph (33)(C)(i), by striking "Interstate Commerce Commission" and inserting in lieu thereof "Transportation Adjudication Panel";

(3) in paragraph (33)(C)(ii), by striking "Interstate Commerce Commission" and inserting in lieu thereof "Federal Energy Regulatory Commission";

(4) in paragraph (33)(F), by striking "Interstate Commerce Commission under subchapter III of chapter 105" and inserting in lieu thereof "Transportation Adjudication Panel under subchapter II of chapter 135";

(5) in paragraph (33)(G), by striking "subchapter I of chapter 105" and inserting in lieu thereof "part A of subtitle IV"; and

(6) in paragraph (33)(H), by striking "subchapter I of chapter 105" and inserting in lieu thereof "part A of subtitle IV".

SEC. 305. TITLE 28 AMENDMENTS.

(a) CHAPTER 157 AMENDMENTS.—(1) Chapter 157 of title 28, United States Code, is amended—

*(A) by striking "**INTERSTATE COMMERCE COMMISSION**" in the chapter heading and inserting in lieu thereof "**TRANSPORTATION ADJUDICATION PANEL**";*

*(B) by striking "**Commission's**" in the section heading of section 2321 and inserting in lieu thereof "**Panel's**";*

(C) by striking "Interstate Commerce Commission" each place it appears and inserting in lieu thereof "Transportation Adjudication Panel"; and

(D) by striking "Commission" each place it appears and inserting in lieu thereof "Panel".

(2)(A) The item relating to chapter 157 in the table of chapters of title 28, United States Code, is amended by striking "Interstate Commerce Commission" and inserting in lieu thereof "Transportation Adjudication Panel".

(B) The item relating to section 2321 in the table of sections of chapter 157 of title 28, United States Code, is amended by striking "Commission's" and inserting in lieu thereof "Panel's".

(b) CHAPTER 158 AMENDMENTS.—Chapter 158 of title 28, United States Code, is amended—

(1) by striking "the Interstate Commerce Commission," in section 2341(3)(A);

(2) by striking "and" at the end of section 2341(3)(C);

(3) by striking the period at the end of section 2341(3)(D) and inserting in lieu thereof "; and";

(4) by inserting at the end of section 2341(3) the following new subparagraph:

"(E) the Panel, when the order was entered by the Transportation Adjudication Panel."; and

(5) in section 2342, by—

(A) inserting "or pursuant to part B of subtitle IV of title 49, United States Code" before the semicolon at the end of paragraph (3)(A); and

(B) striking paragraph (5) and inserting the following:

"(5) all rules, regulations, or final orders of the Transportation Adjudication Panel made reviewable by section 2321 of this title; and".

SEC. 306. TITLE 39 AMENDMENTS.

Title 39, United States Code, is amended—

(1) in section 5005(a)(4) by striking "5201(7)" and inserting "5201(6)";

(2) in section 5005(b)(3), by striking "Interstate Commerce Commission" and inserting in lieu thereof "Transportation Adjudication Panel"; and

(3) in chapter 52—

(A) by amending paragraph (1) of section 5201 to read as follows:

"(1) 'Panel' means the Transportation Adjudication Panel;";

(B) in section 5201(2) by striking "a motor common carrier, or express carrier" and inserting "or a motor carrier";

(C) in section 5201(4)—

(i) by striking "common"; and

(ii) by striking "permit" and inserting "registration";

(D) in section 5201(5)—

(i) by striking "common" each place it appears;

(ii) by striking "10102(14)" and inserting "13102(11)"; and

(iii) by striking "certificate of public convenience and necessity" and inserting "registration";

(E) by striking paragraph (6);

(F) by redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively;

(G) in section 5201(6), as so redesignated, by striking "certificate of public convenience and necessity" and inserting "certificate or registration";

(C) by striking subsection (f) of section 5203, and redesignating subsection (g) of such section as subsection (f);

(D) in subsection (f) of section 5203, as so redesignated by subparagraph (H) of this paragraph—

(i) by striking "Commission" and inserting "Panel"; and

(ii) by striking "motor common carrier" each place it appears and inserting "motor carrier";

*(E) by striking "**Interstate Commerce Commission**" in the section heading of section 5207 and inserting in lieu thereof "**Transportation Adjudication Panel**";*

(F) by striking "Commission's" in sections 5208(a) and 5215(a) and inserting in lieu thereof "Panel's";

(G) by striking "Commission" each place it appears and inserting in lieu thereof "Panel"; and

(H) in the item relating to section 5207 in the table of sections, by striking "Interstate Commerce Commission" and inserting in lieu thereof "Transportation Adjudication Panel"; and

(M) in section 5215(a) by striking "motor common carrier" and inserting "motor carrier".

SEC. 307. TITLE 49 AMENDMENTS.

Title 49, United States Code, is amended—

(1) in section 22106(e)(1) by striking "an application for abandonment of" and inserting in lieu thereof "a notice of intent to abandon"; and

(2) by repealing subsection (d) of section 24705.

Subtitle B—Other Amendments

SEC. 311. AGRICULTURAL ADJUSTMENT ACT OF 1938 AMENDMENT.

Section 201 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1291) is amended—

(1) by striking "Interstate Commerce Commission" each place it appears and inserting in lieu thereof "Transportation Adjudication Panel";

(2) by striking "Commission" each place it appears and inserting in lieu thereof "Panel"; and

(3) by striking "Commission's" in subsection (b) and inserting in lieu thereof "Panel's".

SEC. 312. ANIMAL WELFARE ACT AMENDMENT.

Section 15(a) of the Animal Welfare Act (7 U.S.C. 2145(a)) is amended by striking "Interstate Commerce Commission" and inserting in lieu thereof "Transportation Adjudication Panel".

SEC. 313. FEDERAL ELECTION CAMPAIGN ACT OF 1971 AMENDMENTS.

Section 401 of the Federal Election Campaign Act of 1971 is amended—

(1) by striking "Interstate Commerce Commission shall each promulgate, within ninety days after the date of enactment of this Act" and inserting in lieu thereof "Transportation Adjudication Panel shall each maintain"; and

(2) by inserting "or Panel" after "or such Commission".

SEC. 314. FAIR CREDIT REPORTING ACT AMENDMENT.

Section 621(b)(4) of the Fair Credit Reporting Act (15 U.S.C. 1681s(b)(4)) is amended by striking "Interstate Commerce Commission with respect to any common carrier subject to those Acts" and inserting in lieu thereof "Secretary of Transportation, with respect to all carriers subject to the jurisdiction of the Transportation Adjudication Panel".

SEC. 315. EQUAL CREDIT OPPORTUNITY ACT AMENDMENT.

Section 704(a)(4) of the Equal Credit Opportunity Act (15 U.S.C. 1691c(a)(4)) is amended by striking "Interstate Commerce Commission with respect to any common carrier subject to those Acts" and inserting in lieu thereof "Secretary of Transportation, with respect to all carriers subject to the jurisdiction of the Transportation Adjudication Panel".

SEC. 316. FAIR DEBT COLLECTION PRACTICES ACT AMENDMENT.

Section 814(b)(4) of the Fair Debt Collection Practices Act (15 U.S.C. 1692l(b)(4)) is amended by striking "Interstate Commerce Commission with respect to any common carrier subject to those Acts" and inserting in lieu thereof "Secretary of Transportation, with respect to all carriers subject to the jurisdiction of the Transportation Adjudication Panel".

SEC. 317. NATIONAL TRAILS SYSTEM ACT AMENDMENTS.

The National Trails System Act is amended—

(1) in section 8(d)—

(A) by striking "Chairman of the Interstate Commerce Commission" and inserting in lieu thereof "Director of the Transportation Adjudication Panel"; and

(B) by striking "Commission" and inserting in lieu thereof "Panel"; and

(2) in section 9(b), by striking "Interstate Commerce Commission" and inserting in lieu thereof "Transportation Adjudication Panel".

SEC. 318. CLAYTON ACT AMENDMENTS.

The Clayton Act is amended—

(1) in section 7 (15 U.S.C. 18)—

(A) by striking "Interstate Commerce Commission" and inserting in lieu thereof "Transportation Adjudication Panel"; and

(B) by inserting ", Panel," after "vesting such power in such Commission";

(2) in section 11(a) (15 U.S.C. 21(a)), by striking "Interstate Commerce Commission where applicable to common carriers subject to the Interstate Commerce Act, as amended" and inserting in lieu thereof "Transportation Adjudication Panel where applicable to common carriers subject to subtitle IV of title 49, United States Code"; and

(3) in section 16 (15 U.S.C. 22), by striking "in equity for injunctive relief" and all that follows through "Interstate Commerce Commission" and inserting in lieu thereof "for injunctive relief against any common carrier subject to the jurisdiction of the Transportation Adjudication Panel under subtitle IV of title 49, United States Code".

SEC. 319. INSPECTOR GENERAL ACT OF 1978 AMENDMENT.

Section 8G(a)(2) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking "the Interstate Commerce Commission,".

SEC. 320. ENERGY POLICY ACT OF 1992 AMENDMENTS.

Subsections (a) and (d) of section 1340 of the Energy Policy Act of 1992 (42 U.S.C. 13369(a) and (d)) are amended by striking "Interstate Commerce Commission" and inserting in lieu thereof "Transportation Adjudication Panel".

SEC. 321. MERCHANT MARINE ACT, 1920, AMENDMENTS

The Merchant Marine Act, 1920, is amended—

(1) in section 8 (46 U.S.C. App. 867)—

(A) by striking "Interstate Commerce Commission" both places it appears and inserting in lieu thereof "Transportation Adjudication Panel"; and

(B) by striking "commission" and inserting in lieu thereof "Panel"; and

(2) in section 28 (46 U.S.C. App. 884)—

(A) by striking "Interstate Commerce Commission" and inserting in lieu thereof "Transportation Adjudication Panel"; and

(B) by striking "commission" each place it appears and inserting in lieu thereof "Panel".

SEC. 322. RAILWAY LABOR ACT AMENDMENTS.

Section 1 of the Railway Labor Act (45 U.S.C. 151) is amended—

(1) by striking "express company, sleeping-car company, carrier by railroad, subject to the Interstate Commerce Act" in the first paragraph and inserting in lieu thereof "railroad subject to the jurisdiction of the Transportation Adjudication Panel";

(2) by striking "Interstate Commerce Commission" each place it appears in the first and fifth paragraphs and inserting in lieu thereof "Transportation Adjudication Panel"; and

(3) by striking "Commission" each place it appears in the fifth paragraph and inserting in lieu thereof "Panel".

SEC. 323. RAILROAD RETIREMENT ACT OF 1974 AMENDMENTS.

Section 1 of the Railroad Retirement Act of 1974 (45 U.S.C. 231) is amended—

(1) by amending subsection (a)(1)(i) to read as follows:

"(i) any carrier by railroad subject to the jurisdiction of the Transportation Adjudication Panel under part A of subtitle IV of title 49, United States Code;";

(2) by striking "Interstate Commerce Commission is hereby authorized and directed upon request of the Board" in subsection (a)(2)(ii) and inserting in lieu thereof "Transportation Adjudication Panel is hereby authorized and directed upon request of the Railroad Retirement Board"; and

(3) by inserting "the Transportation Adjudication Panel," after "the Interstate Commerce Commission," in subsection (o).

SEC. 324. RAILROAD UNEMPLOYMENT INSURANCE ACT AMENDMENTS.

The Railroad Unemployment Insurance Act is amended—

(1) by striking "Interstate Commerce Commission is hereby authorized and directed upon request of the Board" in section 1(a) (45 U.S.C. 351(a)) and inserting in lieu thereof "Transportation Adjudication Panel is hereby authorized and directed upon request of the Railroad Retirement Board";

(2) by amending paragraph (b) of such section 1 to read as follows:

"(b) The term 'carrier' means a railroad subject to the jurisdiction of the Transportation Adjudication Panel under part A of subtitle IV of title 49, United States Code.";

and

(3) by striking "Interstate Commerce Commission, adjusted, as determined by the Board" in section 2(h)(3) (45 U.S.C. 352(h)(3)) and inserting in lieu thereof "Transportation Adjudication Panel, adjusted, as determined by the Railroad Retirement Board".

SEC. 325. EMERGENCY RAIL SERVICES ACT OF 1970 AMENDMENTS.

The Emergency Rail Services Act of 1970 is amended—

(1) by amending paragraph (2) of section 2 (45 U.S.C. 661(2)) to read as follows:

"(2) 'Panel' means the Transportation Adjudication Panel.";

(2) by striking "Interstate Commerce Commission" in section 6(a) (45 U.S.C. 665(a)) and inserting in lieu thereof "Panel"; and

(3) by striking "Commission" each place it appears and inserting in lieu thereof "Panel".

SEC. 326. ALASKA RAILROAD TRANSFER ACT OF 1982 AMENDMENTS.

Section 608 of the Alaska Railroad Transfer Act of 1982 (45 U.S.C. 1207) is amended—

(1) by striking "Interstate Commerce Commission" each place it appears and inserting in lieu thereof "Transportation Adjudication Panel"; and

(2) by striking "Commission" in subsection (b) and inserting in lieu thereof "Panel".

SEC. 327. REGIONAL RAIL REORGANIZATION ACT OF 1973 AMENDMENTS.

The Regional Rail Reorganization Act of 1973 is amended—

(1) in section 304(d)(3) (45 U.S.C. 744(d)(3))—

(A) by striking "this title," and all that follows through "(A) shall take" and inserting in lieu thereof "this title, the Commission shall take"; and

(B) by striking "this subsection; and" and all that follows through "205(d)(6) of this Act" and inserting in lieu thereof "this subsection"; and

(2) in section 707 (45 U.S.C. 797f)—

(A) by inserting "(a)" at the beginning of the text; and

(B) by adding at the end the following new subsections:

"(b) Notwithstanding any other provision of this Act or any agreement or arrangement in effect as of the date of the enactment of this subsection, the Corporation may not sell or transfer ownership or management, in whole or in part, of any facility acquired by the Corporation under this Act that is used for the repair, rehabilitation, or maintenance of cars or locomotives, without first obtaining the express consent of the authorized representatives of the employees at such facility covered by collective bargaining agreements. Any transaction undertaken in violation of this subsection or subsection (c) shall be considered in violation of section 6 of the Railway Labor Act, and shall be actionable as such.

"(c) Notwithstanding any other provision of this Act or any agreement or arrangement in effect as of the date of the enactment of this subsection, any transfer by the Corporation of ownership, in whole or in part, other than for scrappage, of a car or locomotive that was repaired, rehabilitated, or maintained, before the date of the enactment of this subsection, at a facility acquired by the Corporation under this Act, without first obtaining the express consent of the authorized representatives of the employees at the Corporation's principal maintenance facility covered by collective bargaining agreements, is prohibited.".

SEC. 328. MILWAUKEE RAILROAD RESTRUCTURING ACT AMENDMENT.

Section 18 of the Milwaukee Railroad Restructuring Act (45 U.S.C. 916) is repealed.

SEC. 329. ROCK ISLAND RAILROAD TRANSITION AND EMPLOYEE ASSISTANCE ACT AMENDMENTS.

The Rock Island Railroad Transition and Employee Assistance Act is amended—

(1) in section 104(a) (45 U.S.C. 1003(a)) by striking "section 11125 of title 49, United States Code, or"; and

(2) by repealing section 120 (45 U.S.C. 1015).

SEC. 330. RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976 AMENDMENTS.

The Railroad Revitalization and Regulatory Reform Act of 1976 is amended—

(1) in section 505(a)(3) (45 U.S.C. 825(a)(3))—

(A) by striking "A financially responsible person (as defined in section 10910(a)(1) of title 49, United States Code)" and inserting in lieu thereof "(A) A financially responsible person"; and

(B) by inserting at the end the following new subparagraph:

"(B) For purposes of this paragraph, the term 'financially responsible person' means a person who (i) is capable of paying the constitutional minimum value of the railroad line proposed to be acquired, and (ii) is able to assure that adequate transportation will be provided over such line for a period of not less than 3 years. Such term includes a governmental authority but does not include a class I or class II rail carrier.";

(2) in section 509(b) (45 U.S.C. 829(b)) by striking paragraph (2); and

(3) in section 510 (45 U.S.C. 830) by striking "the provisions of section 20a of the Interstate Commerce Act (49 U.S.C. 20a), nor".

SEC. 331. SERVICE CONTRACT ACT OF 1965 AMENDMENT.

Section 7(3) of the Service Contract Act of 1965 (41 U.S.C. 356(3)) is amended by striking "where published tariff rates are in effect".

SEC. 332. FISCAL YEAR 1982 CONTINUING RESOLUTION AMENDMENT.

Section 115 of the Joint Resolution entitled "Joint Resolution making further continuing

appropriations for the fiscal year 1982, and for other purposes" (Public Law 97–92; 95 Stat. 1196) is repealed.

SEC. 333. MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION ACT.

Section 401(b) of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1841(b)) is amended by—

(1) striking "part II of the Interstate Commerce Act (49 U.S.C. 301 et seq.), or any successor provision of" in paragraph (2)(C) and inserting "part B of"; and

(2) striking "common carriers of passengers under part II of the Interstate Commerce Act (49 U.S.C. 301 et seq.), and any successor provision of" in paragraph (3) and inserting "carriers of passengers under part B of".

SEC. 334. FEDERAL AVIATION ADMINISTRATION AUTHORIZATION ACT OF 1994.

Section 601(d) of the Federal Aviation Administration Authorization Act of 1994 (Public Law 103–305) is amended by striking all after "subsection (c)" and inserting "shall not take effect as long as section 14501(b)(2) of title 49, United States Code, applies to that State.".

SEC. 335. TERMINATION OF CERTAIN MARITIME AUTHORITY.

(a) REPEAL OF INTERCOASTAL SHIPPING ACT, 1933.—The Act of March 3, 1933 (Chapter 199; 46 App. U.S.C. 843 et seq.), commonly referred to as the Intercoastal Shipping Act, 1933, is repealed effective September 30, 1996.

(b) REPEAL OF PROVISIONS OF SHIPPING ACT, 1916.—The following provisions of the Shipping Act, 1916, are repealed effective September 30, 1996:

(1) Section 3 (46 U.S.C. App. 804).
(2) Section 14 (46 U.S.C. App. 812).
(3) Section 15 (46 U.S.C. App. 814).
(4) Section 16 (46 U.S.C. App. 815).
(5) Section 17 (46 U.S.C. App. 816).
(6) Section 18 (46 U.S.C. App. 817).
(7) Section 19 (46 U.S.C. App. 818).
(8) Section 20 (46 U.S.C. App. 819).
(9) Section 21 (46 U.S.C. App. 820).
(10) Section 22 (46 U.S.C. App. 821).
(11) Section 23 (46 U.S.C. App. 822).
(12) Section 24 (46 U.S.C. App. 823).
(13) Section 25 (46 U.S.C. App. 824).
(14) Section 27 (46 U.S.C. App. 826).
(15) Section 29 (46 U.S.C. App. 828).
(16) Section 30 (46 U.S.C. App. 829).
(17) Section 31 (46 U.S.C. App. 830).
(18) Section 32 (46 U.S.C. App. 831).
(19) Section 33 (46 U.S.C. App. 832).
(20) Section 35 (46 U.S.C. App. 833a).
(21) Section 43 (46 U.S.C. App. 841a).
(22) Section 45 (46 U.S.C. App. 841c).

SEC. 336. DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATION ACT, 1982 AMENDMENT.

Section 402 of the Department of Transportation and Related Agencies Appropriation Act, 1982 (Public Law 97–102; 95 Stat. 1465) is repealed.

The CHAIRMAN. Are there any amendments to title III?

If not, the question is on the committee amendment in the nature of a substitute, as modified, as amended.

The committee amendment in the nature of a substitute, as modified, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. HASTINGS of Washington) having assumed the chair, Mr. KINGSTON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2539) to abolish the Interstate Commerce Commission, to amend subtitle IV of title 49, United States Code, to reform economic regulation of transportation, and for other purposes, pursuant to House Resolution 259, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SHUSTER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 417, noes 8, not voting 7, as follows:

[Roll No. 793]

AYES—417

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (TX)
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E.B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
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Knollenberg
Kolbe
LaFalce
LaHood
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Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
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Maloney
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McKeon
McKinney
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Metcalf
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Miller (CA)
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Mollohan
Montgomery
Moorhead
Morella
Murtha
Myers
Myrick
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Norwood
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Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
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Quillen
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Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
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Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
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Studds
Stump
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Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wise
Wolf
Woolsey
Wyden
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—8

Engel	Moran	Williams
Filner	Nadler	Wynn
Green	Pomeroy	

NOT VOTING—7

Conyers	Mink	Yates
Fields (LA)	Tucker	
Gunderson	Volkmer	

□ 1851

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Ms. MOLINARI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Is there objection to the request of the gentlewoman from New York?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 359

Ms. ROYBAL-ALLARD. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 359.

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

There was no objection.

PROPOSED MOTION TO DENY MONEY FOR GROUND TROOPS TO BOSNIA

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

Mr. METCALF. Mr. Speaker, I have a motion at the desk which I will not bring before the House this evening. My motion, had it passed, would have denied money to send ground troops to Bosnia without the President coming and essentially getting a complete accord with the House before he did that.

I have withdrawn this motion, Mr. Speaker, and I will not act on this motion because I have been assured that the Committee on Rules will, on Thursday night, bring up a rule on the Hefley bill. The Hefley bill does the same thing in a different way. I am very supportive of that route also.

I just want to say, Mr. Speaker, that I think before we allow money to be spent to send ground troops to Bosnia, we must get a complete explanation of what is the plan, what are the vital United States interests involved, what is the exit strategy. All these things are absolutely essential, and the Hefley bill will do this that.

Mr. Speaker, at this time I will not bring up the motion, and we will have a vote on this before we go home for Thanksgiving, in my view.

LEGISLATIVE PROGRAM

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

Mr. ARMEY. Mr. Speaker, I thought I would take a minute to advise our Members that we expect no more votes this evening. The House will reconvene tomorrow morning at 10.

We should expect tomorrow morning that we will be able to deal with some possible appropriations conference reports, the foreign operations conference report, the Interior conference report, the Treasury-Postal conference report. All of these are subject to a rule.

Then, of course, it is also possible, Mr. Speaker, and I have no definitive information, but Members should be aware it is also possible that there could be some action on a continuing resolution. Those, basically, are the comments I would like to make.

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

Mr. ARMEY. I yield to the gentleman from Missouri.

Mr. GEPHARDT. Mr. Speaker, I would ask the gentleman if he expects the reconciliation conference to be voted on in the House on Friday.

Mr. ARMEY. I thank the gentleman for his inquiry.

My best guess at this time is that we would expect to vote on the reconciliation conference report on Friday, the Balanced Budget Act on Friday, and we would then, I suppose, in all prudence, have to advise Members that pending action by the other body, we might be prepared to be working Saturday as well.

Mr. GEPHARDT. If the gentleman will continue to yield, obviously, betting is not allowed on the floor of the House, but I am sure that was a friendly wager and not a bet.

Mr. ARMEY. Mr. Speaker, I would say to the gentleman, I appreciate that. It is actually a penance that is paid for rhetorical aberrations.

Mr. GEPHARDT. Mr. Speaker, if the gentleman will continue to yield, to reiterate again, I am sure the gentleman said it, but I want to make sure others heard it, the gentleman said there was a likelihood that we would be in session on Saturday and Sunday of this weekend, is that not correct?

Mr. ARMEY. I am afraid that is correct, and I think it is only fair that we advise Members of that possibility.

Mr. GEPHARDT. I thank the gentleman.

EXECUTIONS IN NIGERIA

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

Ms. PELOSI. Mr. Speaker, on November 10, Nigeria's military junta, under the leadership of Gen. Sani Abacha, hanged eight human rights activists, including Ken Saro-Wiwa, president of the Movement for the Survival of the Ogoni people, and seven other human rights activists.

Mr. Speaker, this was an insult to humanity, and this behavior was outside the circle of civilized human behavior. "Nigeria is one of Africa's most richly endowed countries," the New York Times wrote in a recent article, "but a succession of military dictators has looted it and left its people impoverished. Since he seized power in 1993, General Abacha's tolerance for corruption and international drug dealing and his gross abuse of human rights have made matters considerably worse.

"Mr. Saro-Wiwa was targeted because he had been an effective leader of the Ogoni people who inhabit Nigeria's main oil-producing region. He mobilized campaigns to win compensation for environmental damage caused by the oil industry and pressed for a modest share of oil revenues to be diverted from the pockets of the military toward the needs of the Ogoni people." The editorial goes on to say, "This popular movement has brought military repression to Ogoniland."

Mr. Speaker, Mr. Saro-Wiwa was executed, and he did nothing wrong. He did nothing wrong except speak out for the Ogoni people, for environmental protection, and for the end of the degradation of the environment of those people.

I think this Congress should call on Shell Oil Co. to use its leverage to encourage democracy and freedom of expression in Nigeria. I am pleased to say that the International Finance Corporation of the World Bank has decided not to make a $100 million loan to Nigeria. I hope that this Congress, this House of Representatives, will speak out forcefully against the Nigerian Government and its repression of the Nigerian people, and that we should remember Mr. Saro-Wiwa for the hero that he is.

Mr. Speaker, I include for the RECORD the full article which appeared in the New York Times.

The article referred to is as follows:

[From the New York Times, Nov. 9, 1995]

A DEATH SENTENCE IN NIGERIA

Gen. Sani Abacha's military dictatorship is moving quickly to execute Ken Saro-Wiwa, one of Nigeria's leading environmentalists and minority-rights leaders, after convicting him on trumped-up charges in a military court. Yesterday Nigeria's ruling council confirmed Mr. Saro-Wiwa's sentence.

Only outside intervention, especially by the United States and the international oil companies whose business keeps the Abacha regime afloat, can now save his life. President Clinton should speak out on Mr. Saro-Wiwa's behalf without delay.

Nigeria is one of Africa's most richly endowed countries, but a succession of military dictators have looted it and left its people impoverished. Since he seized power in 1993, General Abacha's tolerance for corruption and international drug dealing and his gross abuses of human rights have made matters considerably worse.

Mr. Saro-Wiwa was targeted because he has been an effective leader of the Ogoni people who inhabit Nigeria's main oil-producing region. He mobilized campaigns to win compensation for environmental damage caused by the oil industry and pressed for a modest share of oil revenues to be diverted from the pockets of the military toward the needs of the Ogoni people.

This popular movement has brought military repression to Ogoniland. The alleged crime for which Mr. Saro-Wiwa and other Ogoni leaders have been sentenced to death, the killing of four moderate Ogoni chiefs, occurred during clashes between moderates and a militant young faction.

Mr. Saro-Wiwa was not even in the vicinity when these clashes occurred. The United States State Department has protested the lack of due process, and the British Foreign Office has strongly deplored both the trial and the death sentences. But more is needed, and fast.

International businesses should normally try to stay clear of domestic politics. But the direct connection of this case to the oil industry, the reliance of the Abacha regime on oil revenues and the looming threat of international sanctions make this an exception. Oil companies, especially Shell, historically the main producer in Ogoniland, as well as two American-based companies, Chevron and Mobil, should use their influence with Nigeria's Government in Mr. Saro-Wiwa's behalf.

TransAfrica, the African-American lobbying group that led the economic boycott campaign against apartheid in South Africa, has been urging an oil embargo against the Nigerian dictatorship. That is a drastic step, but it begins to look like the only way to slow General Abacha's ruinous course. By executing Mr. Saro-Wiwa, the general would powerfully strengthen TransAfrica's case. Justice demands not only the commutation of Mr. Saro-Wiwa's sentence but his immediate release.

THE BUDGET BATTLE

(Mr. BARTON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous material.)

Mr. BARTON of Texas. Madam Speaker, last September the Republicans sent a continuing resolution to the President so that the Government would not shut down on October 1. We put in that continuing resolution enough time and money so that we could operate through all of October and part of November.

What did the President do? He ordered in travel brochures to see about his pending trip to Japan this week. When we asked him last week what he was going to do, he went out on the golf course last Friday.

We think there is a fundamental policy difference between ourselves and the President. We think that we need to protect our children's future. We need to come up with a plan that balances the budget in the year 2002 without any tax increases.

The President thinks it is a little bit better to work on his putting stroke out on the south lawn of the White House. We are not going to vote for a debt ceiling that does not have fundamental change in it.

We believe, as the last Democratic CBO director does, that the President is defending the low ground when he talks about Medicare premiums.

Let us make a few things perfectly clear. Medicare part B is optional. If the senior citizens do not want to pay the premium, they do not have to.

Madam Speaker, I submit for the RECORD the following article from the Wall Street Journal about the Medicare part B premium:

[From the Wall Street Journal, Nov. 14, 1995]

MEDICARE PREMIUMS ARE TAKING CENTER STAGE IN BUDGET BATTLE BETWEEN CLINTON, REPUBLICANS

(By Hilary Stout and Laurie McGinley)

WASHINGTON.—Laura Tyson, one of President Clinton's top economic advisers, went on national television this weekend to declare a "defining difference" between the White House and Republicans in the escalating budget debate: the issue of Medicare premiums.

And last night, President Clinton vetoed legislation to keep the government from temporarily closing down today largely because of an $11 difference in monthly Medicare premiums.

The irony is that the GOP Medicare measure, which would raise the monthly premiums a few dollars to $53.50 instead of lowering them on Jan. 1 as current law prescribes, is something that the administration could probably support in another context.

"I think, in a sense, the president is defending the low ground on this" says Robert Reischauer, former director of the Congressional Budget Office, now an economist at the Brookings Institution.

BEST WEAPON

Mr. Clinton objected to the stopgap spending bill for a number of reasons—including, he said, because its deep, across-the-board cuts would hurt education and environmental protection programs. But the White House chose to make Medicare premiums the focus of its public attacks. The president's advisers believe Medicare is their best weapon in the budget fight, and they have sought to turn the entire budget debate into a battle over the federal health program for senior citizens. Public opinion polls suggest this strategy is working.

Yet the Medicare premium increase itself isn't a do-or-die issue for many elderly and consumer groups, not even for the powerful American Association of Retired Persons. "What we have said is that we recognize that seniors need to be part of the solution," says John Rother, legislative director for the group, which has 33 million members. "And that sacrifice is better borne by premium increases" rather than through higher deductibles and copayments, which affect the sickest beneficiaries the most.

Here's what the premium battle is all about: Five years ago, the last time the federal government shut down because Congress and a president were squabbling over the budget, the eventual legislative deal wrote into law the dollar-amount of Medicare premiums for the ensuing five years. The idea was to set the amount elderly beneficiaries would pay at 25% of the total program cost, with general tax revenues subsidizing the rest. (When Medicare was first enacted 30 years ago, the elderly were expected to pay 50% of the premiums.)

But because the program costs didn't rise as much as lawmakers anticipated, the 1995 charge, $46.10 a month, actually amounted to 31.5% of the premium costs. That was to be rectified Jan. 1, 1996, when the law prescribed that premiums would be set at 25% of costs, no matter what the dollar amount was. That means they were scheduled to actually drop, to $42.50 a month.

But Republicans want to save the Treasury money—and, Democrats charge, pay for their proposed tax cuts—by keeping the premiums at 31.5% of costs, which would amount to $53.50 a month. Administration officials accuse Republicans of trying to balance the budget on the backs of the elderly and trying to sneak their budget priorities past the president by attaching them to the temporary spending measure. Republicans contend that it would be irresponsible to lower premiums.

A RESPONSIBLE THING TO DO

The decision to set premiums at 25% of costs, despite the dollar amount, was part of President Clinton's 1993 deficit reduction package, which passed Congress without a single Republican vote. A number of Democrats involved in those negotiations say that they didn't expect premiums to actually decrease because of it. In fact, many privately believe that keeping premiums at lest at current levels is the responsible thing to do.

Mr. Reishauer said, "31.5% as part of a fundamental structural change in Medicare is entirely appropriate, especially when combined with a surcharge on upper-income beneficiaries," as called for in the GOP plan. "Medicare is a very expensive program. And it's going to have to be one that's supported not just by the general taxpayer and those paying payroll taxes, but also by the beneficiaries."

An idea put forth by some Senate Republicans to freeze premiums at $46.10 in the stopgap spending measure stumbled yesterday afternoon, but some lawmakers were hoping to make it the basis of a future compromise. An administration official involved in the budget deliberations privately concedes that keeping Medicare premiums at the current level "wouldn't be the worst thing in the world" in the context of an overall balanced-budget package. But, the official adds, accepting any Medicare compromise with the GOP would be politically tough.

The other objection is a procedural one—but it, too, is laden with politics. Instead of saving the Medicare premium increase for the giant balanced-budget package, Republicans attached it to the temporary spending measure, designed simply to keep the government running while the White House and Republican congressional leadership negotiate a balance-budget deal. President Clinton calls this "blackmail."

A STRONG MOTIVATION

But the GOP has a strong motivation for pushing the issue now. Most elderly people might not notice the proposed increase if it is enacted soon.

That's because Medicare premiums are deducted from beneficiaries' monthly Social

Security checks, and Social Security recipients are scheduled to get a 2.6% cost-of-living increase as of Jan. 1. That means the average Social Security check will rise to $720 from $702, according to the government. If Medicare premiums grow to $53.50 on Jan. 1, recipients' checks will still be higher after the monthly Medicare deduction—$666.50 on average, compared with $655.90 today.

But if Republicans wait to negotiate higher Medicare premiums in a budget deal, Medicare premiums will fall on Jan. 1 as scheduled, then spike up. And the GOP would most likely take the public blame at the worst possible time—the beginning of a presidential election year.

The timetable for the GOP becomes even more urgent because the Social Security Administration needs to know the premium by tomorrow in order to make the changes for the monthly checks that go out Jan. 3, according to an agency spokesman. He said the agency's computer experts are trying to figure out a way to move the deadline back a few days.

The AARP's Mr. Rother insists that higher premiums should be considered only as part of a comprehensive Medicare-overhaul package, not as an add-on to the stopgap spending bill. "The issue of premiums is part of the larger questions surrounding the shape and size of Medicare," Mr. Rother says.

Both he and other advocates of the elderly are concerned about the premium increase in the context of the entire GOP health program. "When it comes to 31.5%, assuming it's in the Medicare budget bill," and not in the stopgap spending bill, "we can live with it, provided there are protections for low-income people," says Gail Shearer, director of health-policy analysis for the Washington office of Consumers Union, which publishes Consumer Reports magazine.

Currently, the poorest beneficiaries receive Medicaid subsidies to help pay for Medicare premiums, copayments and deductibles. Under GOP plans to revise Medicaid, the health program for the poor would be turned over to the states in the form of block grants. The legislation would require states to spend a certain percentage of their funds on the poor elderly, but, with premiums rising, advocates are worried the aid won't cover everyone who needs it.

STILL COMING OUT AHEAD

	1995	1996 current law	1996 GOP proposal
Average monthly Social Security payment	$702	$720	$720
Monthly medicare premium deduction	46.10	42.50	53.50
Actual monthly Social Security check	655.90	677.50	666.50

□ 1900

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. TAYLOR of North Carolina). Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

PRIORITIES MUST BE ESTABLISHED IN BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. FOLEY] is recognized for 5 minutes.

Mr. FOLEY. Mr. Speaker, I bring to the floor today some of the mail I have received, and I want to share it, both pro and con, for what we are doing here in Washington.

Gloria Chamberlain from Stuart, FL:

DEAR REPRESENTATIVE FOLEY: Please do not give in to the Democrats in Washington concerning the budget or Medicare. The polls are wrong and the people are with the Republicans. Stay firm and tell the White House that big government days are over. Thank you for all you are doing and please stand firm.

Mike Salyers, Fort Pierce: "Support what you are doing. Hang in there. Need a balanced budget."

Diane Crisco, Port St. Lucie, FL. Balance the budget. She does not care if Government shuts down. Solve immigration problems.

Lisa Carroll, Stuart, FL. Do not back down. We must balance the budget.

Mr. Gus Heck from Stuart. Mr. Heck wants Congress to drop the riders in the continuing resolution and debt resolutions.

Richard James of Stuart. "Get rid of add-ons. You are holding the President back from signing CR because of extra stuff on bill. Stop holding America hostage. Very angry. Voting Democrat next time."

On Medicare we got a lot of responses from seniors. We sent out 117,000 requests for information. We have received over 6,000 back. Many people support us but would like to stay on the regular Medicare plan. Would consider an HMO.

Ms. Presensky from Fort Pierce somewhat opposes, wants to know more. Stresses take away fraud not benefits. She cannot get an HMO where she lives. We are hoping to change that. But she wants decreases in food stamps, decreases in foreign aid, decreases in welfare, and increases in veterans benefits.

We have Ms. Sutter from Port St. Lucie. Strongly supports the Republican plan. Would stay with regular Medicare, and she can do that. Supports Medicare, decreasing food stamps, decrease in the National Endowment for the Arts, decrease in the B-2 bomber, decrease in foreign aid, and a decrease in welfare. Supports veterans benefits. Please see that Congress puts some teeth in the new Medicare Preservation Act. Since its inception, the Medicare program has been riddled with fraud.

Mr. Speaker, I want to spend a moment on that. I think it is significant that we in Congress face the fact that there is tremendous amount of fraud in our system of Medicare. We read and see the reports on TV, we see the special reports that many of the news stations have done, and it is appalling. It is appalling that in this Nation there are entrepreneurs in the health care industry that are ripping off our society for hundreds of millions of dollars.

We have to focus on these problems. We have to find ways to find those perpetrators of the crime and take their licenses away, take their opportunities to do business away, lock them in jail like the criminals that they are. It is amazing to me that people can rip off our system for the hundreds of millions of dollars and walk away and say, well, we are going to get fined $10,000, so my theft of $100,000 certainly works out as a better fiscal advantage for me.

Mr. Speaker, I get that in letters constantly from my constituents saying to me, MARK, we have a lot of problems.

Let me read this letter from Maria Rooney in Jensen Beach. She opposes the plan but would like to stay on regular Medicare.

Just a few lines to support my choices. I am 75 years of age and I work at a stand-up job every day. It also includes lifting cartons of merchandise. I continue to contribute to Social Security and to Federal income tax.

I feel that Medicare can remain the same if controls be placed on it. Too many are taking advantage of food stamps and welfare making it an impossible situation for the poor elderly who must depend on it.

The veterans fought for our country. Many in impossible situations, locations and living conditions. Many were away from home for years.

Immigration is out of control. At one point in time people were sent back to their countries because of very strict health rules. Now we take them in knowing they are not in the best of health. Is this in the best interest of our country, which is bent on taking help and aid from our own poor and elderly?

Well, Marie, we are very concerned about that. There is not a person on my side of the aisle that is trying to take benefits away from people who have worked their entire life serving in the military or seniors that are entitled to benefits. We are increasing the benefit ratio. We are spending more money. We are going from $4,800 to $6,700. We are increasing 40 percent on our Medicare spending but we are targeting illegal immigration.

Mr. Speaker, it is amazing to me how our immigration law have become so lax; how people have been able to take advantage of the system of government, those that have served. I spoke at a veterans day ceremony this weekend, and it is sad to me that people, men and women, have lost their lives in pursuit of freedom in this country and we are telling them, in some cases, that their service maybe was important but not as important as other things.

Priorities must be established in this budget. Priorities must be established for those who have served our country and served our people, but there are so many things that are wrong with our system. If we close our eyes and say everything is fine and go back to spending, and spend, and spend, and spend, this Nation will not clean up its fiscal house.

I urge my colleagues as we continue the debate on Medicare to stress for more scrutiny on those that would rip

off our elderly, those that would rip off our society and waste our tax dollars through fraud and abuse.

ORDER OF BUSINESS

Ms. KAPTUR. Mr. Speaker, I ask unanimous consent that I be allowed to switch my special order with the gentleman for New Jersey, [Mr. PALLONE].

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

There was no objection.

REPUBLICANS ARE SECRETIVE ABOUT CONTENTS OF BUDGET RECONCILIATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. PALLONE] is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, I was just listening to the gentleman from Florida talk about Medicare and the budget, and I guess my response, initially, is that I just wish I knew what was in this budget reconciliation, as we call it, and what is coming out of the conference. Because one of the things that outrages me is the whole process that the Republican leadership has used from the very beginning in dealing with Medicare and the budget, and that is that we, as Democrats, do not know what is going on.

Mr. Speaker, they started out by bringing up the bill in the Committee on Commerce, in the Committee on Ways and Means, in some cases without any hearings, in some cases with very few hearings, giving us drafts of the bill either on Medicare, Medicaid, or the other reconciliation items either the night before or sometimes the morning that we were expected to vote on it.

This process continued today. I was really outraged when I went over to the Senate today. Last night those of us who were conferees on the budget, those of us who were supposed to work out the differences between the House and the Senate, were told last night that there was to be a conference at 3 o'clock this afternoon over on the Senate side. When I went over there with my other colleagues from the Committee on Commerce and from other committees we were first of all told there were not going to be any opening statements, that we were not allowed to speak; then we were told we were not allowed to ask questions; and finally, we were not even given a copy of the conference bill that has been mostly worked out in secret by the Republican leadership in the House and the Senate.

So once again, Mr. Speaker, this process continues. The Republican leadership does not want the American people, and certainly not the Democrats in this House, to know what they are doing. They hammer out secret agreements, in the case over the budget, over Medicare and Medicaid, without having any Democrats participate in the process. It certainly is not fair, it is outrageous, and it goes against the very democratic process that this House and this institution are supposed to be all about.

These are important issues. The differences between the House and the Senate bill on Medicare and on Medicaid are significant. For example, in nursing home standards. We know that in the Senate bill they continue the Federal nursing home standards. They do not in the House bill. How do I know what the difference is and what has been worked out in conference? I will probably have to read about it in tomorrow's newspaper.

We also know there was a significant difference with regard to pensions, because in the House version basically corporations are allowed to dip into their employees' pensions to use for various purposes. In the Senate bill they were not allowed that. I read this morning in the Washington Post that the conference has worked out a plan which says that a controversial provision that would allow corporations to withdraw excess money from workers' pension funds to pay for other employees and retirement benefits is apparently in the conference bill.

It is nice I read it in the newspaper, but there is no indication at this point as to what really happened. Certainly not the intricacies of what happened.

I also got a press release today with regard to my home State of New Jersey. Some of my Republican colleagues, in fact half of them on the other side, voted against the Medicare bill and against the Republican budget bill, as did I, because they thought it was unfair to the State and it would hurt senior citizens in the State of New Jersey.

An AP story comes out and says New Jersey office estimates higher Medicaid funds for the States. Apparently, the conference, which I have not seen, includes another $654 million in additional money beyond the House version in the bill for the State of New Jersey. Of course, they failed to point out that current law would provide $6 billion more. So, in effect, we have lost about $5.5 billion because of what came out in the conference report.

Again, Mr. Speaker, it is a constant effort to be secretive about what is going on, to reveal items in press releases or in the newspapers the next day and try to put a positive spin on them, but there is no positive spin.

The bottom line is that this Medicare bill will cut Medicare to basically provide tax cuts for wealthy Americans and that is what this conference report is apparently doing. The bottom line is that it is going to destroy the Medicare program as we know it and make it impossible for seniors to stay in a traditional Medicare program, forcing them into HMOs, where they will not have a choice of doctors.

With regard to Medicaid, the same thing is true. Medicaid will no longer be an entitlement. People who are poor, who fall below a certain income, whether they are disabled or pregnant women, whether they are children, in many cases they are not going to be entitled to health care coverage in the way that they have it now, because this bill, no matter how it is hammered out, is not going to provide them the same level of health care, and in some cases a lot of them may not get any health care at all.

I am really outraged again that here we are at the 11th hour before being told by the gentleman from Texas [Mr. ARMEY] that on Friday we will most likely vote on the budget bill that includes these terrible changes in Medicare and Medicaid, and to this day, even those who have been appointed to the conference, who are supposed to work out the details of this bill, have not been told the details of the bill. It is an outrage.

DEMOCRATS EMPLOYING SCARE TACTICS TO FRIGHTEN ELDERLY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. MILLER] is recognized for 5 minutes.

Mr. MILLER of Florida. Mr. Speaker, I rise today to talk about Medicare tactics that are taking place by our friends on the other side of the aisle and the administration. They are scaring senior citizens. As the Wall Street Journal editorial talks about, "Scare the Elderly Tactics" are going on right now, and I think it is wrong.

It is sad that they are trying to scare the senior citizens of this country and to make them afraid they will lose Medicare. When the President talks about we want to destroy Medicare, that is scare tactics, and that is wrong to do to the seniors and the elderly of this country.

Let me first of all talk about briefly what our proposal is on Medicare. First of all, we all know Medicare is going bankrupt and we have to do something to save Medicare. We all agree to that. My friends on this side of the aisle, the Democrats agree, the Republicans agree. We all want to keep Medicare. It is an important program. It is an essential program. We have to keep it alive and we have to save it for future generations. So we all agree to that.

The way we save it, Mr. Speaker, is to slow the rate of growth. We will spend more money every year on Medicare per person. Our spending, and remember these numbers, our spending goes from $4,800 per person under Medicare to $6,700, 7 years from today, per person under Medicare. We will increase spending every year for the

Medicare Program. Not quite as fast as some people on the other side of the aisle would like us to spend, but we can do it. It is happening in the private sector.

□ 1915

All we want to do is slow the rate of growth. The way we do this is by offering more choices. Why should we not allow choices to be offered? All Federal employees right now have a choice of plans. We get to choose. Why should not seniors be given the right to choose a plan? That is all we are talking about, slowing the rate of growth, saving the plan, and giving seniors the right to choose. And all the Members on the other side of the aisle want to do is say, that we are scaring seniors, we are going to destroy Medicare, we are going to kill Medicare. That is wrong.

Let us talk about the facts of what the President is doing. He said, oh, we do not want an increase in Medicare part B premiums. Oh, my golly, we do not want to do that. We cannot have an increase in Medicare part B premiums. The Medicare part B premiums today are $46.10. When President Bill Clinton was first elected it was $31.80. They have gone up $14.30 a month since his election. Do you know what happens? Next year is an election year. So he wants to have them go down.

Medicare part B premiums have gone up for 29 out of the last 30 years. But next year is an election year. So we are going to let them go down. And immediately after the election, his budget shows they go up 10.2 percent. In fact, for 6 years following next year's election, under the President's budget, they go up 89 percent.

Why is he saying, "We do not want to increase the premiums on part B, we want to let them go down," and then after the election, jump them? That is the type of scare tactics, the type of thing that should not be taking place in this debate.

Seven years from today, the President's projections on Medicare part B premiums are $83 a month. Our projections are $87 a month, $4 a month difference. Let us get serious about this debate and get on with the real issues.

In Florida, my home State, Members of the other party are experts on scaring seniors. Finally the Washington press corps is becoming a little aware of this. The Florida press corps is very aware of what Governor Chiles did in the last election. He specifically scared seniors to get elected last November. There is no dispute about the facts.

Last November, his campaign and the Democratic Party spent $360,000 phoning seniors during the last 2 weeks before the election saying there were some fictitious senior citizen organization and telling them that Jeb Bush and his running mate wanted to abolish Social Security and Medicare. Just scare tactics entirely.

Why is he doing that? The national press corps, they got all fired up on Willie Horton a number of years ago. Now they will not even get fired up over what Lawton Chiles is doing in Florida, in an orchestrated plan to scare the senior citizens of this country. Speaker after speaker gets up saying we are going to kill Medicare; we are going to destroy Medicare.

It is a good program. We have to keep Medicare. We have to save Medicare. I know they want to save Medicare, too. But stop talking this rhetoric. We have to agree on what we want.

The head of the Democratic Party of Kentucky is quoted as saying, I think white-haired people are scared and that ultimately helps us.

Come on. Here is a part of the Democratic strategy that someone happened to get a copy of. Some Democratic strategy. The quote in there is. The natural inclination for people is to think that the GOP wants to cut Medicare, not to make it more efficient but to hurt the elderly. We need to exploit this.

Mike McCurry, the White House press secretary said, "Eventually they would like to see the program just die and go away. You know, that is probably what they would like to see happen to seniors, too, if you think about it."

He apologized for it, but it is scare tactics. They should stop. Let us get down to serious things, the business of saving Medicare.

REPUBLICAN RECORD ON MEDICARE

The SPEAKER pro tempore (Mr. TAYLOR of North Carolina). Under a previous order of the House, the gentlewoman from Ohio [Ms. KAPTUR] is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, I do not often come down into this well in a harshly partisan manner because I do not think most of the issues facing the country are either Democrat or Republican, but tonight I really felt compelled to come down here as a Democrat in memory of a marvelous gentleman that many of us served with named Claude Pepper from the great State of Florida. I hope our dear man, Representative Pepper, is listening to us tonight because he was the man who knew the history of the Social Security and Medicare Programs better than any other Member that I ever had the privilege to serve with.

I know what he would say if he were standing here tonight. He would look to the Republican side of the aisle and say: "I served here when Social Security was first debated and passed. Let the record show there was not one Republican vote that stood on this floor in support of the Social Security Program."

I was elected many years after Claude Pepper was elected, in 1982. In March of 1983, we had to restore the health of the Social Security Program. What happened in that election year of 1982 was, the American public saw that, with the election of large numbers of Republicans in 1980, the Social Security Program was again threatened. Claude Pepper stood on this floor, and there was not a dry eye in the House when he finished. We passed a bill in March 1983 to restore, restore the health of the Social Security Program.

So I find it somewhat ironic when I hear the crocodile tears from the other side of the aisle all of a sudden being real interested in trying to save Social Security and save Medicare, when the Republican Party has fundamentally never supported the two most popular programs that have been enacted in this century.

Now, in fact, if it had been up to the Republican Party, we truly know those programs would not have happened. If we look back to the Medicare program, consider this: From 1952 to 1965, 13 years, the Republican Party used every delaying tactic possible not to allow a Medicare bill to get on this floor. It was bottled up in committee for over a decade and a half. When the bill finally emerged, 97 percent of Republicans voted against Medicare in 1960. In 1962, 86 percent voted against Medicare. Then in 1964, thank God for Lyndon Johnson, 85 percent of them voted against Medicare.

So tonight we have got the entire Government of the United States shut down. Seniors in my district are not being served. Seventy a day are being turned away, over 400 phone calls, 400 visitors, people we have not been able to serve in Toledo, Ohio, today because of inaction by the Republican Party. Now we hear these very same people telling us, oh, they really want to save Medicare. They really want to save Social Security. Please, do not deny history.

From the very beginning, what has the Republican Party stood for? It has stood for voluntary plans, voluntary plans with no guaranteed financing and no guaranteed benefits.

So tonight we have watched people—I know their offices are being called because seniors all over this country know what is happending—stand down on this floor and act as though they have had this change of heart. I do not think there is any change of heart at all. It is the same old struggle that we had from the time of Franklin Roosevelt. That is the struggle on whether you truly believe in the integrity of these programs, that these are a contract of trust between generations, or what are they trying to do?

In the resolution that we are stuck on and we cannot move out of this Congress, they are trying to increase Medicare premiums. They are trying to change the program to what Speaker GINGRICH calls a Medicare program

that will wither on the vine by making the program a program that does not keep the integrity of the system, because it gives people so many choices to operate out and go into other plans that in fact you lose the insurance base, the universal insurance base of the current program.

So I can just say that this Government shutdown is absolutely unnecessary. A thousand Federal workers in my district today were furloughed. As a result, three of our local Social Security offices are operating with a skeleton staff. Telephone calls are going unanswered today from in our district. Collectively, these offices could have served hundreds of people.

I do not see why we have to wait around here until Friday. What is wrong with the Republican Party? It's the same thing that has been wrong with the Republican Party since the 1930's. They have never believed in the Social Security and Medicare Program for all of our people.

BUDGET RECONCILIATION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas [Ms. JACKSON-LEE] is recognized for 5 minutes.

Ms. JACKSON-LEE. Mr. Speaker, I think it is important to simply take a moment and answer some of the many calls and concerns that have been expressed by all of our constituents, frankly.

The gentleman from Florida preceded me and offered a whole litany of calls that he may have received and letters that he might have received. And I think the American people need to themselves stop for a moment, for there is certainly a great deal of ire, if you will, and anger about this process. I am not sure if they heard clearly in the colloquy that was between the leader of the Democratic Party and the majority leader, indicating that this Congress would be in possibly Friday, Saturday and Sunday.

Clearly, let me emphasize that many of us voted last Friday to remain in session, I for one to continue this process. But if we would look at the order of things, in actuality, the Republican majority did not follow the stated schedule of the House, and that is to complete the appropriations process in September of this year.

For all of the debate and all of the dismay that is being cast about, this dilemma is caused specifically because we do not have the appropriation bills before the President of the United States of America. So when a constituent writes, please tell the Member do not follow NEWT GINGRICH, everyone followed him and they could not turn back, and she is an elderly middle-class lady. No name is given. NEWT GINGRICH and ROBERT DOLE, their proposal is cruel and disgraceful to senior citizens, and it is terrible what they are doing to this Government. It is criminal. These are not words that their Congressperson has put in their mouths. It is what they are perceiving and what is happening in this debate that is such a loud and irreverent sound.

It is important then for the facts to be laid upon the table. I voted for appropriation bills: transportation, agriculture, the legislative appropriation bills, the bills that were put before this Congress have been voted for by many of us.

The problem is that they have not on the Republican leadership gone through the Senate and reached the desks of the President of the United States. In actuality, some of those areas that are now shut down, 800,000 employees across this Nation, including the 18th Congressional District, could be operating if those appropriation bills that were passed by this House that many of us voted for had gone through the process, and now were facing, are before the President for his signature. That did not happen.

That is not the fault of the Democratic minority. That is actually the fault of the process of the House of Representatives under the leadership of the Republican Party simply not working. What do we have now?

On this day, November 14, 1995, we have a simple proposition for all those who are still dismayed about this discourse.

The simple proposition is to pass a simple continuing resolution. Would you realize that now in the heat of debate that the Republicans who foisted this upon us last week have now dropped all of these provisions. Were they that important? Should we have slid them under the table to devastate Medicare, to keep Catholic Charities and the Boy Scouts from lobbying the Federal Government? They got Federal funds to undermine the environmental protection system that we put in place, to undermine the criminal justice system? All of that requires healthy and separate debate but not on a continuing resolution. That should be clean and simple to keep the doors of this Government open so that the Social Security offices are open, the veterans offices are open, the IRS offices are open, so that the people can work for the American people. Then to lift the debt ceiling so that we can reasonably discuss the budget and we can decide whether we want to go toward the 21st century by cutting education so drastically, by increasing Medicare premiums from $43 to $53.

I would venture to say, if the American people got a chance to participate in that, they have already said it with some of their voices, they would argue that they would not want to see that occur. That should be separate from the crisis that we face today because the appropriation bills have not been passed.

But the commitment has been made on the floor of this House. We will be here Friday, Saturday, Sunday, because the Members of this House, those of us who have voted against this charade, want to make sure that, one, we put people to work for the American people. That is the key. As this letter said, grow up, I say, act like responsible adults we have all mistaken you to be. Doing the right thing can be summed up in one simple word, compromise.

To that constituent, we have willing on the House floor and in committee to compromise. We were willing to vote for a clean streamlined continuing resolution and to lift the debt ceiling so that we can confront the issues of budgeting and balancing that budget in a fair and bipartisan manner.

□ 1930

To my Republican colleagues the real question is:

Are you prepared to do that, to answer the American people, and be able to handle this in a manner that serves us well as we move into the 21st century?

I will be here to work; will my colleagues be here to work?

Mr. Speaker, I must rise today to express my profound disagreement with the legislative process surrounding two bills: The consideration of the continuing resolution to provide temporary funding to keep the Government functioning; legislation to extend the debt ceiling in order for the Federal Government to meet its debt obligations.

Our Federal Government is in crisis today because the House leadership focused all of its energy during the first hundred days on a Contract With America instead of making sure that the appropriations bills for fiscal year 1996 were on schedule to be considered and signed by the President before October 1, 1995, and avoid disrupting the Government, Federal employees and the American people.

At this time, only three appropriations bills have been signed into law. Those bills are Agriculture appropriations, Energy appropriations, and military construction appropriations. I voted in favor of those three appropriations bills. The President vetoed the legislative branch appropriations bill because he thought it was improper for Congress to fund its own operations before making sure that executive agencies were funded. The House and Senate passed another legislative branch appropriations bill and that bill and the Transportation appropriations bill are waiting to be cleared and sent to the White House. I also supported the latest version of the legislative branch appropriations bill, the Transportation appropriations bill and the Foreign Operations bill.

I am concerned about the process on these two bills because the Congress traditionally has passed continuing funding resolutions and debt ceiling extension legislation without adding extraneous provisions unrelated to the purpose of the bills. Some of the extraneous matter that was added to these bills included an

increase in the Medicare Part B premium, a restriction on political advocacy by certain non-profit groups, provisions relating to regulatory reform.

In addition, the resolution would reduce funding levels for certain programs such as the Low-Income Energy Assistance Program, the Goals 2000 school reform programs, the AmeriCorps Program, and the Community Development Financial Institutions Program to 60 percent of the fiscal year 1995 allocation.

With respect to the debt ceiling legislation, the House leadership inserted provisions that would prevent the President from having the flexibility to manage various Government funds to enable the Government to meet its debt obligations. The results under the pretense of saving Social Security, this effort would gut Medicare. I want to save both programs. This has also caused our Government to lose credibility in international capital markets.

In addition, the majority Members of this House propose legislation today that would endanger the Social Security trust funds. I opposed this legislation.

Mr. Speaker, I hope that we can produce a clean continuing resolution and a clean debt ceiling bill. It is the right thing to do.

87 VERSUS 83

The SPEAKER pro tempore (Mr. TAYLOR of North Carolina). Under a previous order of the House, the gentleman from California [Mr. KIM] is recognized for 5 minutes.

Mr. KIM. Mr. Speaker, before I joined this body, I had been an engineer all my life, practicing engineering. Engineers are good at dealing with the facts and numbers because numbers do not lie. What I like to do tonight is not attack anybody, just present facts, exactly what is happening, why the Government has to be shut down, and I leave up to your judgment. I wish the people in California listen to me carefully tonight.

There are two problems. One is so-called Medicare part B premium. It is cutting too deep; in other words, raising Medicare part B premium to subsidize tax credit to rich people. That is the whole idea. I am going to talk about that, break it into two parts. Let me explain to you what is exactly happening in Medicare part B.

The Medicare plan has a part A and part B, two sections. Part A is to pay for all the hospital costs. It is financed by payroll taxes, 1.45 percent by employee, and employer match. Then money will be deposited into hospital trust fund. Then money will be spent for all the hospital costs. That is an issue for some reason.

Part B is an issue. The whole argument is part B. What is it? Part B is all the expenses outside of hospital costs such as doctor's bill, such as outpatient, and et cetera. That is paid by the senior citizens from their own pocket and then the rest of them subsidized by the Government.

Let me tell you exactly what happens now. Used to be the 50 percent paid by the senior citizens, the other half subsidized by the Government. It is now a little bit more than two-thirds subsidized by the taxpayers, one-third paid by the beneficiaries, senior citizens.

Who are these folks? Those are people working right now, some of them making only $50,000 a year, supporting children, sending them to school. Tough. They cannot even afford to have their own medical care, but they have to support senior citizens. That is what it is, one-third by senior citizens, two-thirds by the rest of the taxpayers.

Next year, 25 percent paid by the beneficiary, 75 percent paid by the other taxpayers; one-quarter, three-quarter relationship. Eventually, year 2002, 18 percent will be paid by the beneficiary, remaining 82 percent paid by the other taxpayers. All we are trying to do is maintain the same ratio, one-third, two-thirds relationship, because we cannot afford to have this kind of relationship. There is no money to subsidize this any more.

Medical costs keep going up, so we all have to pay a little more. Senior citizens have to pay a little more, a few dollars a month more. The remaining taxpayers have to pay a little more to subsidize this. Let us take a look at the second to see what is happening.

Why are we having this trouble? Let us take a look at this. The senior citizens paying $42.50, $46.10 a month. That is all they are paying. Actually costs about $150. The remaining balance is subsidized by the other taxpayers. This was the Republican plan, keeping one-third to two-thirds relationship because the hospital costs keep going up. Eventually we are going to ask senior citizens to pay a little more each month. By the end of the seventh year, end up paying $87 a month.

They say, "My God, it is a huge increase." Let us take a look at Mr. Clinton's plan.

His plan is at the end 7 years $83 a month, only $4 difference. Eighty-seven versus eighty-three, this is such an important issue so that Government has to shut down?

Let us take a look at the second, how to pay for these things. Interesting. Take a look at the second. Mr. Clinton proposed actually next year that the senior citizens premium will go down and go up again. Why is that? It is a question of it happens to be election year.

I am not accusing anybody. I want to take a look closely at what are the big differences here. Eighty-seven versus eighty-three; is that really critically important to shut down the Government for this? Why do we lower the next year premium and then raise it again? Why? This is exactly what happened to part B.

I want to take a look at this, make your own judgment. Let us talk about the second issue.

The rich people do not pay their share, and we are taking advantage of them at the expense of poor people, putting all the poor people out in the cold to pay for huge tax cuts.

My time is up already. I will talk about this tomorrow night.

TRIBUTE TO THE LATE CONSUL GENERAL CHIUNE SUGIHARA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Hawaii [Mrs. MINK] is recognized for 5 minutes.

Mrs. MINK of Hawaii. Mr. Speaker, I rise to honor the late Chiune Sugihara of Japan, credited with saving the lives of thousands of Jewish refugees fleeing Poland in 1940. Chiune Sugihara died an unsung hero in 1986, but recently his story has been brought to international distinction as the "Japanese Schindler." This quiet man of courage is now being honored after 55 years in a series of events worldwide, including today's gala tribute in New York City by the Holocaust Oral History project.

Chiune Sugihara was assigned to Kaunas, Lithuania in 1939, as the Consul General where the Japanese Government assigned him to report on Soviet actions and German war intentions. The Nazi World War II slaughter of Jews had begun and scores of Jewish families sought to escape from Europe—mostly from Germany, Austria, and Poland. In September 1939, the German invasion of Poland caused Jews to seek refuge in Lithuania, many who desperately wanted to find passage to safer lands. First, they needed to find visas.

Japanese Consul General Sugihara and his wife Yukiko received numerous reports of appalling Nazi crimes against Jews. Not long afterward in July 1940, a line of Jewish families formed on the Sugihara doorstep, pleading with the diplomat to issue them transit visas for passage through Siberia into Japan via the Trans-Siberian Railway. Without the assurance that they would only transit through the Soviet Union, it was virtually impossible that Soviets would allow Jewish families to enter. He had however persuaded them to allow passage through the Soviet Union provided he could gain transit through Japan as well.

Consul General Sugihara cabled Japan three times asking permission to issue transit visas. He was denied three times. His desire to help seemed doomed.

But gaining his family's support, Consul General Chiune Sugihara then made a conscious decision to defy the Japanese Government. From July 9, 1940 to August 31, 1940, he wrote more than 2,139 transit visas by hand, saving nearly 10,000 Jews from the Holocaust. He carefully kept a list of all these documents which have been incredibly

found in the archives of the Japanese Foreign Ministry.

In the same summer, Nazi Germany and allied Italy occupied most of Eastern and Western Europe. Japan had remained aligned, but not yet allied, with Germany through the Comintern Pact of 1935. In late summer of 1940, USSR annexed Lithuania and the two other Baltic States. Diplomats were told to leave immediately. Consul General Chiune Sugihara moved his family to a dingy hotel and continued to write visas. The Sugiharas were ordered to leave. Even as he was boarding the train to leave, Consul General Chiune Sugihara continued to issue visas from his train carriage window. In September 1940, Japan signed a tripartite pact with Germany and Italy.

The Sugiharas spent their remaining war years at various diplomatic posts in Germany, Czechoslovakia, and Romania. They were eventually captured and held in a Soviet prisoner-of-war camp until 1947, when the Sugiharas were finally allowed to travel back to their home country.

Upon his return, the Japanese Foreign Ministry dismissed him from diplomatic service and struck his name from their records because he had disobeyed their instructions. Nonetheless, Japan had honored his handwritten visas and allowed these Jewish refugees into the country, helping them to find permanent locations.

Sugihara lived out the rest of his life without any acknowledgement of his heroic deeds. He worked as a door-to-door lightbulb salesman, the most menial job any person could take to support his family. Later leaving his family in Japan, he went to work for a Japan import company in Moscow where he stayed for 16 years. Shortly before his death at 86 in 1986, Israel awarded Sugihara the Righteous Among Nations Award, its highest honor, in recognition of his humanitarian actions, and later named a grove of cedars after him in Jerusalem. Yet this man who was second only to Swedish diplomat Raoul Wallenberg in the number of Jews saved from the Holocaust did not receive an apology from his own Government, allowing him to die in disgrace, literally in exile.

Notable are the 6,000 Jews who sought passage from Consul General Chiune Sugihara through the Trans-Siberian Railway from Japan to the Dutch Indies, Australia, New Zealand, Palestine, and the Americas. Among visa-holders was Zerah Warhaftig who met with Sugihara to arrange visas for others as the head of the Committee to Save Jewish Refugees. Warhaftig later became a signatory to Israel's declaration of independence and the country's foreign affairs minister. Menahem Savidor, another saved by Sugihara, later became speaker of the Knesset. Sugihara issued visas for Mir Yeshiva, the only yeshiva to survive the Holocaust, which settled in Kobe, Japan.

In recent years, survivor upon survivor of the Holocaust have come forth, with the knowledge of whose signature brought them to safety. Sarah Gershowitz Levy of Fresno, CA; Jack Friedman of Orlando, FL; and Rita Wenig of Pikesville, MD are among those thankful for Sugihara's courageous actions.

In 1991, the Foreign Ministry took its first steps to restore Sugihara's honor by meeting with Yukiko Sugihara, his widow. Noticeably missing from this meeting was a clear apology from the Government for its treatment of Chiune Sugihara.

Immediately after Lithuania became an independent state in 1991, the country named a street in Kaunas after Sugihara. Lithuanian Prime Minister Adolfas Slezevicius in 1993 arranged a pilgrimage to Sugihara's hometown Yaotsu in Gifu Prefecture, central Japan, to lay a wreath on Sugihara's memorial cenotaph.

In August, 1993, the Education Ministry, one of the most conservative branches of the Japanese Government, agreed to have Consul General Chiune Sugihara's story published in a textbook for Japanese senior high school students.

Consul General Chiune Sugihara is being recognized for his greatness by the Holocaust Oral History project through organized exhibits and tributes, and a newsletter helping to link survivors. His noble bearing on world history must be validated on a global scale and the Japanese Government must find the words to apologize to this humble servant who understood his action was necessary in those times of terror, no matter what his own personal punishment might be. He and his family have endured poverty and ignominy for over 50 years. Sugihara's decision to act in defiance of his Government, because he knew to do otherwise would mean certain death for these innocent people, is the highest calling of our humanity.

Chiune Sugihara embodied the spirit of love and the conscience of a saint. His heroic deed shines forth to enkindle and comfort all in this world who still search for hope.

The following are my personal remarks made in New York City at town hall on November 14, 1995, in the tribute for this great man.

INTRODUCTORY REMARKS BY CONGRESSWOMAN PATSY T. MINK, AT TOWN HALL, NEW YORK CITY, NOVEMBER 14, 1995

Distinguished guests, Mrs. Yukiko Sugihara, Hiroki Sugihara:

I have the deep honor and privilege to introduce Mrs. Yukiko Sugihara, the widow of the late Chiune Sugihara, whom we have come to honor tonight.

It was Mrs. Sugihara and her family who paid the heavy price of banishment for their ultimate exercise of moral responsibility and for the love and compassion they felt for the Jewish refugees who flocked to them for help in those dark hours of death and despair.

Consul General Chiune Sugihara was born on January 1, 1900 of samurai class. He was well educated, schooled in the art and discipline of diplomacy, learned in the language of his assignments, fluent in the Russian language, destined for high posts, he was highly regarded by his associates. He adapted easily to his assignments. His nature is revealed by reports that he even joined the Russian Orthodox church. He was a rising star in his ministry. He knew that it was his job to carry out the wishes of his government.

From his desk in Lithuania in 1940 he became keenly aware of the violent scourge of hate that condemned the Jewish people to isolation and death.

In that fateful summer of 1940 shortly after he was assigned to Lithuania as Consul General, thousands of Jewish refugees were fleeing Poland and other places. His consulate being the only one open, besides the Dutch, they climbed the fence in desperate search for a way out. Their cries for help burned his soul. He frantically sought permission three times from his ministry in Japan. Each time he was refused. Finally the fourth time he was ordered to close the consulate. Time had run out.

How could he turn his back on these people and their agony? If he did not help, we knew they would die. Talking to his wife and to his five year old son, together they decided they had but one course to take. They had to help. They knew the risks and personal dangers. But not to help was to condemn these families to certain death in the dreaded ovens of hate. For the next 29 days until the consulate was ordered closed this time by the Russians, he wrote out by hand 2138 visas at the rate of 300 a day, issuing them in the last day from his hotel room and at the train station as he was departing from Lithuania.

History tells us that his act of honor and personal sacrifice saved the lives of upwards of 10,000 Jews.

Acting against the explicit orders of his government, he did what his conscience cried out to do. Chiune Sugihara knew he had the paper, the pen and a noble purpose. Each parchment upon which he placed his seal was a license to live.

His disobedience is immortalized by the thousands of lives he saved. He took the rare and unexpected route of personalizing the curse of war and hatred and choosing to save lives. His story is a remarkable drama of courage.

We understand that a diplomat is required to follow unquestioningly all orders of his government. We understand there can be no exceptions or substitutions of personal judgment.

Consul General Sugihara acted with extraordinary clarity of personal responsibility. He served his government with great honor and tragically he was not accorded that recognition by his government during his lifetime. Stripped of his diplomatic badge, he struggled to provide for his family after the war ended. He sold light bulbs on the streets, worked in a US PX, and finally was hired to work in Moscow far away from his family. His village erected a statue for him, a garden of cedars bears his name in Jerusalem, and a street reads his name in Lithuania. But in the official records of his government there is yet to be placed that wreath of honor and tribute for Chiune Sugihara.

I turn my thoughts to Mrs. Yukiko Sugihara. And ask her to come to the podium to present her remarks. With my warmest personal Aloha and affection, may I present Mrs. Yukiko Sugihara.

BALANCED BUDGET PLAN IS REAL ISSUE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee [Mr. DUNCAN] is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, I rise tonight to briefly make a couple of points, and I do not think I will take all the 5 minutes, but I wanted to read just the first part of an amazing story that was in the Washington Post just this morning. The Washington Post is certainly no conservative publication, it is no Republican newspaper. In fact, its political policies are considered to be very liberal, and yet this morning they had a news analysis by two of their staff writers, and the headlines said this: Balanced Budget Plan is Real Issue.

Let me repeat that, that the Washington Post said this morning, "Balanced Budget Plan is Real Issue," and then the story says this for the news analysis:

> For all the vitriol, all the finger-pointing and all the carefully staged, photogenic events, the current bickering between the White House and Capitol Hill has very little to do with the actual bills in question. The real issue is not Medicare premiums, temporary approval to spend government money or even the government debt limit—it is the coming confrontation over the Republicans' plan to balance the budget by 2002.
>
> For congressional Republican leaders—especially those in the House—the goal is getting the president to the table to negotiate a deal on their terms to wipe out the deficit in seven years.

Now this is from the Washington Post, and they say the real issue is the balanced budget. Our Republican leaders went to the White House last night with no preconditions. The only thing they have said, they said they will be willing to negotiate anything except they want the budget to be balanced within 7 years. Most of the people around this country think that we really should be able to do it much faster than that, and I can tell you that I think almost anyone with ordinary common sense and average intelligence probably could come here and balance the budget much faster than 7 years, but with all the competing interests involved, that seems to be the best that we can do. But I am sure there are many people across the country tonight who are sitting there thinking, "Well, yes, the balanced budget would be good, but would it really make a difference to me?" and I say to them that, yes, it would because almost every leading economist in this country tells us that this $5 trillion national debt we have is like a gigantic chain hanging around the neck of our economy. It is holding us back.

Mr. Speaker, times are good now for some people, but they could and should be good for everyone if we had handled our fiscal affairs in a better way and we were not so deeply, deeply in debt. People making $5 and $6 an hour could and should be making $10 or $12 an hour. In addition to that, while we do not have much of an unemployment problem, Mr. Speaker, we have a tremendous underemployment problem. We have many college graduates who cannot find jobs except in fast-food restaurants and jobs like that, and that should not be, Mr. Speaker, and things could be so much better if we would get our fiscal house in order and try to balance our budget, and the downside of it is, if we do not, we are headed for some major economic problems in the years ahead.

Mr. Speaker, we frequently say that what we are talking about doing, that it is for our children and grandchildren, and, yes, it certainly is. But it is also for the people who are in the prime of their life right at this time because we are headed for very serious problems, not in the distant future, but in the near future. The President's own trustees over Medicare have said, they said in their report issued in April, that the Medicare system was going to be broke in 6 or 7 years if we do not do something. A few months ago the Office of Management and Budget, the President's own Office of Management and Budget, put out a memo that said that by the year 2010, if we do not change things, we will have annual yearly deficit losses each year of over a trillion dollars a year, and by the year 2030, Mr. Speaker, have over $5 trillion a year.

Mr. Speaker, if we have losses, yearly losses, of $5 trillion, we would absolutely destroy the standard of living of our children and grandchildren. They could not buy a tenth of what we buy today.

In 1994, last year, Paul Tsongas, the former Senator from Massachusetts who was a liberal Democrat when he was in the House and Senate, he wrote an article for the Christian Science Monitor, and he said that the young people of today will pay average lifetime tax rates of an incredible 82 percent if we do not make some changes. Is this what we want to do to our children and grandchildren, make them become, as he put it, indentured servants for the Government? I do not think there is anybody out there who wants us to do that.

James K. Glassman wrote a few days ago in the Washington Post a column entitled "The No-Cut Budget." He pointed out that under our budget that we passed in both the House and Senate, the so-called Republican budgets, there are no cuts, that each year Federal spending goes up about 3 percent. It increases about $50 or $60 billion every year.

Medicare, we have gotten into that, and that is the second big point I want to make. We did not cut Medicare. We have not cut Medicare. In fact what we have passed is to give huge increases in Medicare spending. In my own State of Tennessee Medicare spending goes up from a little over $5,000 a year to over $7,000 a year at the end of this time.

We need to get this message out, Mr. Speaker, because the American people are being fooled by lies, distortions, and propaganda at this time, and I certainly hope they do not fall for it.

AMERICANS HURT BY GOVERNMENT SHUTDOWN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri [Mr. GEPHARDT] is recognized for 5 minutes.

Mr. GEPHARDT. Mr. Speaker, I want to rise to speak tonight about the shutdown of the Government and what it means in human terms to thousands and thousands of people around the country and to say to Members that this is a very serious action that we really do have to remedy in the very near future because lots and lots of people are being hurt, and, as each hour and day passes, more, and more, and more people will be hurt and damaged by the failure of this Congress to come forward with a continuing resolution.

Just on day 1, 28,000 of America's seniors and workers have been unable to apply for Social Security or disability benefits. The Social Security offices are not open because of the furlough that happened today, and that simply means that people who have reached the age of 62 or 65 and wanted to apply today for these benefits were not able to do that.

Mr. Speaker, I yield to my friend, the gentlewoman from Florida [Mrs. THURMAN].

Mrs. THURMAN. I just thought of a little story that happened just recently in Ocala, FL. This is a very interesting story. It was their 30th anniversary of being there and they asked us to come in and we did, and we talked about all the kinds of things that were going on, and we looked at their new computer systems and how quickly they were able to answer questions. But what they had was an office full of folks out in the front area.

□ 1945

I said, "What are all those folks doing there?" They said, "Well, they have come here because they have a problem with their Social Security, they did not get their check. We are trying to track it down. They are trying to get on the service themselves," all these different things that these folks come to these Social Security offices for.

Let me tell you what the mayor of the city of Ocala said in the resolution, in recognizing their 30-year anniversary. They bring into that city $45 million a month, a month, to help. That helps that economy within that city.

Those folks are not there today, and they are very, very concerned about what is going to happen to those people and their benefits.

Mr. GEPHARDT. I thank the gentlewoman for that story and contribution. I am sure that as the days roll on here, we are going to have hundreds and hundreds of stories of individuals who have had real problems in their life because of our inability to continue these needed government services.

Two hundred thousand of America's seniors today have tried to get the 1-800 help line for Social Security and have gotten no answer; 7,649 of America's veterans have been unable to file compensation pension and education benefit claims or adjustments.

Mrs. THURMAN. Mr. Speaker, if the gentleman will continue to yield, the first thing that happened to me this morning, it was a very sad case. A woman in my district's son who was a police officer in New Orleans, non-related, was killed. She just brought his body home and he has been buried.

The first thing that happened this morning was she was very concerned about her other son, who lives in New Orleans, who is in the Marines. She is concerned about his life. Had we not been there to answer the phones this morning, us, to help this young man get through the system, which we have done, we have told him how to do it, who he has to go talk to, and potentially how to get a hardship case to be brought back or taken and transferred to someplace else, his mother for the first time will probably have some comfort that somebody is working on that.

These are not veterans, but they are military, and they are part of the system of defense of this country that we are ignoring. They have problems that they come to us and to our staffs with all the time.

Mr. GEPHARDT. I thank the gentlewoman again.

What I want to say to the Members tonight, Mr. Speaker, and I do not have enough time left to go through more stories, but what I hope that we can do in the days ahead is two things: One, tomorrow I will be circulating among Members two pieces of legislation and asking for their cosponsorship. One will be a 24-hour continuing resolution, and the other will be a 48-hour continuing resolution. I hope to get as many Members as cosponsors as we can possibly get.

Second, Mr. Speaker, I hope to bring to the floor continuing facts and information on what is happening out in the country as a result of our failure to move forward with this continuing resolution. This is a manufactured crisis. This does not need to happen. I understand we have a dispute about the budget, I understand that both sides feel strongly about their views. I will not take the time tonight to go through the views that are on this side. But I must report that we do not need to manufacture a crisis in order to bring about a solution to that problem. No one needs leverage in this discussion.

The Republican side has all the leverage they need. They have a majority in the Congress. They can pass the legislation that they want to pass. The President has a veto. The President can veto bills or sign bills. Then we have to bring bills back and send them downtown to try to get them signed.

But to make innocent Americans the victims of our inability to solve this disagreement is simply morally wrong. We should not be doing it, there is no excuse for it, there is no reason that in the days ahead we should not be passing at least a 24-hour continuing resolution. If people are then unhappy about the pace of the talks and the negotiations, they can then vote against the next 24-hour continuing resolution, but we ought to give the American people what they have paid for, which is the services that these kinds of veteran's offices and Social Security offices are there to bring.

We will be trying, through the endorsement of these two pieces of legislation, we will try to get on the floor and ask unanimous consent three or four times a day to bring up these pieces of legislation for 24 hours or 48 hours of continuing resolution. We must continue to say to people what is happening, and we must continue to try to bring the situation, which is unexplainable and intolerable and totally morally wrong, to the attention of the American people, so that if people feel strongly about this, they will contact their representatives, we will get the votes to pass one of these bills, and we will get these offices reopened which are so important to the American people.

LET US BALANCE THE BUDGET

The SPEAKER pro tempore (Mr. TAYLOR of North Carolina). Under a previous order of the House, the gentleman from Kansas [Mr. TIAHRT] is recognized for 5 minutes.

Mr. TIAHRT. Mr. Speaker, we are facing a dilemma here in the United States. It is called the Federal debt. This chart shows the Federal debt, the amount of money that is included. It is just close to $5 trillion. It is 4 trillion, 985 billion, 3,913 million, and on and on and on. I want to give you an idea just how much money that is. If you had gone in business the day Christ rose from the dead and lost $1 million that day and every day until today, you would only be one-fifth of the way to losing this much money, one-fifth of the way in almost 2,000 years.

The problem is now the linchpin of the struggle between the President and his liberal supporters and the American people and their Representatives in Congress. The American people want a balanced budget. The House and the Senate have passed provisions to balance the budget and continue Government, but the President, Mr. Speaker, the President has chosen to shut government down.

This is very clear. The President does not want a balanced budget. The American people and Congress do want a balanced budget. Let me show you what the President has offered. His budget that was sent to Congress over the next 10 years never does balance. In fact, when you get out to the last year, 2005, it is $200 billion in deficit. I have a contrasting chart that shows the difference between what we are doing with the Congress, this is the blue line that starts here and goes down to a balanced budget by the year 2002, and the President's budget, which continues at about a $200 billion deficit every year. It is kind of like my uncle, John Armstrong, says: "If you don't want to do something, any excuse will do."

Mr. President, we are tired of you looking for excuses. The President says, "Send me a clean continuing resolution, a clean debt limit ceiling, and I will start government up again." But let us look when the liberals controlled the House of Representatives. Since 1977, there have been 57 continuing resolutions. In the 1980s they hung an entire annual Federal budget on one continuing resolution. This is not uncommon.

But on the same path of inconsistency as the President and his alleged desire to balance the budget, Chief of Staff Panetta says, he said on November 9, "Don't put a gun to the head of the President. It is a form of terrorism." Further on he said, "Republicans are now obviously resorting to a form of blackmail in order to push their agenda onto the country. That is not an acceptable choice. This is blackmail."

But when Mr. Panetta was in Congress, and when the liberals were in charge, he said about the debt ceiling: "This is the only vehicle we have as we close these days before recess to try to bring the American public what I think is a very important issue, and it relates to our ability to control spending and to provide a shared sacrifice in terms of our approach to dealing with the deficits in this country." That was on June 28, 1984.

On the continuing resolution he said, "Having to adopt another continuing resolution in this process, I know the chairman and the Members of the Committee on Appropriations would prefer consideration and passage of separate bills, but I think we have to recognize the reality that we must pass on a regular basis massive continuing resolutions, and whether they like it or not, these continuing resolutions set national priorities, they send signals,

they lock us into a future in one way or another." That was September 22, 1982. It was okay for the liberals in the Democrat-controlled Congress, but now, it is "blackmail."

Which way is it, Mr. Panetta? Is it "the only vehicle to bring to the American public a very important issue," or is it a form of terrorism, as you said on November 9? Is it that "We have to recognize the reality and set national priorities," as you said on September 22, 1982, or is it a form of blackmail, like you said on November 9?

I think the American public is tired of the doubletalk, Mr. Panetta. They want to lock us into a future, all right, but it is a future with a balanced budget. It goes well beyond—this double talk goes well beyond the Chief of Staff Panetta and the President's alleged balanced budget. It goes to cuts on Medicare. We are actually increasing the payments of Medicare from $4,800 per year as an average recipient to $6,700 per year in 7 years. It is the same on college student loans. They are going up over the next 7 years, almost $9 billion. It is the same on nutrition programs. Many of us remember that the President went to an elementary school and said, "School children will starve under the Republican Plan." No children have been reported starving in public schools. Nutrition programs are going up 4 percent each year for 7 years, a total of $1 billion.

The bottom line is "No more cheap excuses for shutting down the government, no more duplicity, no more doubletalk." Let us balance the budget. It will lower interest rates 2 percent, according to Alan Greenspan, from the Federal Reserve, chairman of the Federal Reserve, and that will affect every American, every household, every family. Balance the budget. Let us not have any excuses. Let us have a bright future for our children and our grandchildren.

THE GOVERNMENT SHUTDOWN

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida [Ms. BROWN] is recognized for 5 minutes.

Ms. BROWN of Florida. Mr. Speaker, when I was a kid coming up, my favorite television show was "Dragnet." Sergeant Joe Friday used to indicate constantly, "The facts, ma'am, just the facts." That is what I want to discuss here today, how did we get in this mess with this Government shutdown, and just the facts.

You know, instead of doing what we should have been doing, working on the budget and the appropriation bills necessary to keep the Government running, the so-called leadership of this House had us waste over 3 months on the Contract on America, a campaign gimmick that most Americans have never even heard of, or, for those who have, did not really care anything about it.

As a result, it is mid-November, and only 4 of the 13 appropriation bills have been approved by Congress, 1½ months after all appropriation bills were due. Republicans still have not passed only four of them. To me, this is unbelievable, how 800,000 Federal workers have been furloughed, many veterans and seniors will not receive their benefits on time, and the Republicans continue to blame the President.

The question I have is this: How in the world can the President be blamed for this shutdown when only 4 of the 13 appropriation bills have reached his desk? In addition, he does not have a vote in this House or the Senate. The answer is that he cannot be blamed for this. The responsibility lies on the leadership, the Republican leadership in this Congress. They are the ones who have failed to do what they were sent here to do. The Republicans are also the ones who have been threatening to shut down this Government if the President does not cave in to their extremist agenda.

It was the Speaker who said last April that a Government shutdown and default would be political tools he would be likely to use as a leverage to push his extreme agenda. You know, if the Republicans really want to keep the Government up and running, they would have sent the President a clean continuing resolution. Instead, they forced the President to veto this legislation because of all the riders attached to it. Then, after the President vetoed the CR, the Republicans blamed him for shutting down the Government. But the American people are not buying it, and the American people are beginning to realize just how mean-spirited and extreme the Republican agenda is, and they do not like it.

Along with this extreme agenda, the American people are also against the Republicans blackmailing and refusing to compromise. The Republicans need to stop playing blaming games and get down to business and do what the people sent them here to do. You know, I often say, "You can fool some of the people some of the time, but you can't fool all of the people all of the time," and the American people are waking up to the Republican party.

□ 2000

TECHNOLOGY AND THE TRUTH

The SPEAKER pro tempore (Mr. TAYLOR of North Carolina). Under a previous order of the House, the gentleman from Georgia [Mr. KINGSTON] is recognized for 5 minutes.

Mr. KINGSTON. Mr. Speaker, I have here a voting card, which all Members of Congress have. We put it in the machine, hit a little button, and then it goes to a computer over a block away in the Rayburn building and comes back and up on the board our vote is permanently recorded for all people to see.

We also are recorded on C-SPAN. We have great technology. In fact, many people around America are watching me speak tonight and others speak through the miracle of technology. I am wondering if the technology that has brought us C-SPAN and cards like this could not also be used for a truth meter.

Is it not time, Mr. Speaker, that Members of Congress maybe have some special rig to the microphone that when we start lying and start getting way off the farm from reality that maybe we could get a little sound that goes "beep." For example, when one of the leaders of the Democratic Party says, "Well, Republicans are going to cut Medicare," knowing full well we are going from $4,800 to $6,700 per person; knowing that, and they look your mother in the eye and your dad and assume that they do not know what is going on and say, the Republicans are going to cut your Medicare. Wouldn't it be great to have a beep come on and for all those C-SPAN viewers out there to know the person who is speaking is lying.

Mr. GENE GREEN of Texas. Mr. Speaker, I would ask the gentleman's words be taken down. Did I hear correctly that he was saying some Members of Congress on the Democratic side were lying?

The SPEAKER pro tempore. The gentleman was talking about a machine that might detect it. He made no reference to any individual.

Mr. GENE GREEN of Texas. I would like to, if I may, ask for his words to be read back because I do not think I heard what the speaker heard.

□ 2002

The SPEAKER pro tempore (Mr. TAYLOR of North Carolina). The Member will suspend. The Clerk will report the words.

Mr. FOX of Pennsylvania. Point of information Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state his point.

Mr. FOX of Pennsylvania. Mr. Speaker, I do not believe any of the words of the gentleman were attributed to any of the Members of the House. It was a discussion about a truth meter, if such an object were developed and available through technology, what its value might be to the American public.

Mr. GENE GREEN of Texas. Mr. Speaker, are we going to debate this? We will debate it while the words are taken down.

The SPEAKER pro tempore. The gentleman from Pennsylvania will suspend. The Chair is about to have the words reported and then the Chair will rule.

While the Clerk is preparing to read the words, the Chair would admonish

all Members to be respectful. There has been a lot of heated debate over the last few days. Be respectful of fellow Members.

The Clerk will read the words.

The Clerk read as follows:

For example, when one of the leaders of the Democratic party says, "Well, Republicans are going to cut Medicare", knowing full well we are going from $4,800 to $6,700 per person knowing that, and they look your mother in the eye and your dad and assume that they do not know what is going on and say, "The Republicans are going to cut your Medicare." Wouldn't it be great to have a beep come on and for all these C-SPAN viewers out there to know the person who is now speaking is lying.

The SPEAKER pro tempore (Mr. TAYLOR of North Carolina). The words are not a specific reference to any individual members. Earlier this evening, reference was made to the "so-called leadership" of the House and that was not a reference to a specific person.

The Chair would rule that these words are not out of order, but the Chair would caution Members again to be respectful to the House leadership and each other here this evening.

The gentleman from Georgia may continue.

Mr. KINGSTON. Mr. Speaker, let me be first to say that in my concept of new technology, we could install them on both the Democrat and Republican microphones, so that when a Member of either party get off the farm and reality we could have a little beep come on. It was an idea in technology.

I thought my good friend from Texas was going to ask to yield the floor and see if we could set up a study committee for this truthometer on the microphone.

Mr. GENE GREEN of Texas. If the gentleman will yield, Mr. Speaker. I will be glad to talk about the veracity of polygraph tests.

Mr. KINGSTON. If it is polygraphs, the technology is out there, and that is the point. If we could just do this, I think it would be great.

Mrs. THURMAN. Mr. Speaker, will the gentleman yield?

Mr. KINGSTON. I am happy to yield to the gentlewoman from Florida.

Mrs. THURMAN. Mr. Speaker, will the gentleman tell me who has control over what is truth and what is false?

Mr. KINGSTON. The American people.

I would also say maybe we can put in some Math-101 classes so when folks say Medicare going from $4,800 to $6,700 is a cut, we can work on that, because maybe they can do that without the beep being triggered. There could just be some misunderstanding on what number is greater.

Mr. Speaker, I do want to point out one thing, though. There has been discussion about attaching things to this bill that has put the President in this bad position. In the words of the budget director, the Chief of Staff, and I believe I can quote him without causing any ruckus, the Republicans are now obviously resorting to a form of blackmail in order to push their agenda onto the country. This is unacceptable. This is blackmail.

Those were the words of Leon Panetta in the White House press release November 9. Yet, as a Congressman he said, yet this is the only vehicle we have as we close these days before this recess to try to bring the American public what I think is a very important issue that relates to our ability to control spending and provide a shared sacrifice in terms of our approach.

That came from the CONGRESSIONAL RECORD on June 28, 1984, which then-Congressman Panetta was saying, yes, it is okay to put stuff on these bills. They are a good vehicle. This is the only way we can do it.

So, Mr. Speaker, when we talk about the Republican Party overloading some of the budget bills and trying to blackmail the President of the United States, I would say there are true philosophical differences. The Republican Party wants to reduce the size of Government. They want to end the micromanagement out of Washington. They want to give the middle class some tax relief.

Yes, we are using legislative vehicles to do that. Members of the minority party do not want that; I understand that. But perhaps if the President would just agree that we want to balance the budget in 7 years, perhaps we could scale back on all this stuff.

I think it is important to have the dialogue. I think it is important to have a debate, but, most importantly, let us put the American people first. Let us put their interests first and try to do the right thing.

THE VOTERS VOTED FOR CHANGE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida [Mrs. THURMAN] is recognized for 5 minutes.

Mrs. THURMAN. Mr. Speaker, today during the debate I was not given an opportunity, because we only had about 20 minutes on each side, to kind of explain what I think is a very important part of this process and a concern that I have. It concerns specifically when I came into the House in 1992, with about 110 freshmen, both Democrats and Republicans. Actually, there are several of them sitting on the floor tonight.

Let me tell my colleagues, when I listened to the debate today, I was astonished about hearing what happened in 1980. Oh, we had 52 CRs, and this is what has happened over and over and over again. Well, my folks did not send me here because they wanted to see business done as usual. They said they wanted a change. They wanted a difference. They wanted Government to run efficiently and effectively and they wanted to see things happen.

Democrats and Republicans in 1993, this same date, November 14, 1993, all 13 appropriations bills had been signed into law.

□ 2015

Do you know what? We had big fights. Do you know what we were able to do? We actually reduced discretionary spending. I think some of you remember that. We reduced discretionary spending. We came in under our caps. We cut 40 programs. We took 408 other programs, and we slashed them from the previous year's expenditures. We did that, and we still continued. 1994, every bill, one more time, was done again by September 30, signed into law, had gone to the President. Democrats and Republicans voted for it.

Now, I want to talk about what I see happening today. Let me tell you all what maybe some of you do not know. Do you know that the Agriculture Department is open? It is open toady. Federal employees were not furloughed. They were not put under the same restraints. Farmers are going to be able to be taken care of, because this House had passed a bill, the Senate had passed a bill. They had a conference committee, which is the process. It is to take what the House and the Senate and look at the differences, reconcile them and then bring them back to each body for them to agree or disagree on. And we did that. We did the work. And it went to the President. It was signed into law. But let met tell you what has happened now on the other 12 bills.

Yes, some of them have been passed by the Senate and by the House. But what has happened is, in the conference committee, the conference committee, and I hate to be partisan, because when I came in here with my 110 new freshmen, we did not make it partisan. We sat down and got the work done. We decided what needed to be reconciled.

But now, for example, let me tell you what some of the issues are. The crime and judiciary programs are being delayed because Republican leaders insist on rewriting the 1994 community policing program. Okay. Rewrite it. Bring it back. You have the votes to pass it. But guess what is stopping it. Within their own Senate and House conferees on their side, they cannot reach a compromise. They cannot agree on how to do the policing program, one of the most popular programs that was done in the crime bill and was used by many of our communities.

Veterans and housing programs, something that every one of us stand on this floor and we talk about our veterans and what the sacrifices were. What is holding Veterans and Housing programs up? Want me to tell you? A bill that had riders that were 17 demands which would have weakened environmental laws. Okay?

Let met tell you what is so interesting about this, the House rejected the bill two times. They did not like the outcome. We passed the amendment, took the riders out. Did not like the outcome of it. Brought it back until they got the results. Sent it over to the Senate. The Senate said no. They brought it back to the House again. They cannot reconcile their differences between themselves so we have no spending bill so they are shut down.

Then we have the Interior appropriations bill that is being delayed. Why? Because there are some Members who want to give away American lands to foreign mining interests. They cannot decide if they want to do that. So what has happened? We do not have an Interior bill.

The list goes on and on and on. We would not have to be doing what we are doing today and having the pressure put on if these bills had been done and signed. We would have had an opportunity to debate the other issues.

I think that is awful. But I have to tell you something, and I think that this is what is very interesting. First of all, let me suggest to you all, I called by district office, 21 new requests. I will come back here in about another hour because I have some other things that I want to thank the American people for doing, because I believe they are the reason why we have the difference.

Veterans and Housing programs are being delayed because Republicans have included 17 demands which would weaken environmental laws. The House has rejected this bill two times, yet Republicans don't get it.

The Interior appropriations bill is being delayed because some Members want literally to give away American lands to foreign mining interest.

All of these bills could now be law if only the excess baggage had been thrown overboard. For instance, while the rest of the Government is closing down, the Department of Agriculture is working. Why?

Because all sides were able to resolve their differences and put a fair bill on the President's desk and he signed it.

Some people are blaming the President for this action, but every school child knows that Congress makes law and the President executes them. If no bill has been passed, there is nothing to execute.

If you cannot pass the easiest of bills then you cannot direct the country.

The Republicans simply don't pass.

VOTERS REJECT GOP AGENDA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas, Mr. GENE GREEN, is recognized for 5 minutes.

Mr. GENE GREEN of Texas. Mr. Speaker, I would like to discuss, and I am glad my colleague from Georgia talked about the concern of the American people because they hear a lot of different things from the different mikes on the floor. Oftentimes the frustration they have and some of us even in Congress do not know what to believe.

But let me just go over some of the poll results because I have never, as a Member of Congress or even in earlier life, serving many years in the legislature, responded to polls because I think we need to represent people and not just polls. But the polls in the last few weeks are the best things we know, and the last month, of how Congress has been doing.

Two polls were released last week suggesting that the American people are increasingly unhappy with Congress and particularly the majority Republican Congress. One of them was conducted by the Wall Street Journal and NBC and one by the Los Angeles Times reveals that voters are rejecting the Republican agenda and their leaders in Congress and suggest that the battleground issues like Medicare will play a significant role in next year's elections.

First of all, the Wall Street Journal and the NBC poll said that 59 percent of American voters disapprove of the job Congress is doing. And this is an all-time high for the GOP Congress and places it close to our congressional disapproval last year before the 1994 elections.

The other poll talks about 1 year out from the 1996 elections, the Los Angeles Times poll released this Sunday shows Democrats ahead of Republicans for the first time since the 1994 elections, 44 percent to 42 percent. Again, not a landslide, but a year ago Democrats were down by 5 percent. Among seniors, a key voting block in 1996, Democrats are ahead of Republicans by 18 percentage points, 52 percent to 34 percent. And a year ago, Republicans held the edge among seniors 45 to 40 percent.

I am glad my colleague from Georgia talked about the need maybe for some type of truth meter on our mikes because I know the frustration of our constituents all over the country. But I think their frustration is being reflected in the polls I just mentioned.

Plain and simple, our Republican majority has mismanaged our financial affairs and our Government. They passed only 5 of the 13 appropriations bills which fund the Government. And the fiscal year started October 1, so we are over 45 days late, well, almost 45 days late. The media has been talking about a crisis within our Government. There is no real crisis if we had just been able to do our work on time by October 1 and passed those bills or to pass a continuing resolution so we can get on about our business of passing those bills.

Now the effort to blame the President for his alleged mismanagement. In fact, Republicans controlled both Houses after the 1994 elections, and they have the majority votes to be able to pass all 13 bills, obviously, prior to October 1 and send them on to the President. The President has only vetoed one bill, the legislative appropriations bill that I know is ready for him again to be sent back up, but of the two bills he signed, the Agriculture Department and one other one, those agencies are up and running. Employees are not being furloughed. However, it seems like our majority cannot come to an agreement among themselves on these funding bills, and that is why we are so late.

In fact, we saw today in a report that I read just this afternoon that our Republican majority was planning this shutdown in July of this year. So it just did not happen on the 15th of November. It has been planned on because of this showdown and laying off Federal workers or furloughing them whether they are paid or not paid. If they are not paid, we are hurting a lot of hopefully employees that are dedicated to do their jobs, but if we are paying them, then the American people are wondering why are we furloughing people and then paying them when we finally bring them back. It is like an irresponsible student whose assignment, homework is late.

My wife is a teacher, an algebra teacher. She has told me this oftentimes that a student comes in and their homework is late. They are going to blame someone else. The dog ate it. I forgot it and left it at home, all sorts of reasons.

Well, the Republicans are blaming the President for not getting their work done. The President does not have a vote in this body. To cover up that irresponsibility, they are trying to strong-arm the President into getting their way, including to force him to raise Medicare premiums. I did say raise Medicare premiums, because right now Medicare premiums are $46.10 a month, and they would go up under the continuing resolution that the President, thank goodness, vetoed to $53.50 a month, and either that or shut down government.

Now we have the shutdown, and it is estimated it may take 2 weeks. And presenting the President with a choice like that is irresponsible and invites this crisis. Again today, we heard it was reported that as of * * * even in July * * *.

I would hope we would have a bipartisan continuing resolution, one that does aim us for a balanced budget but does not do damage to Medicare and education.

THE BUDGET IMPASSE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa [Mr. LEACH] is recognized for 5 minutes.

Mr. LEACH. Mr. Speaker, I rise to attempt to put the budget impasse in an

historical, economic, and constitutional context.

The big secret in Washington that Republicans won't acknowledge and Democrats won't admit is that the rhetoric of the parties doesn't fit the circumstance. The change in course that is underway in Congress is neither as revolutionary as conservative leaders suggest nor as radical as the liberals would have it. It is an effort to move the ship of state gradually from a slightly left-of-center to slightly right-of-center direction.

The macro-economic goal is to achieve a balanced budget in 7 years with 3 percent a year increases in Federal spending. A year ago consensus economic models pointed to a 3.1 to 3.2 percent inflation over this time period. More recently inflation projections have been revised downward, with Lester Thurow of M.I.T. startling the economic community with the declaration that inflation is dead. Whether or not Thurow's assertion as Mark Twain might quip is premature, the new Congress has put in place a program that in outline is intended to represent an inflation adjusted freeze on spending. Rather than radical, such an approach is common-sense; rather than revolutionary, it is revolution-avoiding.

The question that remains in the executive-legislative dialog of the month is whether enough good will can be marshalled or enough confrontational bluff avoided to allow politicians who feed off each other to advance the common good. In this context, the Republican case to stick with firm macro-constraints would appear compelling, but flexibility to accommodate certain executive branch requested changes in priorities can credibly be considered. As long as the foundations and walls of the new programmatic discipline follow the balanced budget blueprint of Congress, the living-room furniture in the new house of Government can be rearranged. The Republicans aren't infallible; the Democrats have no monopoly on compassion.

While the President has assiduously made political points with program constituencies, it is impressive to note how few issues he appears committed. Part of the President's lack of resolve may be due to the fact that he understands deficit reduction will reflect well on his Presidency, part may be due to the fact that in our constitutional system the Congress is principally delegated purse-string authority. The first and second estates of Government may be co-equal, but not in all areas. While the executive has primacy in foreign policy, decisions on taxing and spending are disproportionately the responsibility of the legislature.

Nevertheless, the Presidency is always more powerful than the President and however strong or weak one assesses the current occupant of the White House, legislators should be cautioned to recognize the power of the veto and the authority of the bulliest pulpit in the world.

Likewise, the President should be cautioned not to be so intent on trying to establish a macho image—what the press has reported as a White House effort to show that the President stands for something—that accommodation with Congress becomes impossible.

What the public must keep in mind in the budget showdown is that the current process is so ad hoc. Washington has no relevant modern day experience in dealing with a divided Government in which the executive branch is more liberal than the legislative. This leads to the a-historical phenomenon that the veto is being used or threatened to keep general levels of spending up rather than particular program levels down. For the first time in decades roles have been reversed. Congress rather than the Executive is stressing the need for overall budgetary constraint. Congress rather than the Executive is trying to veto special interest spending.

Since the 1960's the impulse to spend and micromanage the Federal Government has come from a Congress where committee and subcommittee chairmen have established reputations of leadership and compassion that comes from spending other peoples money in programs under their jurisdiction. Budgets couldn't be constrained because egos couldn't be controlled.

Ironically, for all the tough rhetoric America's two political parties are not that far apart, at least in relation to other Western democracies. Indeed, despite the hullabaloo of the week, statistically the difference is about 2½ percent. The Democrats favor a multi-year plan increasing Federal spending at a 5½ percent per annum clip; the Republicans 3 percent.

In this regard it is noteworthy that rather than Reagan Redux, which beltway pundits have suggested is underway, the new Republicans are uniquely committed to advancing, rather than simply professing, achievement of a balanced budget.

What the Reagan years were all about was a President who sought an increased defense budget while philosophically assaulting Washington's social agenda. The compromise with a liberal Congress was an increase in defense spending, but a bigger increase in social spending.

Federal spending under President Reagan as a percent of GNP grew by a whopping margin, from 21½ percent to 23½ percent. Federal revenues, meanwhile, remained static, varying each year from 19¼ to 19½ percent of GNP. Taxes, in other words, were realigned, not cut, and the Reagan deficit was classically liberal: spending driven.

The goal of the new Congress is less governmental activism; the intent is to bring the budget into balance at a GNP level closer to that which President Reagan began in the 1980's. Despite the rhetorical division, this is a modest objective. Indeed, my guess is the new Congress which has come under such public fire for going too far is going to come under increased private criticism for not going far enough. The issue is Keynesianism as modified by demographics. Keynesian, in the sense that just as John Maynard Keynes argued that a country could deficit finance to even out downturns in the economy or deal with national emergencies, it is obligated to pay back debt in good times. And these, after all, are good times. The country is secure; employment is strong; the economy is growing. America is at peace with the world, if not quite with itself.

In terms of demographics, the baby boom generation is at its productive peak. Shortly into the 21st century, sometime in its second decade—demographers suggest 2011 or 2012—the number of working Americans supporting each retired citizen is likely to decline from a 3 to 1 ratio to 2 to 1. If at that time interest on federal debt is more burdensome than Social Security obligations, it is difficult to believe Federal concerns can responsibly be addressed. As we look to the immediate future even more than the recent past, it would appear there is simply no justification for deficit financing at this time.

In this context, the most emotive issue of the week—Medicare—could not be more symbolic or consequential.

What makes Medicare particularly difficult in a legislative context is that it represents the conjunction of an economic reality—the fact that the Medicare system is fast becoming insolvent—and a moral imperative—the obligation to provide compassionate health care to our senior citizens at an affordable rate.

While differences of judgment will always exist on systemic changes in programs of this nature, the big picture is that the new Congress has worked to establish medium-term solvency and stability of the Medicare system without sparking a generational conflict.

Despite the rhetoric of division that surrounds the Republican approach, it deserves stressing that the Medicare program is authorized to grow annually at 6.4 percent, which is more than double the projected rate of inflation over the next 7 years. Relative to inflation, this decade's rate of growth of Medicare spending will thus be similar and quite probably greater than that of the last decade.

Two changes of significance in Medicare are relevant for rural States, and the 1st District of Iowa in particular.

The current Medicare reimbursement formula contains a differential based on the fact that rural States were early practitioners of progressive cost containment. Ironically, rather than being

rewarded for prudence, citizens in rural States have found themselves penalized as yearly percentage adjustments in Medicare reimbursements accentuated differences in the country.

Because of the efforts of rural State representatives—in particular, Representatives GANSKE and GUNDERSON, and Senator GRASSLEY—more than a third of the differential has been eliminated and a formula to reduce it further is being put in place. These changes will result in more Medicare revenues for rural States like Iowa than would have been the case under the President's approach. More needs to be done on the differential issue, but a giant first step has been taken.

Indeed, many rural counties currently have per citizen Medicare reimbursement formulas of $200 to $250 per month. Under the new congressional plan the lowest reimbursement for any county in the country will soon be $350. The Medicare reimbursement base will thus be moved up over 50 percent for the most disadvantaged counties in America today and annual percentage increases for these counties will be triple the inflation rate until greater parity with higher reimbursement counties is obtained. When these adjustments are added to the innovative aspects of Medicare reform, senior citizens from rural States will in short order have a far stronger, more flexible, choice oriented system than is currently in place.

The economic segregation that characterizes the current rural health care delivery system will be replaced by a much fairer, more equalitarian Medicare delivery system.

The new approach adopted by the House also creates a trust fund to finance teaching hospitals and graduate medical education programs, which will be of particular significance for the University of Iowa hospital, the largest teaching hospital in the world. This change, coupled with the higher rural reimbursement figures could be critical to saving the patient treatment capacities not only of the University Hospital in Iowa City but of teaching hospitals throughout the country, particularly those in rural states.

For all the vitriolic arguments on the floor and the sophisticated public opinion research that has gone into television commercials which are designed to show that the President cares about something—in this case the young and the old—the fact is that the debate is about whether to balance the budget in a sensible and socially acceptable time frame.

In this regard, it should be stressed that all Americans have a vested interest in greater fiscal restraint—young Americans in particular. It is those just about to enter the work force, after all, that will find themselves paying taxes over their entire working lives to pay off the national debt for past legislation excesses.

Of all the issues that should galvanize young people, the deficit should be the largest. But deficits aren't simply younger Americans' concern. Those in the so-called baby boom generation who are 40 to 55 today don't want to inherit an insolvent Medicare system when they retire. They don't want to retire when Government debt obligations are so great that the capacity to fund Medicare and Social Security is too much of a burden on too small a work force.

As for those who have already retired, they don't want to see inflation ravage their savings as it did in the late 1970's. They have every reason to look at 20 to 40 years of retirement made possible by a health care system that has been advanced by modern science and made economically sound through responsible fiscal policy.

In this regard, it needs stressing again and again that no one is going to be happy with anyone else's budget priorities. I, for one, prefer a number of aspects of the President's education approach, am appalled by the Congress's refusal to fully fund the United Nations, and would be more sympathetic than the majority in my party to NPR and the Endowments on the arts and humanities. Yet, I am convinced America must come to grips with the budget and strongly support the faster Republican timeline for deficit reduction.

On process, let me stress that the Democrats have fairly criticized my party. The appropriations bills have not been completed on time. This is partly the case because of the heavy schedule earlier this year related to Republican efforts to fulfill a campaign pledge—the Contract With America. But, ironically perhaps, the primary reason for delay relates to the Republicans attempting to give the minority party expansive opportunity to amend bills brought to the floor under open rules. In a body of 435, extensive use of open rules assures a slow down of the legislative process.

Finally, let me stress that at issue are not only budget balancing and spending priorities but the question of whether a politically divided American Government can work and maintain the confidence of the American people.

As emotive as the issues are, we have a responsibility to see that on an orderly, fair, and timely basis they are resolved.

In this process we have an even larger responsibility not to divide America with inflammatory rhetoric or undercut the stature of this chamber with irresponsible choice making. The public's business requires decency of approach as well as purpose. Now is the time for personal pride and partisan ambition to be checked at the cloak room.

LET US TALK ABOUT MEDICARE AND MEDICAID

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. BROWN] is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, earlier today in this Chamber we debated a bill that was sponsored by the gentlewoman from Nevada [Mrs. VUCANOVICH] and also the gentleman from southern California [Mr. WAXMAN]. It was a bill to make minor changes in the law regulating pacemaker safety to make sure that over the years that Congress has been very involved in that issue, to make sure that Medicare does not overpay for defective pacemakers, that pacemakers that are implanted in people are indeed safe. It was a simple bill, a noncontroversial bill, a bill that had bipartisan support, and a bill ultimately that passed by voice vote or passed pretty much unanimously.

I have been a Member of this body for 3 years representing a district in northeast Ohio, and something happened during that debate that troubled me as we discussed this bill. Some of us wanted to talk about Medicare as a whole, about the Gingrich $270 billion cut Medicare plan, about Medicaid and all that this pacemaker issue included in other issues that Medicare—that revolve around Medicare, and clearly when any of us goes home and goes to our district, it is pretty obvious that Medicare is on the minds not just of people that are Medicare beneficiaries, of actual beneficiaries today, but of their children. It is on the mind, Medicaid is on the mind, of people that have to place their parents or grandparents in nursing homes, Medicaid is on the minds of people that—whose families might have Alzheimer's. It is Medicaid and Medicare issues that people want to hear about, and want to talk about, and want to see Congress debate, and unfortunately today, Mr. Speaker, as a couple of us wanted to talk about Medicare, especially specifically, and also Medicaid, there were Members of the majority party that—who supported the Gingrich plan that did not even want us to discuss it, that continue to say, "You're out of order," and try to get—try to stop us from discussing Medicare as a whole.

Mr. Speaker, the reason we wanted to discuss Medicare is that in this Chamber during the day when we are actually debating legislation, not in the evening in these special orders when few Members sit in this Chamber, but during the day; we only had 1 hour of general debate on the whole Medicare bill, and even worse perhaps, in committee. I sit on the Committee on Commerce, others that sit on the Committee on Ways and Means, and saw Medicare and Medicaid pass through those two committees with only one hearing in the Committee on Ways and Means

and no hearings in the Committee on Commerce. We passed legislation changing a $200 billion or a $180 billion Medicare bill program that is $180 billion a year spent on Medicare, about $80 billion a year spent on Medicaid; we changed those two programs in a big, big way, markedly, with no real committee hearings.

And what bothered me is today we try to talk about nursing home standards, how this Congress wants to roll back all Federal nursing home standards that have made a big difference in dealing with the problems of oversedation in nursing homes, made a big difference with the problems of neglect in nursing homes, made a big difference with the problems that nursing home patients, the most defenseless people probably in society have faced in the Federal Government involvement 10 years ago. These nursing home standards that this Congress passed, signed by President Reagan at that time, made a big difference in these people's lives in the twilight of their years, yet this Congress and the Gingrich plan repealed all of those nursing home standards.

We also wanted to talk about the premium increases. Under the Gingrich plan, $270 billion in Medicare cuts and $180 billion in Medicaid cuts over the next 7 years will mean doubling of premiums from $46 a month up to almost $100, will mean an increase in deductibles from now $100 perhaps up to $150, to $200, maybe $250, and it will mean an increase in co-pays in some versions of this bill which will be voted on for a second time in the next month.

They also did not try to—tried to call us out of order when they talked about how Medicaid has written out the disabled, and again some of the most vulnerable people in society, and they also—we wanted to talk about the spousal protection where if an elderly man's wife ends up in a nursing home, and paid for by Medicaid, that the husband can still live in his modest home without spending, selling the home, and having all the money go to the nursing home.

All of those kinds of issues were so important, and perhaps what they objected to the most was when I quoted Speaker GINGRICH when he said the response to criticisms about this Medicare bill, about the $270 billion in cuts and when he obviously wanted to go much further in Medicare. He made a statement to a bunch of insurance executives, most of whom, is not all of whom, will benefit mightily monetarily, their companies and they individually, from this $270 billion Medicare cut bill. Speaker GINGRICH said, "Now we don't want to get rid of Medicare in round 1 because we don't think that's politically smart and we don't think it's the right way to go, but we believe that Medicare is going to wither on the vine."

Two hundred seventy billion dollars in cuts for a tax break of $250 billion for the wealthiest people in society with the hope that Medicare is going to wither on the vine. Mr. Speaker, it is simply not right.

BALANCING THE BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. FOX] is recognized for 5 minutes.

Mr. FOX of Pennsylvania. Mr. Speaker, I appreciate the opportunity to address the House this evening on some important issues, not least of which would be the balanced budget. The balanced budget will be the most important bill that we hope the President will eventually sign.

You heard on the House floor tonight about certain claimants that could not get their Social Security benefits. Frankly all recipients of Social Security will get their benefits, but those that may have applied today will not do so because the President did not sign the balanced budget last night. He vetoed it.

Others, they say, could not get their veterans benefits applied for today. Frankly those veterans will get their benefits, but it has been delayed because the President did not sign the balanced budget.

The President says he favors a balanced budget, Mr. Speaker, but yet, when given the opportunity by having a bill from the House and the Senate, he failed to sign that bill which he says he really wanted originally. The crisis has not been caused by the Congress, the House or the Senate. It has been caused by the President's reluctance to sign the balanced budget.

And you say, "What's important about a balanced budget?" A balanced budget will help us decrease mortgages for families, decrease car payments, decrease the cost of a college education, decrease the cost of health care. The Federal Government has a role to provide services, but I submit to you, Mr. Speaker, it is not to continue the waste, fraud, and abuse that we have seen in the Government, but rather to make sure that the Federal Government takes care of those services that cannot be handled by State government or cannot be handled by private sector.

The big problem you hear about is Medicare, yes, but we are going to save Medicare. The fact of the matter is the trustees, the President's own trustees, have said recently, just back in this last spring, that Medicare as we know it will go bankrupt if we do nothing, and yet you might say, "Well, how did we get to that point?"

Well, health care goes up 4 percent a year, but Medicare is going up 10 percent a year, and the reason is fraud, abuse, and waste, $30 billion a year in fraud, abuse, and waste.

Our solution: a Medicare Preservation Act that will create for the first time health care fraud in this country for those who abuse or commit fraud and abuse with Medicaid and Medicare. If you commit such an offense, 10 years jail, and you no longer can be a provider in that area.

We are also looking to reduce paperwork costs. Currently Medicare has 12-percent costs just in paperwork. That should be reduced to 2 or 3 percent at most because we want to see those services go to seniors. We also created a Medicare lockbox. Any savings in fraud and abuse will in fact go back to seniors' health care. We do not want to see, and the legislation does not provide for, any increase in copay, no increase in deductible. In fact this Congress under Republican leadership has given us two very good favorable senior citizen legislations that have passed; one, the increased eligibility for seniors who now presently make $11,280 a year but frankly want to make more without a deduction from Social Security. They will be able to do it now as a result of our bill. In addition, seniors who have had to pay the onerous 1989–93 tax increase on Social Security, that has been rolled back, so frankly it is the Republican-led Congress that is trying to find the ways to cut out the fraud, and abuse, and waste in Medicare, but make sure the health care that seniors deserve on the Medicare is preserved, and we can do that, and it is well helped by making a balanced budget, and we are hoping that the next time the President receives a bill from the House and Senate that has such wide support, that it in fact will get the President's signature because he knows, as we know, and the American people knew, when we can balance our budget and make sure we stop the waste of the bureaucracy in Washington, we will give the Government services people need and we will make sure that the people get their money's worth, just like they do from their State government, just like they do with the local government.

THE FEDERAL SHUTDOWN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. BISHOP] is recognized for 5 minutes.

Mr. BISHOP. Mr. Speaker, there has been a lot of talk about a balanced budget and what the Republicans have offered, but the record ought to be set straight that they are not the only ones that have offered a balanced budget. The conservative Democrats have offered a balanced budget which was rejected by Republicans. It was a proposal to balance the budget in 7 years, consistent with the resolution passed by the House. It balances the budget through reductions in Government programs while preserving the Government programs that benefit society in

maintaining the fundamental commitment of Government to its contract with people.

On welfare reform, the Democratic budget cuts welfare $60 billion less than the Medicaid cuts in the leadership budget. The Democratic budget cuts $40 billion over 7 years and the Republican budget cuts $100 billion over 7 years. The Democratic budget places stronger work and personal responsibility requirements on individuals than the Republican budget, including a requirement that each individual implement an individual responsibility plan: immediate job training and a 5-year time limit on welfare benefits. It provides incentives and assistance in helping the poor get off welfare, including full funding for child care, full funding for workfare requirement, and State options to extend transitional medical assistance.

Regarding the earned income tax credit, the Republican plan would reduce the size and scope of the earned income tax credit. That amounts to a tax increase on the working poor. It would also roll back an important tax incentive for choosing work over welfare. The Democratic budget does not make these eligibility changes. Instead it changes only those things to those which improve targeting and tax compliance with the program.

In education, the Democratic budget provides $50 billion more in discretionary spending than the Republican budget over the next 7 years. the funds will make it possible to restore funding for Goals 2000, title I, impact aid, drug-free schools, and other programs that were cut by the Republicans. The budget rejects educational entitlement cuts.

The leadership budget, the Republican budget, makes $10.2 billion in cuts. It would raise the cost of student loans by charging students interest during the 6-month grace periods after graduation. It would increase the cost of loans as much as $2,500 over the repayment period. It will raise interest rates on parent loans. It would terminate direct student loan programs.

Regarding agriculture, the Democratic budget makes reasonable cuts in agriculture, $4.4 billion over 7 years. It continues existing farm programs with reasonable cuts so that farmers' operating programs, their financing and their investment plans will not be disrupted. The Republican budget, the so-called Freedom to Farm provisions, make $13.4 billion in cuts. It makes no provision for the continuation of agriculture programs beyond the year 2002. It makes it more difficult for farmers to receive credit. It discourages cost-efficient investments in capital equipment.

□ 2045

Also it removes the safety net of economic stability in rural communities. The President should not give in to blackmail. The Republican leaders in Congress are attempting to blackmail the American people into accepting a budget-balancing plan that pays for a massive $245 billion tax cut for the rich by extreme $450 billion reductions in Medicare and Medicaid.

The Republicans threaten to force the Government to default on its obligations and shut down unless the President lets them balance the budget in 7 years their way, a way that hurts seniors, hurts children, hurts farmers, hurts rural hospitals, and hurts college students.

I am a fiscal conservative. I support a balanced budget. Conservative Democrats offered a bill to balance the budget in 7 years that is credible, makes reasonable reductions in Government programs, while preserving those that benefit our Nation's people. The Republican majority reject this fair bill. Let us get a bipartisan agreement to balance the budget in a way that is fair and just to all Americans, not just the rich, but let us not give in to blackmail.

REPORT ON HOUSE RESOLUTION 250, AMENDING THE RULES OF THE HOUSE OF REPRESENTATIVES TO PROVIDE FOR GIFT REFORM

Mr. DIAZ-BALART, from the Committee on Rules, submitted a privileged report (Rept. No. 104–337) on the resolution (H. Res. 250) to amend the rules of the House of Representatives to provide for gift reform, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2020, TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1996

Mr. DIAZ-BALART, from the Committee on Rules, submitted a privileged report (Rept. No. 104–338) on the resolution (H. Res. 267) waiving points of order against the conference report to accompany the bill (H.R. 2020) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies for the fiscal year ending September 30, 1996, and for other purposes, which was referred to the House Calendar and ordered to be printed.

SECRETARY O'LEARY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Georgia [Ms. MCKINNEY] is recognized for 5 minutes.

Ms. MCKINNEY. Mr. Speaker, it appears that some of my colleagues on the other side of the aisle are salivating at the chance to use a rumor against Secretary of Energy Hazel O'Leary.

Some of my Republican colleagues who are upset with Secretary O'Leary for not greasing their districts with sufficient Federal lard, are trying to make a mountain out of a mole hill as their revenge. Apparently the Wall Street Journal—not known to be a Democrat-friendly newspaper—wrote that the Secretary of Energy had hired an advanced news-clipping service to gauge what newspapers across the Nation and the world were saying about the Department which she is working to reform.

However, some of my bitter Republican colleagues who did not get the bacon they wanted from the DOE, are charging that Secretary O'Leary was spying on reporters, newspapers, and was concerned about the Department's image. What a farce.

This coming from Members of Congress who spend tens of thousands of dollars on their press secretaries who basically do the same thing: clip newspapers and respond when they get bad press. This coming from Members of Congress who use the House recording studio, send out newsletters, get official photos et cetera, et cetera. My Republican colleagues are charging Secretary O'Leary with spending $43,000 on what every major corporation in America does: monitor how the press is receiving them.

Yet when one compares how much Members of Congress spend on their press secretaries, news letters and so on, we will find that they spend much more than $43,000 on image. Can you imagine the nerve of my colleagues who have the audacity to stand up here and accuse the Secretary of Energy of being concerned about the image of her Department, when they are doing the exact same thing?

One of my Republican colleagues from South Carolina even had the nerve to stand on the floor last night to lambaste Secretary O'Leary, and say, quote, "If I as a Member of Congress took taxpayer money entrusted to my care to go out and work on somebody to make me look better, I should lose my job."

Well, maybe my colleague from South Carolina should resign. What is your press secretary for if he or she is not there to spruce up your image? What is more unbelievable, is that that same colleague, just seconds before he delivered his rumor-based attack on Secretary O'Leary, said an I quote, "This is a funny town where rumors can start without any basis." He made this statement in defense of one of our Republican colleagues who has had charges leveled against him, Yet, literally in the same speech, he then went on to accuse Ms. O'Leary of abusing the public trust based solely on a rumor. So it appears that when rumors are started about Republicans, Washington all of the sudden becomes, "A funny town where rumors can start without any basis." However, if Republicans are the ones starting those rumors then it is OK.

Mr. Speaker, this kind of duplicity just amazes me. In fact, the Washington Post reported today that the Republican National Committee uses the exact same news-clipping service which the Republicans are claiming is a spy agency.

In fact, many corporations use such clippings services. And since Hazel O'Leary has been trying to run DOE more like a business, it only makes sense that she have at her disposal the same tools that the corporations have at their disposal.

According to Mary McGrory in a Washington Post article on May 16, 1995, she said about Hazel O'Leary, and I quote, "No Cabinet officer has run a department more efficiently." In fact, for the DOE which has tens of thousands of employees, to spend $45,000 on so-called image is actually pretty good when one considers what Members of Congress spend on image.

In closing I would advise my colleagues on the other side of the isle to be very careful before they start spreading rumors about a Cabinet member who didn't give them the pork projects they wanted in order to boost their images.

PRESIDENT CLINTON'S CREDIBILITY CANYON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona [Mr. HAYWORTH] is recognized for 60 minutes.

Mr. HAYWORTH. Mr. Speaker, tonight as the shadows descend from coast to coast, it is worth noting that life goes on in these United States, despite one cable network offering a countdown akin to a spacecraft countdown for the alleged shutdown of Government. Life continues.

Tonight again we are reminded that we have fateful choices to make, that we have significant differences of opinion; that, indeed, in many cases, we should rejoice in those differences, and we are certainly entitled to different interpretations.

I thought, Mr. Speaker, that tonight it would be important to offer the rest of the story. As one of our commentators so eloquently puts it on radio on a daily basis, for example, I have the greatest respect and affection for my colleague, the gentleman from Georgia [Mr. BISHOP], from the other side of the aisle, who was just in here talking about a conservative Democrat balanced budget plan. I must say, indeed, that I welcome that initiative on the part of the conservatives on the other side of the aisle. There remain philosophical differences, but unfortunately, my friends who would call themselves conservative on the other side of the aisle are in fact a minority within a minority.

The gentleman from Georgia [Mr. BISHOP], chose to characterize the outcome of the vote on his self-described conservative Democrat balanced budget plan, saying it was rejected by the majority, full disclosure demands and accurate counting of the vote.

The sad fact is, and I can understand my friend's frustration, the sad fact is that a majority of his own party rejected that plan, including the minority leader. There reaches a time, Mr. Speaker, where we cannot be content with those who would merely talk the talk. The people of the United States, in my opinion, have spoken clearly and compellingly that they want to see a change in the culture of endless taxation and spending, and yet leaders step forward, claiming one thing and ofttimes doing another.

I find it especially ironic that this Nation's Chief Executive, who made well known in his youth his opposition to some of the actions taken by the President of his party in the late 1960's, in fact, it was said of that President in the late 1960's that he suffered from a credibility gap, how unfortunate it is that our President tonight suffers from an affliction that can only be described as a credibility canyon, so wide is the gulf between what Bill Clinton, the candidate, said, Mr. Speaker, and what Bill Clinton, the President, is willing to deliver.

In 1992, then candidate Clinton, on national television, said that he would commit to balance this Nation's budget within 5 years. As President, Bill Clinton, earlier in this session of the 104th Congress, worked overtime on the votes of six Members of the other body who voted for a balanced budget amendment in the 103d Congress. He applied Presidential pressure so they would change their votes and that a balanced budget amendment to our Constitution would fail.

In 1992, Mr. Speaker, candidate Clinton spoke of a tax cut for the middle class. Very early in his term, President Clinton gave us the largest tax increase in American history, a tax increase affecting virtually every American, for it was not only on income tax, it was not only retroactive, taxes increased also on gasoline that every American, virtually, buys.

Then, just a few weeks ago, perhaps suffering from the affliction that, Mr. Speaker, you so accurately described in your radio address of a few weeks ago, this overwhelming need for our chief executive, instead, to act as a campaigner in chief, the President went down to Houston. This is the article that appeared on the wires of the Reuters news agency, with an account of what transpired in Houston. "Clinton said he knew that a lot of people in the room were 'still mad about the 1993 budget,' and, in his words, 'they think I raised their taxes too much, it might surprise you to know that I think I raised them too much, too.'"

Then the following day the President, in a press briefing, tried to make light of this assertion, saying that his mother advised him not to make speeches after 7 o'clock. I appreciate the President's attempt at humor. I guess there might be some effort to laugh, if it were not so serious and, fundamentally, if it were not so tragic. Where does the President stand?

People have quoted polls here. The most compelling poll or the most compelling polls are those turned in Election Day every 2 years to decide who serves in this Congress, every 4 years to decide who serves in the oval office. There comes a time, sooner or later, when we are called upon in this country to join together and to govern, and as the gentleman serving as our Speaker pointed out in his radio address of a few weeks ago, this President seems content playing the part of campaigner in chief, rather than Commander in Chief. Indeed, as our friend in the chair tonight made the point in his radio address, "Perhaps we ought to try and work on a constitutional amendment that would allow this President to be the campaigner in chief while we go look for a genuine chief executive to help us govern."

Things are not always as they seem. The cataclysm that many have spoken of that supposedly took place today with the alleged shutdown of government services has yet to be realized, and yet those apologists for more taxes and more spending came to the floor of this House today, and so great is their affinity for big government, they voted basically to allow the executive branch to raid the trust funds to keep the government in business.

H.R. 2621, on a motion to suspend the rules and pass, to prevent disinvestment of trust funds, 177 Members of the liberal minority voted no, saying, in essence, "Mr. President, Mr. Secretary of the Treasury, go ahead and raid those trust funds." The irony is compelling that those who march to the well of this House day after day and claim that they are the protectors of Social Security and they are the protectors of Medicare, and yet today when they are called upon to vote to protect the very trust funds they allegedly pledge an oath of fealty to, somehow they just cannot do it.

Mr. Speaker, I am joined on the floor tonight by two of my colleagues who are also new to this Chamber. I would first yield to my very good friend, the gentleman from the golden corner of South Carolina, Mr. LINDSEY GRAHAM.

Mr. GRAHAM. Mr. Speaker, I thank the gentleman.

I am intrigued by what the gentleman is saying to the point where I came over here to join him. I just want to say this, I know people have heard a lot. On a good day, it is very difficult to deal with the issues in Congress because they are so huge. We have a $4.9 trillion national debt. If any political figure tells you that it will be easy to come to a balanced budget, I do not think they are being honest with you, because this is hard work, but it has to be done with a certain sense of genuineness.

Let us talk about something you mentioned a few minutes ago about the President as a campaigner. I know you value and I know that JOHN values our personal integrity when we deal with

our constituents. Bill Clinton, the campaigner, said that "I will submit to the Congress a 5-year balanced budget." He said that on "Larry King Live." As a candidate, he wanted to balance the budget in 5 years, because he knew even in 1992, that was an important issue to the American public. I have never seen that document. That document does not exist.

When he was on television trying to get elected, he said something that he thought would sound good that would help him get votes, but he did not mean it. I can guarantee you, if you think it is difficult to balance the budget in 7 years, it would be very difficult to balance it in 5 years. It is going to be difficult, no matter what. But he made a statement that "I am going to balance the budget in 5 years," never followed through with it, never sat down in a room to try to figure out the numbers, to make it a reality. He said it just because he thought it would sound good.

What happened when he got to be President? A couple of things happened. In November 1994, not one single Republican incumbent lost. There was a sweeping change in this country. I was the first Republican elected in my district in 120 years. My Republican freshman class consists of 73 very, very good, dedicated people that ran on the same issues. We have taken our campaign literature and made overlays. The theme of it was "Bring back responsibility and control of Washington, DC's financial matters." That election sent a signal to Bill Clinton, and the polls were at 80, 82 percent that we want to balance the budget.

In response to that event, 2½ years after he has been President, he finally submits a balanced budget plan that is 10 years. The problem with a 10-year balanced budget plan is a couple things. One, it does not balance after 10 years. You have $209 billion in deficits. But let me just show you how bad this plan was. He submitted it to the House, and the Democratic leadership was so embarrassed by it they would not even offer it for a vote in the House as a substitute. BOB DOLE submitted it to the Senate for a vote, and you know how many votes it got? Zero. He has never, ever genuinely thought of a way to balance the budget in 5 years or 10 years. Now he is saying maybe 9, 8, 7.

The only way we are going to get Bill Clinton to balance the budget is to make him. The only way to balance the budget is to affect entitlement spending. You do not have to cut, slow the growth down, pass the savings on to future generations, reform Medicare so it will be preserved for senior citizens, options that work, that work in the private sector. We are doing all those things, but it takes two to tango up here. We have a guy at 1600 Pennsylvania Avenue that will say whatever he needs to say at the moment to get reelected, and that is not why we got elected. That behavior is going to stop.

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Mr. HAYWORTH. Mr. Speaker, I thank my great friend from South Carolina, and I am also pleased to see our very good friend, the gentleman from Pennsylvania [Mr. FOX], who joined us as one of the newcomers, one of the 73 conservative newcomers to this House.

Mr. FOX, welcome. I know that certain actions in Washington have been both disheartening and enlightening simultaneously for the gentleman.

Mr. FOX of Pennsylvania. Mr. Speaker, I thank the gentleman for yielding to me and would say that would be certainly an understatement.

I want to say that we in the freshman class appreciate the gentleman's leadership. In fact, he has been a very active Member of the 104th Congress in trying to achieve the agenda the American public really wants. The balanced budget amendment has been discussed by the gentleman many times on this House floor, and as well by the gentleman from South Carolina [Mr. GRAHAM].

The fact is that by balancing the budget, we will help every family, those who have kids, those with seniors, because they will have more of their dollars back in their pocket and lessen the bureaucracy. What has not been discussed, at least tonight on the floor, and I am glad we have the opportunity to do so, is that we have a culture here in Washington of creating a bureaucracy that has regulations that overregulate, overspend, and do not contribute one item to the preservation of good programs for the country but add to the cost of those programs, not in direct services.

I think it is also important to point out that not only is a balanced budget something all America wants, but most of the Contract With America had about 100 percent of the Republicans supporting it, but over 55 to 60 percent of the Democrats supporting it. It was failed to be recognized in earlier speeches by Members on the other side of the aisle, but regulatory reform will decrease the cost for businesses that duplicate existing State law.

Unfunded mandates, if we believe that we should have something from the Federal Government, that is something we should actually fund here from the Federal Government. The congressional accountability law, which was passed, was signed by the President, and the line-item veto. All these things were supported strongly by Americans, even though Republicans were the ones that sponsored it and the Republicans were the ones that espoused it.

Frankly, with the balanced budget, and I applaud your leadership on this, Congressman HAYWORTH, I am hopeful the next time the President gets a bill from the House and Senate that he will do the right thing for the American people, help lower the cost, and make sure that the Federal Government is not dictating to people but providing services that cannot be provided by the private sector or State and local government.

Mr. HAYWORTH. Mr. Speaker, I thank my good friend from Pennsylvania, and as we collectively and, indeed, as a new conservative majority within this Chamber, move to bridge this credibility canyon, we can only do so by stretching out the hand of straight talk and truth.

Mr. GRAHAM. Mr. Speaker, if the gentleman would yield on that point.

Mr. HAYWORTH. Mr. Speaker, I would gladly do so for my friend.

Mr. GRAHAM. Let us talk about the truth. The truth is that two-thirds of the Federal budget entails entitlement spending and interest element of the national debt.

People probably do not realize this at home, but this year the interest payment on our national debt was almost $300 billion. We spent more money paying the interest than we did on the entire Department of Defense. If a child is born in America today, 1995, if nothing changes up here, during their lifetime they will pay $187,000 in Federal income taxes just to pay the interest element of the national debt.

This is serious stuff. Bill Clinton has never submitted a serious budget to balance, to get our future generations out of that problem. Let us look at the budget that he did submit that still does not balance. In his budget, after 1996, Medicare premiums go up, and over a 7-year period they go up 89 percent.

That is something he does not want to tell Americans about. We are being honest. What we are trying to do is slow the growth of Medicare. We are going to increase spending every year on Medicare two-and-a-half times the inflation rate. Every year we will increase spending, but we will slow it down from 11 percent to about 6 or 6.5 percent. We are being honest with America, he is not being honest with America.

Mr. HAYWORTH. If the gentleman would yield.

Mr. GRAHAM. Yes, sir.

Mr. HAYWORTH. I think he makes a very valid and accurate observation. Indeed, if we were to move away from the metaphor of the ship of state and talk about the House of state, if you will, and make this President the custodian-in-chief, what, in essence, is going on is the equivalent of taking the dirt, trying to sweep it under the rug; taking all the debris and simply stuffing it underneath the couch, or within the cushions of the couch, and making things presentable for company coming in 1996. That company being the American citizens who go to the voting

booth. Trying to put the best appearance on things instead of really getting down to cleaning up the place.

Now, I have to say, speaking from personal experience, and as my dear wife would bear out, I am not one of the greatest housekeepers on Earth, but before my wife and family come back here on the rare occasions to visit in Washington, I know I better clean that house and get it ready. I better clean that apartment and get it ready. I cannot shovel the dirt off, I cannot just stuff the trash in amidst the cushions. What we have to do is make a fundamental change and a clean sweep of the idea of politics as usual.

More evidence of the credibility canyon. Each time I step into the well of this House, I think about those chief executives who have stood at this podium on truly historic occasions, both Republicans and Democrats. I think of Franklin Roosevelt on December 8, 1941, discussing the events of the previous day as a date which would live in infamy. I think of President Ronald Reagan coming back to address a joint session of Congress after a would-be assassin was unsuccessful in the attempt to take the President's life.

I also recall, as a private citizen, watching on television a newly-elected President who told us he was a new kind of Democrat; standing at that podium and lecturing the minority party at that time that he and his administration would only use numbers and only formulate budget projections on those figures supplied by the Congressional Budget Office, or CBO, for those numbers were the most accurate.

Yet, I would refer my colleagues to this chart, because through the efforts of this Congress, the President appeared not here at the podium but in a basically 5-minute live television insert casting about for a political solution for a genuine problem of governance, and he said we need to balance the budget in 10 years.

A funny thing happened between the time President Clinton stood at that podium and addressed a joint session of Congress and when he appeared in that brief television segment earlier in this 104th Congress. Somehow the President abandoned the numbers from the Congressional Budget Office. But, friends, these are the numbers. Mr. Speaker, these are the numbers the President said would be the most accurate.

As my good friend from South Carolina indicated, look what happens. Oh, yes, 1996, deficits below $200 billion. The equivalent of trying to sweep something under the rug. But then, look, from 1997 through 2005, with the exception of 1998, when just barely the numbers are under $200 billion, in essence we have $200 billion deficits for another decade.

Mr. GRAHAM. Mr. Speaker, would the gentleman yield for a second?

Mr. HAYWORTH. I would gladly yield to my good friend from South Carolina.

Mr. GRAHAM. We have another distinguished Member of Congress about to join us here, the gentleman from Iowa [Mr. GANSKE], who is a medical doctor. I want him to comment in a second about Medicare.

But when we look at those numbers, we see in the year 2005 we have a $209 billion deficit. That is why no one in the Senate voted for it. But here is the important point about Medicare. He is using Medicare over and over again to justify his unwillingness to get serious about balancing the budget. Even in his 10-year budget that does not balance, Medicare premiums go up.

People need to understand, no matter what happens in this Congress, whether the President's plan is adopted, whether our plan is adopted, whether we do nothing, that part B of Medicare, which pays senior citizens' doctor bills, 31 percent of it comes from senior citizen premiums, the other 69.5 percent comes from the Treasury, no matter what we do, the premium part is going to go up. The question is how much it goes up.

There is a $7 difference between our plan that balances in 7 years and the President's plan. That $7 per senior citizen will allow us to balance the budget and save $44 billion. But, more importantly, what we are doing is creating options to Medicare that will given senior citizens the same rights we have in Congress to choose medical plans that are more efficient, cheaper and more user friendly.

That is the key to Medicare reform, slowing the growth down and giving people options so that not only can we balance the budget, but we can take care of our senior citizens. Because if we do not slow the growth of Medicare down, part A, the hospital part, is going to be broke in the year 2002. If the President wants to help senior citizens, help us save the trust fund part A.

Mr. HAYWORTH. Mr. Speaker, the gentleman points up another aspect of the gulf that can only be described as the credibility canyon. How can this President claim to be a champion of Medicare when he is willing to cynically try to hold down the part B premium for the year 1996 only to have it rise again exponentially?

Mr. GRAHAM. The election year.

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

Mr. HAYWORTH. Mr. Speaker, I am glad to yield to my good friend from the great State of Iowa, one of three freshman Members of the institution on this side of the aisle who is a physician.

Mr. GANSKE. Mr. Speaker, I would like to follow up on my colleagues' statements tonight about Medicare. I think it is very, very important that we get the facts out to our senior citizens. I think the Clinton mediscare campaign has reached a new low.

President Clinton says he is willing to shut down the Government to keep seniors from having to pay higher Medicare part B premiums. Why, then, I ask my colleagues, is he planning a 10.2-percent increase in part B premiums in 1997, right after the next Presidential election?

Mr. HAYWORTH. Mr. Speaker, I would simply ask the gentleman from Iowa to repeat those numbers so that the Speaker and indeed the American people, who join us this evening, can hear this again. Would the gentleman please repeat what he just said?

Mr. GANSKE. Let me repeat these numbers.

President Clinton is planning a 10.2-percent increase in part B premiums in 1997. Is it not convenient that that is right after the next election?

Let me give Members some other facts, and these are facts. The Medicare part B premiums have increased 29 out of the last 30 years, since the beginning of Medicare. A fact: Medicare premiums have gone up every year since President Clinton was elected, a total increase since President Clinton was elected of $14.30. Fact: Under our Medicare Preservation Act, in the year 2002, the Medicare part B premium would be $87. Under the President's budget, the premiums would be $83.

Mr. GRAHAM. So it is a $4 difference.

Mr. GANSKE. Mr. Speaker, President Clinton is talking about shutting down the Government for a difference of $4 a month.

But I think this is a point that is very, very important for our senior citizens to understand, because they are thinking, well, look, today I am paying $46.10 a month for my premiums. Gee, that is quite a bit of an increase to go up that high. But what we also have to make sure that our senior citizens know is that that part B premium is deducted from their Social Security. Their Social Security is scheduled to increase over the next 7 years also.

Mr. HAYWORTH. Mr. Speaker, If I could just interrupt the gentleman a moment, because I want to make sure I understand this point and, indeed, so the Speaker and others joining us tonight can understand.

When there is this rise, which is proportional, the proportion stays constant. What the gentleman is saying is cost-of-living adjustments will help seniors absorb that cost.

Mr. GANSKE. Exactly. If I were a senior citizen, and I were only seeing the figures, gee, it is $46 now and it is going to be 80-some dollars in the year 2002, that would worry me also. But what senior citizens also have to keep in mind is that there will be annual cost-of-living increases for their Social Security during that period of time.

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So in essence, the difference between what we are proposing and what the President, projected, is proposing is a small difference. And we are talking about shutting down the Government for that.

Mr. HAYWORTH. Two points we need to bring out at this juncture, because again some people may have missed the entire reason we enjoined this Medicare reform topic to begin with. Contrary to the very interesting fictions and political theater emanating from the other side, this has nothing to do with the issue of tax cuts.

The reason we were prompted to take action, as a new conservative, responsible majority here to help govern is the conclusion of the Medicare trustees in a report issued April 3 of this year. The Medicare trustees, a bipartisan group, including three of President Clinton's own Cabinet officers, Secretaries Rubin, Reich, and Shalala, signed off on this language, "the present financing schedule for the program is sufficient to ensure the payment of benefits only over the next 7 years." So a 7-year window to make reforms.

But here is the other topic and the other key thing that we must bring out at this juncture, because, again, in the confusion that has resulted on this other side, some folks have gone out and put on television ads that can only be described as fiction.

The fact is, we have repeated it, mentioned it once tonight, but it bears repeating, the average expenditure per Medicare beneficiary will increase from $4,800 this year to $6,700 in the year 2002. That is an increase. That is not a cut.

Mr. GRAHAM. Mr. Speaker, if the gentleman will continue to yield, I think this is a fair statement of what the American public is going to have to come to grips with and really see what we want in this country. Medicare, trust fund A, is funded by wage withholding from your children and your grandchildren. If it continues to grow at the rate that it is growing at 11 percent a year, we are going to have to do one of two things. Triple payroll taxes in the next 10 years on your children or grandchildren, and I think most senior citizens find that to be unacceptable. The other option is to increase spending on Medicare every year but at a slower rate. The President's plan saves 89 billion from slowed growth, but it does not affect part B. It does not have an institutional reform.

What we do is we slow the growth down to about 6 percent, increasing spending every year, and create options for traditional Medicare that will allow senior citizens to be well taken care of and save money for future generations, because you cannot balance the budget until you reform entitlements. It is physically impossible. If you took away the entire discretionary budget, you could not get there.

Under President Clinton's plan, he increases Medicare premiums every year. It is going to happen. But under our plan, it happens in a managed way with options that may save senior citizens money with a view of balancing the budget. There is a rhyme, a reason to what we are doing. We are serious; he is not. He wants to get reelected. I want to change America.

Mr. GANSKE. Mr. Speaker, prior to coming to Congress last November, I was a physician, practicing in Des Moines, IA. I took care of lots of Medicare patients. My wife is a family physician who takes care of many senior citizens. I have parents who are on Medicare. And I can tell you that the reason we are doing this is to make sure that our senior citizens, my parents, my past patients, continue to receive good quality medical care. If we allow the system to continue the way that it is now, we are facing, according to the trustees' report, breakdown in 6 years. We cannot bury our heads in the sand.

The Health Care Financing Administration for the last 10 years has realized this and has increasingly tightened the bureaucratic tourniquet.

Well, folks, the tourniquet can help stop the hemorrhage for awhile. But the tighter that that tourniquet is applied, the day comes when you have strangulation. And what we are attempting to do with our Medicare plan is to create options for senior citizens that will provide good quality care, that will give them choices that they have not had before, where we still increase the amount of money that we are spending at two times the inflation rate, the same thing that President Clinton just a couple years ago said he was for.

So I think that, you know, there has been an awful lot of hot air blown on this issue. It is time that we get these facts out to our senior citizens.

Mr. HAYWORTH. Again, the credibility canyon only widened in the past couple of days when the President, listening to his polster and his political consultant, decided to reinvent himself in the image of the saviour of Medicare, when in essence, as we heard the cold hard facts from the physician, facts borne out, not out of fear mongering but out of compassion that this gentleman who has worked on the front lines of the medical industry, we know that the President's arguments are essentially fictional.

I yield to the gentleman from Connecticut, Mr. SHAYS, my good friend, author of the Shays act. What seemed to be revolutionary here in this country, that Congress people should live under the same laws as every other American, our good friend from Connecticut.

Mr. SHAYS. Mr. Speaker, I would just point out that this law would not have passed if it had not been for the gigantic support of all the new Members of Congress. I was listening to what you had to say and felt compelled to come here because as someone who worked on Medicare and Medicaid on the Committee on the Budget, I know that we are saving the program. I know we are helping to slow the growth of spending. I also know that we have no new copayment or an increase in the copayment, no new deductible or increase to a deductible. The premium stays at 31.5 percent. I know you all have mentioned that, but the key point is to know the Government still is paying 68.5 percent. President Clinton has decided that he wants it to drop down in the election year to 25 percent and actually have people pay less premiums next year in the election year. Then they go up just as ours go up as the cost of the program continues. But the interesting point is, his 25 percent of the higher increase in cost ultimately means that the difference between our two programs is only $4.70 each month. I make this point that I know has been made a number of times but I want to emphasize it, we are going to spend 73 percent more in the next 7 years than we did in the last 7 years. We are going to spend $674 billion of new money in Medicare. And on a per-person basis, we are going to spend, as you have pointed out, I want to emphasize it again, $4,800 to $6,700 per beneficiary. Only in this country and in this city when you spend more money do people call it a cut.

The amazing thing is, you mentioned the polls, the President is listening to the polls. I had people say, are you not concerned about the polls? If President Lincoln had listened to the polls, we would not be one nation under God, indivisible. We would be two nations.

There is a point where we just have to be willing to take on the special interests, who are willing to distort the information, and talk to the American people, tell them the truth. You tell them the truth and they will have you do the right thing. But polls are being pushed aside and a lot of Members, particularly on this side of the aisle, are willing to take on those special interests to save Medicare and also make sure that our children are not going to have to pay these horrendous debts.

I thank the gentleman for yielding. I notice we have a new Member here.

Mr. HAYWORTH. I was going to say, such an honor to have with us the distinguished chairman of the Committee on Science, the gentleman from Pennsylvania [Mr. WALKER], who spent a good bit of time using special orders to help, I believe, shape the new majority.

Mr. WALKER. Mr. Speaker, I must say that I am unaccustomed to speaking from this podium. You immediately want to begin uttering liberal platitudes when you stand here. But the fact is, I have been watching the

distinguished gentlemen talking about Medicare for the last little while. I want to congratulate you for what you are doing to make the American public better informed about these issues.

It is kind of tragic, sad, and almost pathetic that the Democratic Party, that can take some justifiable pride in having created Medicare some years ago, have now resorted to mediscare as the way of proceeding, as though making older people fearful is a substitute for having no policy. And it is really, I think, a true tragedy because that is really what you have happening here.

You have a party that has nothing to say on the subject and, in fact, is doing things that are very harmful to older people. The vote on the floor today, where the question was whether or not we would divest the pension funds of older people in this country in order to keep spending debt money in the United States, the Democratic Party voted overwhelmingly to go ahead and spend the money. That is not their money to spend. This is money that has been contributed by people to provide for their own retirement. And the Democrats said, go ahead and divest it, throw it away. That also comes on the heels of a plan that has been promoted primarily by Secretary Rubin which is aimed at taking the pension funds that have been contributed to companies across the country and invest those in very scary public housing projects.

Now, these are things that are happening out there that are really an assault upon senior citizens and meantime you have a party that then comes forward and conducts a mediscare campaign aimed at trying to make older people fearful about what might happen in Washington to their Medicare cuts.

We are trying to make that system solvent. We are trying to get rid of the gimmicks. Trying to get rid of excuses and make certain that we have a solvent system for people to depend upon for the future, and all we get is scare tactics. It is pathetic.

Mr. HAYWORTH. Mr. Speaker, once again, mention was made of this vote. And somehow it may be missed by some folks in the media, but we need to again point this out. When the gentleman from Pennsylvania says that the new minority overwhelmingly voted to raid the trust fund, here are the numbers: 177 Members of the minority party voted to basically say to the executive branch, to the Secretary of the Treasury and others in the executive branch, sure, go ahead, take the trust funds. Spend them to keep the Government in business. Only 18 Members, only 18 Members of the new minority were confident to help us.

Mr. WALKER. Mr. Speaker, I want to tell you how scary that vote really was. I was in a meeting today and heard the Secretary of the Treasury say that as of tomorrow he intends to begin divesting the trust fund, primarily the retirement trust fund of Federal workers. And so this was not simply some meaningless vote. This was in fact a real signal to the Secretary of the Treasury to go ahead and begin to take the money contributed by Federal employees for their retirement and spend it for all things that the Federal Government is doing.

Mr. HAYWORTH. I thank the gentleman for that observation.

I welcome to this special order the distinguished Speaker of the House, the gentleman from Georgia [Mr. GINGRICH].

Mr. GINGRICH. I want to thank my friend from Arizona for having this discussion of where we are at. I was watching on C-SPAN, and I thought I would come over and report firsthand, having been in a meeting with the President last night and having tried to understand exactly what the administration's real objections are. I think that if you take the Congressional Budget Office scoring of the President's budget over the next 7 years, you can begin to understand what the real difference is.

Over the next 7 years, President Clinton would spend $625 billion more in noninterest outlays. His budget, his Government would spent $625 billion more than our balanced budget act that we will be voting on this week. Because he would be spending a lot more, his interest outlays over the next 7 years would be $252 billion higher. That is, we would be in a situation where we as taxpayers would be paying $252 billion more in taxes in order to help finance $625 billion more in spending under the Clinton administration program.

Our taxes would be at least 133 billion higher. And as you pointed out, and this is, frankly, this is the chart that got me to come over here. I do not think I have done a special order this year. I was watching you with this chart and the title has caught exactly what America is living through. We have a President who always has an explanation for what he wished he had done. He told Larry King he would balance the budget in 5 years when he was a candidate. He told all of us he wanted to reform welfare. Change welfare as we know it. That was his campaign slogan. He said we could balance the budget in 5 years, then 10, then 9, then 8, then 7. Then he said, well, really not 7, certainly not 7 the way we understood it, not 7 if you have to actually keep score. But he would do it in 7, if he did not have to keep score. Here are the numbers.

As you point out, the Congressional Budget Office took his numbers, and this is the Congressional Budget Office, you remember, are the people the President stood right up there and told us in his first State of the Union we should use. I think you have already gone through this once.

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But I just wanted to drive home for people who are listening when the President says he has set up a balanced budget, it is factually not true. The facts are under the President's budget the deficits would be as follows:

In 1996 $158 billion, $180 billion in 1997, 146—this is the CBO scoring—$146 billion in 1998, slightly different numbers than you have because of the way this is done in this particular version.

But the net effect is in the last year, after all the President's work, after all the President's work, after all of his promises, and as you see right down here, 2002, which is the seventh year when we get a balance, in this seventh year the President runs a $209 billion deficit. It is almost $1,000 for every American, deficit, $1,000 more debt for our children, for every child in the country.

Now I say that because what the real fight is about this week is that President Clinton wants to continue to spend more money, to borrow more from our children, to have more bureaucrats in Washington, to have more power over our lives, and I just conclude with this, and I appreciate so much your letting me come over and yielding to me:

The continuing resolution that we sent down yesterday which would have kept the Government open; we would have none of these problems today if the President signed it. That continuing resolution was our downpayment on a balanced budget. It said we know we cannot get there all at once, but at least we can start doing the right thing by our children. It was for 18 days.

To show you the difference between the House and Senate Republicans and the Clinton administration, in 18 days we saved $3 billion compared to what President Clinton wanted to spend, and after all this malarkey about Medicare I said to him last night, "If we take it out, would you sign it?"

He said, "No, you don't let us spend enough."

Mr. HAYWORTH. Would the Speaker repeat that again what the President told you?

Mr. GINGRICH. Clinton administration said; Chairman Panetta said, and directly the President concurred; no, they would not sign the continuing resolution if they took out Medicare. That was only the public-relations political argument. The fact was we do not let them spend enough money in the next 18 days. We actually say to them for 18 days you are missing $3 billion you wanted to spend. We save for our children $3 billion, and they just could not stand the idea that our children might have that $3 billion when they wanted their bureaucrats to have it.

Mr. GRAHAM. Mr. Speaker, if the gentleman would yield, I just want to add here one point, too:

Not only does he want to spend more, but now he wants to go to a source.

Listen to what he wants to do to make sure that he cannot spend more because we are putting pressure on him.

What BOB WALKER said is true. For all those that are listening out there today, the President is intending to go for the Social Security trust fund, money for your retirement, money for my retirement, borrow money out of that fund to feed his spending habits, and that is what he is going to do, and we are trying to stop him. Please do not let him do that.

If we were in private business, and we borrowed money from our pension plans to run our businesses, we would go to jail. That needs to stop.

Mr. HAYWORTH. Mr. Speaker, I yield to our friend from California.

Mr. BAKER of California. Thank you very much, Mr. HAYWORTH. I have had about 16 to 1 calls in the last few days saying hang in there, let us make this right for my kids and their kids, but a couple of people have been fooled by this comment that we are going to raise premiums on Medicare and cut Medicare. Would you please address that, Mr. Speaker?

Mr. GINGRICH. If my friend would yield to me for just 1 minute, again I do not know what to say to my colleagues when the President of the United States and his senior staff deliberately, knowingly, mislead the American people.

I just watched—I did the "NewsHour" tonight, and immediately after I was interviewed by Jim Lehrer, they had the head of the Budget Office down there, Dr. Rivlin, a very knowledgeable woman who talked about severe cuts in Medicare.

Now I just want all of my colleagues to understand the numbers for a second, and I challenge any, any, liberal Democrat, to explain how this can be called a cut. This year we spend $4,800 per senior citizen on Medicare. At the end of our 7-year program to save the Medicare trust fund we spend $6,700 per senior citizen on Medicare. Now remember there are more retirees because more people retire each year, people live longer, so the actual increase in Medicare spending is 45 percent more spending on Medicare over the next 7 years, which is twice the inflation rate.

Now, if you are going to spend $4,800 this year, and it is going to go to $6,700 at the end of our 7-year plan, that is a $1,900 per senior citizen per year increase. For the life of me I do not understand how somebody can get up, an official of the U.S. Government, look into the TV camera and use the term "severe cut" when referring to a $1,900 per senior citizen increase.

Mr. BAKER of California. But then you do that by raising premiums then; is that right?

Mr. GINGRICH. No, but in fact do not raise premiums, which is the other great baloney, and again my good friend from Connecticut was showing me some numbers that are so spectacular and so different from what the President has been saying and what the President's staff has been saying that I really think he should share them with the House because these really help us understand what a total campaign of misinformation this has been.

Mr. SHAYS. Well, if the gentleman will yield, I just would point out that the premium that we pay now is $46.10, and the President has decided that he is going to lower the premium to $43.70 per month, and then, after the election, it goes up to $48, to $53, to $59, to $67, to $74, to $82, and the 7th year the President's premiums go to $82, and ours are at $87, a difference of $4.80, and if I could just say, when we get to this issue of what is a cut, the administration says we are cutting the earned income tax credit; that is going from $19 billion to $27 billion. They say we are cutting the School Lunch Program, but that is going up from $6.3 billion to $7.8 billion. They say we are cutting the student loan, and that is going from $24 billion to $36 billion, a 50-percent increase in student loans. They say we are cutting Medicare and Medicaid. It has gone from $89 billion to $124 billion. They say we are cutting Medicare, and it is going from $178 billion to $273 billion.

In every instance there is a significant increase.

Mr. BAKER of California. It was just mentioned to increase spending, and I am embarrassed to say this as a conservative Republican, but over the next 7 years, as we balance this budget, we are going to increase spending by $3 trillion and add to the national debt a trillion. Is that true?

Mr. WALKER. Mr. Speaker, if the gentleman would yield to me, I want to point out to the gentleman from Connecticut [Mr. SHAYS] we have been accused on this floor though of increasing spending in one area. I have heard it in the well on several occasions. They have been saying we are increasing spending in defense, despite the fact that we are actually going to spend less on defense next year than we spent this year, so that when you spend less next year than you spend this year, well, I thought it was a cut, but they are saying it is an increase. But yet we are spending over what we spent this year; they are saying that is a cut.

It seems to me that we probably have some really weird economics and mathematics for that matter that is taking place at this moment.

Mr. HAYWORTH. I was just going to say, if the gentleman would yield, the only possible mathematical operations at work are akin to something Orwellian.

We recall the noted British author, George Orwell, in his book "1984": Ignorance is strength, all the different observations in Orwellian Newspeak, and in the new mathematics, within this Beltway, and especially on this side of the Chamber, an increase is a cut and a cut is an increase. It adds up to this new international symbol that really deserves a place in our policy Pantheon, the international symbol for Stop Whining.

I defer first, if I could, to the physician, our good friend, the gentleman from Iowa [Mr. GANSKE].

Mr. GANSKE. Thank you. I think that for our listeners we need to, and the citizens, we just need to reinforce what people talk about and how people in Washington call cuts, what they call cuts.

If somebody would earn $20,000 as their salary this year, but next year they would earn $22,000, most people would say that is an increase. However in Washington it is very possible that that would be called a cut because it is less than a hypothetical projected increased to $23,000.

That is what we have to explain to our citizens when we are back in our districts because they hear the word "cut," they hear the word "cut," and really what we are talking about in the Medicare area is we are talking about a slowing hypothetical rate of growth to twice the rate of inflation, almost more than anything else that we are doing in our budget, because our priority is to continue to provide quality health care, and that is the reason why in this area we are spending more at a faster rate than just about any other part of our budget.

Mr. HAYWORTH. I thank the gentleman from Iowa, and I would recognize now our good friend from California.

Mr. BAKER of California. Thank you, Mr. HAYWORTH. It is very important, and I was rather shocked to see the President close down the Government. This work stoppage has occurred in 1984, 1987, 1990. Always the employees have been paid, but for the President of the United States to shut down the Government and declare that 800,000 of our loyal, hard-working Federal employees are nonessential sends a really strange message to the taxpayers who are paying for all this government.

Do you have any thoughts on that?

Mr. HAYWORTH. I do, and I defer first to our good friend from South Carolina for his observation.

Mr. GRAHAM. Let us put it in perspective. The reason he is giving and preaching is that he wants to take care of American senior citizens, and in the process of saying that he intends very soon to go into your Social Security trust fund and borrow the money out of that fund to fund his spending habits. If we did that in the private sector, you would go to jail. He is trying to tell you that I am saving you from a premium increase when his own budget after the election year has a 10-percent premium increase in over a 7-year period. There is $4 difference between

what our plan does and what his plan does.

He is trying to sell you a bill of goods. Beware of Bill Clinton, senior citizens.

Mr. HAYWORTH. I thank the gentleman from South Carolina [Mr. GRAHAM] who puts it very succinctly, and again it bears repeating what transpired on this floor today, H.R. 2621. The overwhelming majority of the liberal guardians of the old order said to the President and to his Secretary of Treasury in effect, "Go ahead, raid the Social Security trust fund even as you stand before the American public and claim to be the defender of America's seniors because, after all, we're bound to find some sympathetic ears in the media and because it will be so greatly repeated, it will inspire confusion. So go ahead and do that."

How crass, how shameful, how political. Friends, we were sent to Washington to change business as usual, no more excuses, no more gimmicks.

And to those who write and say, "Gee, why don't you just go and send in a clean CR?" let me make this observation. The difference comes in philosophy, not in procedure. Just as we are constrained to speak in legislative style here in the House, just as we observe convention with the rules of the House, so too do we make use of legislative tools at our disposal to implement the changes needed.

I defer to my friend from Pennsylvania.

Mr. WALKER. Anybody who hears the term "clean CR" ought to understand that a clean continuing resolution is a dirty deal for future generations.

Mr. SHAYS. I would just love to weigh in, if I could. I know we are running out of time, but the bottom line is my heart goes out to the Federal employees about whether there is a shutdown, but this is far bigger than Federal employees. This is an issue of whether, once and for all, we are going to get our financial house in order, and balance our budget, save our trust funds and change and transform this social and corporate welfare state into an opportunity society.

□ 2145

That is what this battle is about.

Mr. HAYWORTH. I thank the gentleman from Connecticut, and indeed, I thank all of my colleagues.

Again, Mr. Speaker, we would simply make this point. Even as our chief executive or campaigner in chief prepares to leave this Nation, as we understand he is planning to do, to go to Japan, again Mr. Speaker, we extend the President of the United States a hand to say, "Enough posturing. Let's join together and govern." That is the central issue.

Even as our friend, the gentleman from Pennsylvania, made the point, it is worth noting this. We are not playing a game.

Mr. BAKER of California. One last comment and the most important thing to remember tonight; that is, regardless of when, whether it is tonight, tomorrow night, or the next night, we are not going to pass anything that exceeds the budget line that will balance us by 2002. We are going to pass the Balanced Budget Act of 1996, and we are going to do it this week or next week, and we are not going to exceed that balanced budget line.

Mr. HAYWORTH. For it is our mission to balance the budget and change the philosophy of taxing and spending, and interesting interpretations that have to be called fictional offered by the cynical guardians of the old order.

NOW, FOR THE REST OF THE STORY

The SPEAKER pro tempore (Mr. TAYLOR of North Carolina). Under a previous order of the House, the gentleman from Wisconsin [Mr. BARRETT] is recognized for 60 minutes.

Mr. BARRETT of Wisconsin. Mr. Speaker, I am pleased to be here tonight. I am going to be joined by several of my colleagues on the Democratic side. I guess, as Paul Harvey would say, we would like to tell you the rest of the story, because for the last hour we have heard what best could be described as maybe Lost in Space, or Fantasies of the Unknown, or something like that.

However, I think perhaps what is good for the American people is that we will have an opportunity to give the perspective from those of us who are in the minority here, those of us who are interested very much in moving the Government and the society forward.

I am pleased to be joined by the gentleman from New Jersey [Mr. PALLONE] who is here tonight, the gentlewoman from Florida [Mrs. THURMAN], and the gentlewoman from Ohio [Ms. KAPTUR]. We are going to spend the next hour talking about a few things.

I want to start off by talking about efficiency and the ability of Congress to do its work, because I am a Member of the 103d Congress. I was a freshman last year, as was the gentlewoman from Florida [Mrs. THURMAN]. The message that we received when we were elected is that the American people did not want business as usual. They wanted Government to work, they wanted Congress to come and do its job. Frankly, that is exactly what we did last year, especially, especially when it came to the appropriations bills.

Today is November 14, 1995. The House of Representatives and the U.S. Senate had completed and sent to the President and had signed into law 3 of 13 appropriation bills. For those of you who do not know, we are required by law to complete the 13 appropriation bills basically by October 1 of each year.

Many times what happens is there is a continuing resolution that permits Congress, in essence, to grant itself a little bit of an exemption, or an exception, and work a little bit later, but in 1993 when the gentlewoman from Florida [Mrs. THURMAN] and I were freshmen in our first year, and in 1994, when the gentleman from New Jersey [Mr. PALLONE], the gentlewoman from Ohio [Ms. KAPTUR], the gentlewoman from Florida [Mrs. THURMAN], and I were in the majority, we finished every one of those bills prior to the October 1 date. Not only did we finish every one of those bills, we had them finished, sent to the President of the United States, and they were signed into law.

As of today, we have only three appropriation bills that have been signed into law by the President of the United States. He has vetoed one, so we have nine that have not moved through the appropriations process.

So yes, there is a problem. The problem, plain and simple, is that Congress has not done its job. The reason it has not done its job is because we have spent so much time this year on extraneous matters, on public relations gimmicks like the Contract With America, that we basically have not done the job that we were hired to do.

Under the leadership of Speaker GINGRICH and his followers, we have not done the nuts-and-bolts operations of government. That is why we are standing before you today with a problem.

I yield to the gentlewoman from Florida [Mrs. THURMAN].

Mrs. THURMAN. Mr. Speaker, I think the gentleman makes a very good point. My comments are based on this appropriations process, because I have found it very interesting that only two or three of these have actually passed.

Actually, when I go home and I talk to my constituents, I try to explain to them a little bit of what has gone on here. I personally think we need to thank the American public tonight, as in the minority, and I will tell you why. One of the things I heard was, "Well, it does not sound like Democrats are very organized, and they are not really getting their points out," and those kinds of things. Then I started to pay more attention to what was happening over in the Senate. All of a sudden, it was remarkable to me, because the issues that we had raised as Democrats on this floor about issues within these appropriations bills, and by the way, which were not about spending, they were trying to legislate on the appropriations bills, were being raised on the Senate side.

Remember the issue about clean water and the health and welfare of this country when it came to meat inspections? Remember that? Who raised

those issues? We did. We did our homework over here. We pounded, and we let the American people know potentially what was going to happen to them and what could potentially happen to them as a result of the passage of these bills. We said to our constituents: "We don't have the votes in the House to stop this. They are on this roll. By golly, we are going to get this done."

What did we say to them? I did. I said to them, I said, "Go talk to your Senators. They have a different ability for rules, they have a different ability to be able to raise the issues within the Senate side, because we are controlled totally by what amendments we can even bring to this floor by a Committee on Rules. They have an opportunity to debate these issues that we raised over here."

What has happened now, because of the issues that we have raised, the Senators have said, "Whoa, wait a minute. There are some thing in here that are dangerous, and there are things that our constituents are raising to us, and we don't have the answers to those questions." We can't come to the table and reconcile our differences between the Senate and the House because we are that far apart, because the American public said to the Senators, "This is the wrong way to go," which is what the President is saying.

So we are really doing exactly what the American people asked us to do. The problem is that we have left hundreds of thousands of people in a real predicament.

I think the gentlewoman from Ohio [Ms. KAPTUR], tonight could tell you what happened and who was not served in her district because of what happened today, and I would love to hear those facts and figures, because I think it is outlandish that we have all kinds of people with problems, because the American people's problems have not quit because Government has.

Mr. BARRETT of Wisconsin. Mr. Speaker, I yield to the gentlewoman from Ohio [Ms. KAPTUR].

Ms. KAPTUR. Mr. Speaker, I am pleased to join my colleagues here, and I guess what we can talk about is wreck-onciliation, and it is truly a wreck for our communities, and for communities across this country.

I happen to serve on the Committee on Appropriations, and I can testify that there have been many, many years when we have cleared our bills on time, all 13 of them, before October 1. There is no reason to furlough 800,000 Federal employees. I can tell you in Toledo, OH, my largest community, we had our office in the Federal building, and just today, because Social Security had to really close down, those people were furloughed, there were 70 people whose claims could not be directly processed, 500 visitors were turned away, because our office is pretty close to their office, and, on average, they receive about 245 phone calls a day. That means 245 seniors called in to the office, and the phone could not answer today, because the people were not there.

Here in Washington, tomorrow I think I am the only Washington monument that students in my district will see, because hundreds of them are here during the fall season, and they learned that all the monuments, all the museums, are all closed down. So here they have saved their money, they have done car washes during the summer, they have worked so hard to come with their classes to Washington, and today they cannot see any of them. This is their one time. It is so expensive to come here, so we are seeing the results of this unnecessary train wreck here in the month of November.

What is amazing to me, this so-called new leadership on both sides of the Congress, why do we have to wait until the end of the week? It is Tuesday. Now they told us we have to wait through Wednesday, wait through Thursday, and maybe we will have a vote on Friday. What are we waiting for?

Mr. BARRETT of Wisconsin. Mr. Speaker, I would ask the gentleman from New Jersey if he has any thoughts on what we are waiting for. I yield to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, I think it really comes down to the intransigence, if you will, of the Republican leadership and Speaker GINGRICH, basically not willing to compromise, not willing to negotiate common ground.

The thing that amazes me is how this continuing resolution, which is basically a stopgap way of keeping the Government going until we finally resolve the larger budget issues, this continuing resolution, which historically, at least as long as I have been here, whenever we had one, it was basically what we call clean, a clean continuing resolution. It just tried to provide the money to keep the Government going, without being loaded down with all kinds of extraneous material.

This time, however, the Republican leadership put this Medicare premium increase in the continuing resolution, so that I think we are talking about $11 more per month that seniors would be paying for their part B Medicare as of January 1. This was included in the continuing resolution, so the President, when he received it, had to veto it. I am proud of the fact that he vetoed it in order to guarantee that senior citizens' Medicare premiums would not go up January 1. This is the kind of nonsense we are getting.

We are being told, instead of just trying to pass a continuing resolution that keeps the Government going while we try to work out our differences on the budget, it is loaded up with Medicare increases and all these other things.

Mr. BARRETT of Wisconsin. Let me make sure I understand this. Are you saying we should not be debating the Medicare issue?

Mr. PALLONE. Mr. Speaker, I am saying that the debate over the budget, and I would like to get into that a little bit, is ongoing, and will be dealt with either by the end of this week or within the next few weeks, but while that debate is ongoing, it is necessary for the Government to keep operating the way it normally does.

Mr. BARRETT of Wisconsin. So it has nothing to do with the continuing resolution?

Mr. PALLONE. Absolutely not. There is absolutely no reason it should be included within the continuing resolution.

Mrs. THURMAN. If the gentleman will continue to yield, if I remember correctly, on this floor there was a freestanding Medicare bill passed, is that correct?

Mr. PALLONE. Absolutely.

Mrs. THURMAN. I would like to go back a little bit, for those who might have watched the debate during today. The gentleman from California [Mr. THOMAS] was on the floor reciting from the Wall Street Journal. I actually tried to get this information in on the floor at the time, but we were limited on the amount of time we had to debate what I thought was a very important issue.

Rightly so, he did talk about some of the issues and the Medicare premiums. You know, in fact, this is really the story, as I understand it, and as has been explained to me. Today our seniors pay about $46.10 under current law, because evidently there was the issue that seniors would pay 25 percent of the premiums, so it actually would have dropped in 1996 to $42.50. He kept talking about this was the responsible thing to do, you know, that we should raise this, and we had to worry about the computer changes and those kinds of things.

Actually, on the Republican side over on the Senate, there was an announcement made yesterday in the late afternoon by one of the Senators that they thought we just should hold constant the $46.10, which was immediately rejected by the House leadership here.

Mr. PALLONE. Right.

Mrs. THURMAN. This is what was interesting, and I found that it was never mentioned when the gentleman from California [Mr. THOMAS] mentioned the Wall Street Journal article. This was what the rest of the story, as some people might say, contained.

"A Strong Motivation" is the subtitle.

The GOP has a strong motivation for pushing the issue now. Most elderly people might not notice the proposal increase if it is enacted soon. That's because Medicare premiums are deducted from beneficiaries' monthly Social Security checks, and Social Security recipients are scheduled to get a 2.6

percent cost-of-living increase as of January 1. That means that the average Social Security check will rise to $720, from $702, according to the government. If Medicare premiums grow to $53.50 on January 1, recipients' checks will still be higher after the monthly Medicare deduction, $666.50 on average compared with $655.90 today.

So there is really a smoke and mirror behind this. They have to get the change now, so that it does not show up in May or April of next year, but shows up at the same time that the Medicare increase would come, at the same time they were getting their COLA increases.

□ 2200

Mr. BARRETT of Wisconsin. If I could touch on that and go back to what the gentleman from New Jersey [Mr. PALLONE] was saying, I am going to try to tie it into an issue that sounds like it has nothing to do with a continuing resolution or Medicare payments, but conceptually it does. That is the line-item veto.

I am convinced that the American people want the line-item veto. They want the President to have the ability to get rid of pork barrel spending and items that are completely extraneous to the issue at hand. That is why I support it. Republicans, who for years have been in favor of this thing, are finding hundreds of ways to talk this to death. The last thing they want to do is give President Clinton the ability to line-item their pork barrel spending or tax matters.

As the gentleman from New Jersey said, the continuing resolution is to keep the Government running for the next few weeks until the majority can do the work on this they were elected to do. Obviously, they are not consulting with us. But their job and our job in the Congress is to get appropriations bills passed and the reconciliation bill passed and sent to the President. They have not been able to do that.

But, they know if they can sneak or push or pummel or bully this Medicare premium increase into the continuing resolution bill and have the President sign it into law, they are done. They are done with their crown jewel in terms of this portion of the budget, because they are determined to have that increase built into it.

Just for a short time, I want to talk a little bit about the merits. I was sitting here when the Speaker was talking and boasting about the increases in Government spending per recipient under their plan, and I may surprise some Members here, but I actually agree with some of the things that they said. They are telling the truth when they say that the Government spending per recipient is going to rise from $4,800 per recipient this year to $6,700 per recipient in the year 2002. That is absolutely correct. That is something that a Democrat says the Republicans are telling the truth on.

But, again as Paul Harvey would say, "they do not tell you the rest of the story, because while they boast about that increase, which is about a 44-percent increase, in fact, the Speaker not more than 20 minutes ago said that is an increase that is twice the rate of inflation and he boasted that it was twice the rate of inflation. What the Speaker did not tell was that the Medicare premiums are going to go from $46 a month to $87 a month in the same period, and that is an 85- to 90-percent increase."

If the Speaker was saying that a 44-percent increase is twice the rate of inflation, what he didn't tell is that they are going to raise the Medicare premiums for seniors in this country four times the rate of inflation in the next 7 years. I think that that is something that I think we should debate. I think that there are public policy issues there that should be debated. I frankly think, for seniors who can afford it, they can pay more. Some of my colleagues on both sides of the aisle might disagree with that.

Ms. KAPTUR. If the gentleman would yield, following on what you so importantly have outlined, and I think that message should be repeated and repeated and repeated to show where the costs are going to fall, and then Congresswoman THURMAN's comments about how much more seniors will have to pay and when those bills will come due, I think what is important to put out in the RECORD tonight again is to show people that all of these additional costs that seniors are going to have to pay, and all of the cuts that are going to come in Medicare totaling over $270 billion, as this chart demonstrates, none of that money is going to make Medicare more whole. In fact, it is all going to go for major tax breaks, over $245 billion, to among the most privileged people in this country.

So, all of the sacrifice that we are talking about, the quadrupling of what seniors will have to pay over the remaining part of this decade and into the next century, is not going to do a thing to make health insurance more accessible to seniors. All that money and all that sacrifice is going away so at the same time the seniors are shouldering a heavier burden, the Medicare Program will not be made any better.

I yield to the Congresswoman.

Mrs. THURMAN. Mr. Speaker, there is another important factor in there and that is the issue of Medicaid, which is $181 billion cut and block granted back to our States, so the States cannot meet the needs once again for the levels of poverty and for our seniors. And it refers to things like long-term care, issues that we are all very, very concerned about.

I find it interesting that 1 or 2 years ago for all the things that they talk about right now, they would not engage with us in health care reform that looked at the whole health care process, for cost containment, to find the savings, to do the kinds of things that they elected us to do.

The only thing that they have looked at are the two Government programs that give to our seniors the dignity, when it was passed, when they only had 40 percent of the people with any health care to 100 percent, and to help children in poverty to be able to have an opportunity to have health care.

We have not even started. And they talk about balancing the budget. Actually, they obviously agree, because look where they have hit. That what we needed to look at was in the health care. That that was where our costs were going up, and that we did have to contain those costs, and we needed to find ways to do that.

But the way we do it is by bringing more people into the health care system instead of shoving people out of the health care system. I believe, and I honestly, believe that we will see cost-shifting in this country to where more people will have less coverage or more people will have a less ability to buy into private insurance, because the costs will rise so high because of what is going on here today, and then we have done nothing to settle this debate.

Mr. PALLONE. I just wanted to go back to what Congresswoman KAPTUR had said about the priorities. I came in at the tail end of the Republican speakers that were here before us, but I notice they kept talking about the budget and how important it was to balance the budget. I do not think there is anybody in the House of Representatives on either side of the aisle who does not want to balance the budget. I have no problem with the 7-year approach, for example, that Speaker GINGRICH and a lot of our colleagues on the other side keep mentioning.

But, I think the question is priorities and that is what Congresswoman KAPTUR was pointing out. We could all figure out a way to balance the budget. And I have voted for balanced budget amendments and I have voted for balanced budgets, but the priorities that the Republican leadership have are totally wacky as far as I am concerned, and basically penalize the middle-class and the poor people in this country in order to give these tax breaks to the wealthy.

As was mentioned, the Medicare cuts alone for this budget bill are $270 billion. The tax breaks are $245 billion. They almost equal each other.

If we did not cut Medicare, and essentially destroy the Medicare Program, this is what I think this Republican budget would do. I think at one point we had a Democratic alternative that cut Medicare $90 billion, which is what was recommended by the trustees. If we put most of that money back in and avoided these tax breaks for wealthy

Americans, we would not have to change the Medicare Program at all. We could still keep it a very high-quality Medicare Program that guarantees a good health care plan for America's seniors.

The same thing is true for some of the other points in there. They are basically cutting education. They are cutting back on student loans. I know that in my district I have the main campus of Rutgers University. So many students, not only from Rutgers but from throughout the State, have called me and their parents have called me and said, "Gee, how are we going to be able to get student loans if you cut back on the programs?"

They have done the same thing with some of the programs, the school lunches, the programs for children like WIC, and even provided an increase in taxes for the working poor through the earned income tax credit. One of the best things that President Clinton did, and I know my colleague from Florida has pointed to that before, is that he actually expanded this earned income tax credit to give an incentive to people who are low income, but who are working so that they get a tax credit or a tax break.

This Republican budget bill basically cuts into that; practically wipes it out. Here we are basically giving these tax breaks for wealthy Americans, destroying the Medicare Program in the process, and then taking away the tax credits from the working poor.

In the meantime, Speaker GINGRICH and the Republican leadership keep talking about how they want to get people off of welfare and get them to work. How are we going to get them to work if we eliminate the major incentive they have to work, which is this tax credit? It is incredible to me.

If my colleagues look at this bill, the Americans who make less than $30,000 a year in general are going to actually be paying more in taxes, and it is only the people who are in the high-income brackets that are actually going to get tax break.

Mr. BARRETT of Wisconsin. Incidentally, that is 51 percent of the American people. I saw an article in the Wall Street Journal that said 51 percent of the people would actually see a tax increase, primarily because of the changes in the EITC, the earned income tax credit.

I know Representative THURMAN, we talked about that earlier today. What kind of impact would that have in your district?

Mrs. THURMAN. Mr. Speaker, I heard them say that the President left his promise about this middle class, lower class, poorer class getting a tax credit or a tax break. I have got to tell my colleagues, before I made that vote I looked at the census within my district in 1993. Mr. Speaker, 4,000 people would have actually received an increase; 4,000 out of 565,000. That is not a lot.

But the results of that were $80 million was returned back into that district to families who were working through the earned income tax credit.

Mr. BARRETT of Wisconsin. These are people on welfare?

Mrs. THURMAN. No, no, no, no. And I have got to tell the gentleman from Wisconsin [Mr. BARRETT], he knows this, but it is a great question to reemphasize this whole issue. These are people that work every day, 40, 50, 60 hours, whatever. They go to work, get up, have a work ethic, but are still making below poverty levels.

This was a way, and that probably explains some of it, a way for them to work themselves out of poverty and to give them incentives to continue working, which is what Republicans say we ought to be doing. Responsibility, individual responsibility. They took the individual responsibility. They said, they legitimately said, "I am going to get up in the morning and I am going to go to work. And if it is $4.35 an hour, or $5, or $5.50, no benefits, I cannot get Medicaid, I am going to get up."

And what President Reagan said was, "We ought to give something to them." And then President Clinton expanded on it under the earned income tax credit. It is not a new idea; it was not a new one. But what it meant to my district and to the people that I represent, which is the second largest senior population in the State of Florida, and the second poorest, was that $80 million more of their tax money was coming back to them.

Mr. BARRETT of Wisconsin. Mr. Speaker, these are people who are trying to support their families, trying to stay off welfare, trying to do the right thing for society and they are going to take it in the chops.

Mrs. THURMAN. They are the working poor. Those people needed help and we gave it to them.

Ms. KAPTUR. Mr. Speaker, I would like to reemphasize that point, because I do not think most citizens have been listening to the fact that all these cuts that are occurring out of the Medicare program, the nursing home program, the additional costs for students loans, and the very point that my colleagues are raising, which is tax increases for families who are working who earn under $30,000 a year, really add up.

We are talking about over 8 million families in our country who are going to have to pay more in taxes.

Mr. Speaker, I have a chart here that I want to reference that really shows that if you are working and you earn under $10,000 a year, if you earn under $20,000, if you earn under $30,000 a year, under their proposal, you are going to have to pay more.

But, if you happen to be in the category, as every Member of Congress is who has accepted the pay raises, of over $100,000 a year, as Speaker GINGRICH is, you are going to get a handsome tax break. For those people who earn over $200,000 a year, they will average a $14,000 tax break, while people who are earning under $30,000 a year are going to have to pay about $600 more a year in taxes and in lost benefits from these health programs.

Mr. Speaker, that is really something to consider. To me it shows the unfairness of the Gingrich set of proposals on the vast majority of the American people.

□ 2215

I am glad that the gentlewoman brought up the point. In my district I will say that the earned income tax credit helps 26,000 working families.

Mr. BARRETT of Wisconsin. That is about what it helps in my district, too.

Ms. KAPTUR. They say they are cutting taxes. They are cutting taxes for their friends who can pay enough to lobby up here, but they are raising taxes on the people in our district who have not seen their wages go up, who are struggling to make ends meet and are now going to be asked to pay more to the piper. It is downright wrong.

Mrs. THURMAN. I am going to draw upon two things that Mr. PALLONE said and Ms. KAPTUR said. I happen to have the University of Florida, which I am very proud of, in my district. I think they are wonderful students and they struggle just like everybody else does. But to your point on the education issues, we were one of the universities that got the direct loan program, a super program. I have got to tell you, when you can go to a university and talk about loan programs and their eyes light up because things are going well. For the first time, they got their money on time. They got things, they go to be able to pay their tuition. They were able to buy their books. They were able to get their utility bills done because the money was actually allocated and they could go get the check. The university got their tuition money, which allows them to continue to pay this bill as well. So I went to talk about this, because that has been abolished in this plan.

Mr. PALLONE's issue was the direct loan. For the earned-income tax credit, there was a young man who is enrolled in law school. He has a young child that is about 18 months old. He asked me, this is interesting, what was going to happen. I said, You are going to see a cut in that. It meant $1,800 to him. So he works while he goes to school. This is a young man with a family who gets earned-income tax credit that gets a benefit from this, will graduate from law school. And do you think that he is going to be a productive citizen in this society? Do you believe that he is going to pay his fair share of taxes back into this society? Absolutely. That is why he is in college. He wants

to better himself. He wanted to do something for him and his family.

If he loses these two programs, he could be back doing less because he was not given the opportunity to go further because these programs were cut and they were cut to give to the very people that Ms. KAPTUR talked about who do not need it.

Mr. PALLONE. I just wanted to follow up on that. Rutgers, again, was one of the universities that was chosen to do the pilot program with the direct student loans. And just following up on what you were saying, it is so true. I have talked to the people at Rutgers University. They have been down here taking to both Democrats and Republicans representing the State. They have been able to expand the number of students that receive the student loans because of their direct loan program. There is absolutely no justification at all to eliminate that.

Basically what it does is to eliminate the banks as the middle person so that you get the loan directly from the university. And using the banks as the middle person, so to speak, drove up the cost, make it possible to give out less student loans. And there is absolution no reason to go back to that old system other than the Republican leadership on the other side has some association, I assume, with the special interests and the banks and wants to go back to the old way of doing things.

Rutgers and all the university people have been down here and said that that is the wrong way to go. It will limit the amount of loans that are available for Rutgers students.

The other thing that they did in terms of the student loan program, is they are charging the students interest for the first few months that they get out of school. So in other words, right now you do not pay interest for a period of time, 6 months, I guess, after you graduate as you are trying to find a job. And now they are going to charge you the interest during that period. And again, it is all these things are done to discourage people from being able to find a job, from working, whatever. It makes no sense.

Mr. BARRETT of Wisconsin. We have literally hundreds of people in this institution who went through college on the basis of student loans or the GI bill. It is almost as if they are pulling that ladder of opportunity up behind them. What is also interesting is none of us have talked about the issue of student loans with each other, but I represent the University of Wisconsin Milwaukee. And just 2 weeks ago, the chancellor of the University of Wisconsin Milwaukee published in our local newspaper an article extolling the virtues of the direct student loan program and the problems of taking it away.

I would also like to comment on the tax cut that primarily benefits the wealthy and make reference to one of our colleagues, Congressman STENHOLM from Texas, who is a real battler in fighting the deficit and spending. And one of the things he says, I cannot say it as well as he can, when you are standing in a hole, you do not get out of the hole by digging deeper. And earlier tonight we had a number of Republicans here, one of them very candidly said that even under their plan the deficit or the debt, the national debt would grow by a trillion dollars over the next 3 or 4 years. I cannot recall the years he used. But I find it amazing that they are trying to sell a tax cut to the American people that primarily benefits the wealthiest people in this country at a time when we are still running deficits.

In reality, you have to forget that you are in Congress, you have to forget that you are dealing in politics and try to think about it in the most basic terms. We are still running a deficit this year of $164 billion. This would be the third year in a row where it has gone down, the first time that has happened since Harry Truman was President. I am very proud of that. But frankly, it is still a deficit.

They are going to give a tax cut and we are running a deficit. In the second year of their plan, I think their deficit is actually going to increase. In order to give a tax cut, in the most basic terms, if you are at home, what you are going to do is you are going to go out and borrow more money from my 3-year-old son, my 1-year-old daughter. They are going to borrow more money from them in order to give a tax cut this year to people who make $200,000 a year, people who have investment income who are doing very well.

I have nothing against them, but I think there is a moral question there. Why are they borrowing more money from our children in order to give a tax cut to the people who are doing very well in this society? Again, I am not saying they are bad people. I am saying, I think we have to look at the bigger picture and the bigger picture is, yes, we have to sacrifice. I frankly think as Democrats we are making a mistake and we lose the political battle if we say we should not balance the budget. I agree with Mr. PALLONE, I think we should balance the budget. But I will tell you where I think we win the battle is by saying candidly to the American people, yes, we should balance the budget, but you are going in the wrong direction. You should not be having the cuts and the hits because many of the things are actually cuts in the growth. We should be candid about it. They are cuts in the growth of these programs. But they are in education, they are in Medicare. They are in Medicaid. They are in programs that affect children like WIC and Head Start. And those are investments for the future. Why do we take a hit there?

Ms. KAPTUR. I just want to say, we were talking about universities and the importance of student loans. I am someone who personally was able to have the work study program available to me as a college student at the University of Wisconsin in Madison. And I was able to work my way through school along with some scholarship assistance. I think that all of us who have struggled hard to get an education understand what the students of today, whose bills are even higher than ours were, are facing.

I do have to say on the Record that the University of Toledo is in my district. They are on their way to the Las Vegas Bowl. We are very proud of them for that. We have over 22,000 students at that particular institution.

Mr. BARRETT of Wisconsin. They are ranked right now right, are they not?

Ms. KAPTUR. You knew they were from our community. We are very proud of them. In December they will be traveling down there, and we know they are going to win. We also have Bowling Green State University where we have about 18,000 students and then Lords College with about 2,500 students. These student loans for many, many thousands of students are life and death. It is their future or nothing.

And to add to their burden, they are our future, really, is the wrong way to go. I would say to certain executives in our country, like the gentleman who heads up Walt Disney who made $50 million last year, that is a substantial sum of money. I am sure that he would admit, if he were given the chance to speak out on this floor, that he does not need an additional $500 in a tax credit for his family, that he would rather have some student in California be able to go on to school. And if you multiply that by the thousands and thousands of students in our country, there are just better ways to spend these dollars. It seems such a tragedy to me that we are here late in the evening while the Government is essentially stopped and we cannot seem to find accommodation with Mr. GINGRICH simply because he is being unreasonable about where to cut and where not to cut.

I do not understand what he is after. I think all of the mail we have gotten, the phone calls, the communications from our constituents, give us a sense of where we need to make changes in the budget. I do not know why he is taking such an extreme position. I do not think it yields anything for the country. I do not think it yields anything for him or his allies in this Congress. I do not understand why the rigidity, what is the rigidity all about.

I am just proud to be here with our colleagues here this evening because we are from all different parts of the country. And we very much want to continue on the path of deficit reduction. I think we have all been a part of making tough choices.

All we do on the Committee on Appropriations now is cut. It is just a matter of what you hack next. We have eliminated programs. We have had hundreds of thousands of people that have left the service of the Federal Government, both on the civilian side and the military side. We have got base closings all over this country. We as a Nation are begging foreign countries to invest in space research. It is somewhat embarrassing at times to be a beggar. On the international front, we have cut foreign aid.

When you look at where we have cut, all the agriculture programs, we are losing thousands and thousands of farmers, dairy farmers, vegetable farmers, tomato farmers, cattle growers. We have got people all over this country who are going out of business. We know cuts have been severe. We know that we have been about the task of putting the finances of the Government in the proper order. But I do not understand why Mr. GINGRICH cannot be a partner with us and help us to balance the budget responsibly rather than hurting people who need the help the most.

Mrs. THURMAN. Mr. Speaker, one of the things that I think has been left out in this debate, and I think it is not our debate but this overall debate, is something that all of us came in to try to do, and that was to create new jobs so that we could put people back to work so that we could grow this economy, because not only is there the ability to just cut, cut, cut, but there is also the ability to grow ourselves out of this, to put people back to work so they are not dependent on this Government.

My guess is, from listening to the folks at home, the cuts just in the health care alone, we are going to be losing $15,000-a-year jobs to $30,000-a-year jobs. Not the $250,000-a-year jobs, but the ones in between. Because when you cut that and take that kind of money out of your economy, there is going to be an effect. And one of those areas is going to be in jobs.

Let me tell you about an issue that I watched on this floor. I only raise this because I think there is another attack going on in these appropriation bills with some of these riders. That really has a lot to do with undoing what was done in the last 2 years under President Clinton.

There was an issue called the Office of Technology. Do you remember that 2 years ago when we debated that and that was when we were supposed to bring public and private together so that we could take our inventions here in this country and actually manufacture and market them. That was the purpose of that, was for the Office of Technology to build that, because we knew that we had to grow. We had to do manufacturing. We had to do that.

What we found in everything that we were seeing across this country was we would come up with all these ideas like the VCR and that technology that we had gained would be sent to another country. It would be manufactured and then sent back to the United States. And we said we have got to stop this.

One of the first amendments that I watched during the appropriations bill was to take the Office of Technology out. It stops the growth. It stops the promotion of jobs.

I have to tell you, I am like you, Ms. KAPTUR, I do not get it. I just do not get it.

Mr. BARRETT of Wisconsin. Maybe Mr. PALLONE can help us out.

Mr. PALLONE. I wanted to comment, I was listening to what the two Congresswomen said. One of the things I think they are getting at, which is so important, is the whole interrelationship with all these things and what it all means for our economy and the future of the country.

□ 2230

One of the things that bothers me about Speaker GINGRICH is that he always seems to get involved in class warfare, age warfare, putting one group or pitting one group against the other, and these things are all so interrelated.

Now we talked tonight about the Medicare cuts, and I know to some extent the leadership, the Republican leadership, tries to get the idea out, well, you know, maybe the seniors are getting too much, you know, that they need to pay a little more, and you know, try to get into this thing that it is seniors against young people, almost a generation gap, and what they fail to tell us and fail to explain is that these Medicare cuts and the Medicaid cuts have a terrible impact on hospitals, for example.

In my own area almost every hospital that is in any district is, a majority of their funding comes from Medicare and Medicaid. If these draconian cuts are put in place in order to finance the tax cuts for the wealthy, a lot of those hospitals will close, a lot of them will cut back on services. That affects everyone, not just the senior citizens. It affects everyone in the community.

The same thing is true with the student loans. I do not understand how you can talk about cutting back on student loans. I remember I think there was a rally a couple of months ago in New York City, and Mayor Giuliani, I think it was him or it was some other Republican, made some statement about how, you know, why do not these students, why do they not just go to work, why are they looking for a student loan handout? They can work like I did for, you know, 15 to 20 years, and then they can go back to school and pay for their college education. Well, that is such a waste of energy.

In other words, we are competing with other countries. We have got to have a productive work force. We have got to have people who are educated in their younger years so they can go out, and work, and compete with others abroad. We cannot defer their education for 10, 15, 20 years because they are competing with people elsewhere in the world.

The same thing is true with the earned income tax credit. We cut back on the earned income tax credit, what is going to happen? More people will be on welfare, and who is going to pay when they are on welfare, and how much does that cost to society?

So many of these Republican initiatives that are in this budget just make no sense in terms of the future of this country, the future of the work force, and even dollars. Dollars are not going to be saved in the long run. It is going to cost us more, and you brought that out, I think, in various ways tonight.

Mr. BARRETT of Wisconsin. I think your comments on age warfare deserve a little bit of discussion because I find that the arguments that the Speaker and his followers make in terms of raising the monthly premiums on older people sometimes resonate quite well, frankly, with younger people in their twenties because they are frustrated, they do not see that they are going to have the jobs that are going to allow them to support their families, they do not feel as though they can buy a home immediately, so they feel trapped, many young Americans, and think, well, this might be it, and especially when they are told there is going to be this tax cut. But what I find interesting, because I thought about this, and I talk to younger people, and they say, some younger people unfortunately say, "Yeah, fine let the seniors pay more because I'm going to get a tax cut."

And I say, "Wait a minute, wait a minute. How old are you; 23 years old? Have you made a lot of money on capital gains in the last year?"

And they generally say, "No, what are you talking about? I don't know what capital gains are."

They do not know what they are. I will tell them stocks, or you made money selling expensive art or something like that, and they said, "No, of course not," and they may have children.

So they say, "What about the $500 credit?"

And I say, "How much is your income a year?"

They will say, "$20,000," and I will say, "Well, it is a nonrefundable credit, so, if you don't have enough tax liability right now, you're not going to benefit from this $500 credit." In fact, studies have shown that 46 percent of the kids in this country do not benefit from this $500-per-child credit.

Now, if you make $200,000 a year, and you have got two children, you get a thousand-dollar credit; so, on the one

hand you have got the couple that makes $200,000 a year that gets a thousand-dollar credit, and at the exact same time, in the exact same bill, you have got an 80-year-old widow on a fixed income of $8,000 a year, and her Medicare premiums are going to go from roughly $550 a year to close to $1,100 a year. So you have got a $1,000 tax credit to someone making $200,000 a year here and a doubling of her Medicare premiums, or almost a doubling of her Medicare premiums, to someone on a fixed income here.

Again I stress we should balance the budget, but we are going in the wrong direction. The priorities are wrong. Let us do it right.

Mrs. THURMAN. Mr. Speaker, if the gentleman will yield, I remind us of what that grouping is of when you talk about the seniors. These are the numbers that have come out, and help me if I remember this. Eighty-five percent of the seniors make less than $25,000 a year; 63 percent actually make less than $15,000 a year. That is who you are asking about doubling on that end with their premiums which do not go into the trust fund to help Medicare anyway as compared to the one over here at $200,000, and I have to tell you that blew my mind when I got those numbers. I did not realize that 83 percent of our seniors were in that level.

Mr. BARRETT of Wisconsin. It is surprising.

Representative Kaptur.

Ms. KAPTUR. I thank you very much, and I wanted to follow on points that you have all made.

The gentlewoman from Florida [Mrs. THURMAN] talked about how do we get our economy to grow, which is what I really enjoy talking about the most——

Mrs. THURMAN. I know you do.

Ms. KAPTUR. Not sort of treading water, and I wish we could spend more time as a Congress debating that whole subject, and then the gentleman from New Jersey [Mr. PALLONE] talked about the interrelationship and how, what kinds of programs do we need to decrease, which ones should be increased, and the gentleman from Wisconsin [Mr. BARRETT] also talked about that, where would we make investments for the future, where does it make the most sense, and I think it is important to point out that, if you look at the whole economy of our country, 80 percent of it is the private sector, so the growth has to come on the private side. Twenty percent of our gross domestic product is the Government. So, as hard as we might try to cut and move toward a balanced budget, the truth is, if we make the wrong choices and we stifle growth on the private side, we have all done a disservice to the Nation, and I think that some of the cuts that are being talked about are, in fact, ones that will inhibit growth on the private-sector side because, if you do not have an educated work force, if you are throwing more people into poverty who are nonproductive people, if you are robbing students of a bright future in the next century, and, I think, if you defile your environment, you are going to, you know, pay a very heavy price for it down the road, and I think one of the problems with the proposals, the way they have come out of that committee, is that they do not help the middle class to grow. I think that in fact they make people who are trying to earn a living and keep a household together, make it much more difficult for them to stay in the middle class, and we have seen enough people drop out of or keep hanging on with their fingernails at this point, and you cannot solve the whole problem just on the Government side, on the deficit side. You do have to look at choices that you make that will create growth.

So I think you pointed out important aspects that we need to think about as we make these choices, that they are the proper ones and they do not create more harm on the private-sector side, and we have heard a lot of talk about capital gains and who will benefit from that, and I think one of the issues there really is perhaps indexing of capital gains as opposed to just giving money away, and there is no, no requirement in the bill that is in that committee today that, when those dollars are given, they have to be invested in the United States of America. So we could be giving another freebie away and have more of our jobs taken to Mexico, or Taiwan, or wherever, and who is really benefiting? Not the society, not the middle class, not the growth of wealth in this country, but rather the frittering away of scarce resources to people who already have pretty big boats to float in.

So I just want to commend you for your comments.

Mr. PALLONE. If you would just yield for a second, I just wanted to follow up on what you said about capital gains. I actually support the concept of capital gains, if it is geared in the right direction, but you have hit on the two points. In other words, you know, capital gains, it is going to help the middle-class person, the home owner, OK. Capital gains that is going to help the corporation that reinvests in the United States, but that is not what we have in this bill, those types of investments, those sort of directed investments that are going to improve the economy or help the middle-class person. That is not what is in this bill.

One of the worst aspects, Congresswoman KAPTUR, that—and I understand that the conference between the House and the Senate has not corrected this, is the proposal to take pension moneys in the House-passed version, and I understand the Senate is going to go along with this. They have actually allowed the corporations to dip into workers' pension funds and to use that money for investments. You know, they could use it for a hostile takeover of another corporation.

Again you know I do not even like the idea of being able to take the pension funds at all, but, if you are going to allow that, at least do it in a way that you know is going to benefit the local economy or the American economy, and they do not even to that. So there are all kinds of things that benefit the large corporations, benefit the wealthy, that do not benefit the average person or even encourage investment in the United States.

Ms. KAPTUR. I am glad the gentleman brought up those points because the $40 billion that they want to take out of workers' pensions is double the amount that was taken out during the 1980's, before the law was changed, and, if we think back to the 1980's, all the workers that have been put out on the streets of this country; 3-M announced today they are laying off 5,000 people, 3,000 of them here in the United States. Those jobs are gone. Add those to Fruit of the Loom 2 weeks ago. I mentioned yesterday that even Hershey's kisses in Pennsylvania has decided to make its giant kisses in Guadalajara, Mexico, so it is a giant kiss of death to all the Hershey workers in Pennsylvania who will no longer be employed, and all the dairy farmers who supply the milk into that plant and so forth.

But it is a massive hit on workers' pension funds, and I would be proud to serve here during a day when we talk not just about changing capital gains, but helping worker gains and helping our workers benefit from their hard labor across this country so they can have a more secure economic future, but that $40 billion is a gigantic amount, double what we experienced back in the 1980's, and we all remember what happened then.

Mr. BARRETT of Wisconsin. What is even more amazing about that hit on the pension fund is that it was presented to us as corporate and ends part of the corporate welfare, that they were going to take care of corporate welfare by changing the pension law and making it easier for companies to raid their pension funds. That money can be used right now under current law essentially only for health care benefits and maybe some employee stock ownership plans, but under their proposal it can be used for executive bonuses, it can be used for hostile takeovers, and just to paint two scenarios here because it is going to make it very attractive for companies to go out and try to find other companies to raid in order to bleed down that pension fund, and let us assume that you are not someone who is hostile and wants to take over other companies, but that you own a medium-sized company, you have been good to your employees, you

have got your pension fund built up above what the law requires because you want to maybe increase the health care benefits for your retired people as they get older.

What does this do? It says to you, as the owner of that company, "You better take the money out of that fund because, if you don't, you're going to become a sitting duck for a hostile takeover," and they are going to come in, and they are going to take the money out of that fund. So you have got two full problems. First you have got the problem that you have got the hostile people who will come in and want to bleed the funds, and then you got the good companies, the companies that want to take care of their workers, the companies that want to take care of their retirees, and you are creating what is almost a mandatory incentive for them to take the money out of the fund so that they are not the subject of a hostile takeover.

So I think that there is a multiplier effect there that is going to make it more and more difficult for people who have put money in their pension funds to see the fruits of their labor in their later years, and I think it is wrong, wrong, wrong for us to be going in that direction again. It is another example of the wrong direction.

Ms. KAPTUR. If the gentleman would yield, I cannot tell you how many companies we have in Ohio where workers work let us say for 30 years, and when their pension funds went belly up, they said to the workers, "Oh, gee, sorry, we don't have your pension dollars," or, "You worked 30 years? Well, we can only pay you 10 years."

I just met a gentleman the other day who worked for Eastern Airlines for over a decade on the east coast and who had to move to Florida to completely change his occupation. He is now in his fifties, enrolled in a 5-year program in environmental agriculture, a highly skilled airplane mechanic who, if he is lucky, will get maybe $300 a year when he reaches 65 from that company for his years of employment there, much less than he would have expected to have gotten in his retirement years. So we have got people all over this country who have been robbed of their pension benefits.

Mr. BARRETT of Wisconsin. OK. In closing let us figure out now we are at the end of the night, we are still in the stalemate. Congressman PALLONE, what should we do to get the ball rolling?

Mr. PALLONE. Well, I think that the only answer is that there has to be recognition on the Republican side that they are just not going to be able to take money from Medicare and also from Medicaid in these large amounts, these cuts, and use them for a tax cut for the wealthy.

□ 2245

I think it would be very easy to come to agreement between both sides of the aisle, as well as with the President, by simply cutting back on, or I should say putting back a lot of the cuts on Medicare as well as Medicaid, not increasing premiums as much as has been proposed here, and, as a consequence, also cutting back on this tax cut for the wealthy. That is the basis for an agreement on the budget I think we can all live with.

Mr. BARRETT of Wisconsin. Mr. Speaker, I would ask the gentlewoman from Florida, what is her constructive analysis?

Mrs. THURMAN. Mr. Speaker, I think tomorrow we are going to have an opportunity to do either a 24-hour or 48-hour clean resolution and then allow them to continue to do the work on the appropriations. My constructive part on this would say, "I came here to do the job, I am willing to stay here, I voted last Friday to stay here over last weekend so we could avoid this kind of train wreck we have come to." I am willing to stay here again and work on this, but all I would ask is, I don't know that I was ever a part of what some would like to look back over the last and blame all the rest of us for, but I am really ready to sit down and work in a bipartisan manner to come up with a program that we can take care of people within this country, and I am not ashamed of the fact that I am a Democrat and believe that people need to come first in this country.

Mr. BARRETT of Wisconsin. Mr. Speaker, I would ask the gentlewoman from Ohio [Ms. KAPTUR] her constructive comments on how to get the ball rolling.

Ms. KAPTUR. Mr. Speaker, first of all we need a clean continuing resolution. We ought to have one similar to the one that was passed about 1½ months ago, without all the bells and whistles on it, that brings us below last year's level of spending, but without all these riders and everything else they have been trying to stick on.

I think also we should go back to regular order. And I have to say to the former Speaker, Jim Wright, if he is listening tonight, thank you for being a great Speaker. Thank you for clearing your bills on time. We should be doing the same with the appropriation bills.

I would say to President Clinton that I hope he keeps on his balanced budget target and hangs strong on Medicare.

Mr. BARRETT of Wisconsin. Thank you all very much.

IT IS TIME WE GET OUR FINANCIAL HOUSE IN ORDER

The SPEAKER pro tempore. (Mr. TAYLOR of North Carolina). Under the Speaker's announced policy of May 12, 1995, the gentleman from Connecticut [Mr. SHAYS] is recognized for 60 minutes.

Mr. SHAYS. Mr. Speaker, I know the time is getting late. You have been very gracious for being here for a long time, and I hope I can return the favor to the gentleman.

Mr. Speaker, I have been in elective office for 21 years, 13 years in the State House in Connecticut, and now 8 years in Congress. When I was in the State House, I was always amazed that Congress could spend more money than it raised in revenues and deficit spend. I knew you did that when times were difficult and in times of war, but I could never understand how we could do that in times of peace. For the first basically 180 years of our history, our national debt was only $375 billion; in 1975, $375 billion. That funded the Spanish-American War, World War I, World War II, the Korean war, the Vietnam war, these real crises in our country.

After the Vietnam war, our deficit was $375 billion. Since 1975, our deficits have grown to 4,900 billion. That is a thirteen-fold increase in our national debt, when times were good.

I vowed that when I came to Congress, I would be on that part of the equation that would look to get our financial house in order. This is our moment. Our moment is right now, to get our financial house in order, balance our budget. That is the first effort. The second effort is to save our trust funds, particularly Medicare, which is going insolvent next year, and becomes bankrupt in 7 short years. The Medicare fund that goes bankrupt funds all of hospital costs.

Our third effort is to transform our social and corporate welfare state into an opportunity society. That is a conservative word. It is a very important word. We are trying to give opportunity to people. Instead of being a caretaking government, we are looking to be a caring government. Instead of people giving them the food, we are looking to help them grow the seeds, and be able to self-sufficient.

I look at our society and I see too many 12-year-olds having babies, I see 14-year-olds selling drugs, I see 15-year-olds killing each other, I see 18-year-olds who cannot read their diplomas, I see 24-year-olds who have never had a job, not because jobs do not exist, but because they simply do not feel those jobs are for them, or maybe do not have the qualifications or feel they do not have the qualifications. I see 30-year grandparents.

In my political career, I have seen now three generations of welfare recipients. That has to end. We have an opportunity to end it in the next 2 years.

I am joined by my colleague, the gentleman from Michigan, and I am really grateful that he is here. Before yielding to him, I would just like to enter into this whole debate of whether what we are doing is cutting spending, slowing the growth in spending, or simply not coming to grips at all with spending.

During the last 7 years, we spent about $9 trillion. In the next 7 years,

we expect to spend $12 trillion; in other words, $3 trillion more in the next 7 years, a significant sum. What we are trying not to do is spend over $13 trillion. We are looking to not have the debt go up $2 trillion more. In this 7-year budget plan that we have, it still would go up $1 trillion. That is embarrassing in one way, but it certainly should give an indication that we are not being radical. We are spending more, the national debt goes up $1 trillion, but it will not go up $2 trillion if we have our way.

In the seventh year, we have slowed the growth of spending to the point where it intersects with revenue, and in the seventh year, we will have had a balanced budget.

What we are asking the President of the United States to do is join in that effort to balance the budget in 7 years. Obviously, we would like him to agree to our balanced budget of 7 years, but we are not requiring that to happen. He has his priorities, I am sure, and we have ours. We would have to sort that out. But the one thing we should be able to agree on on a common basis is getting our budget balanced in 7 years.

To that end, that is what we are doing. We are working to do that. It makes it a lot easier if the President weighs in and helps us in that effort, but if he does not, we are still going to keep on in this effort. Someone said to me, and then I will yield to my colleague, just about polls they said, "The President seems to be catching the imagination of the American people, that they have more faith in him right now than Congress. You are not looking too good in Congress with the polls."

I thought, "I don't know entirely how valid those polls are, but the one thing I know is that if President Lincoln had taken a poll during the height of his effort to keep our Union together, and he had decided based on the polls, he would have simply ended the war and not confronted the South." We would not be one nation under God, indivisible, we would have been, if President Lincoln had listened to polls and reacted to them, two nations, a North and a South.

For me, this is as epic a struggle. I feel for our Federal employees who are kind of caught in the middle of this. Ultimately we know we are going to downsize Government and they will be affected. I feel for them not knowing if they should come to work tomorrow. But it is much bigger than our Federal employees. It is not a matter of getting our Federal employees back to work, it is a matter to getting an agreement with the White House that gets us on a glide path to a balanced budget.

With that, Mr. Speaker, I yield to the gentleman from Michigan [Mr. HOEKSTRA], and thank my colleague for participating in this special order.

Mr. HOEKSTRA. I thank my colleague, the gentleman from Connecticut, for yielding to me.

Mr. Speaker, my colleague and I have been working with many of our friends in the House in developing a new process on how we work on the Republican side of the aisle, a process of participative involvement. It is one of the reasons that we as a group have really been able to get behind a unified vision.

The first step in our process as colleagues, as we work together, is to listen. We have developed a process for listening to each other, but more importantly, we have developed a process for listening to the American people. We did it a year and a half ago, as we went through the campaign process in 1994. We spend a lot of time listening to the American people, having them tell us what was important. They said, "We want an agenda in Washington that will reform Washington, that changes the way Washington does business."

We continued to hear people, in 1994, very anxious and concerned about where we were going with the deficit, with the budget, very concerned about the debt we were piling on our children. So I think we spent a lot of time listening to each other, but more importantly, listening to the American people and trying to understand their problems.

After we won the elections in 1994, we spent a lot of time trying to learn and understand the problem. We recognized, I think as you just pointed out, that to get to a balanced budget, we did not have to cut spending. We could grow spending, we just could not grow it as fast as what maybe Congress would like to have grown it; that if all we did was grow spending but grow it a little slower than what we had anticipated, we would get to a balanced budget.

We also learned that as we looked out into the year 2010 and a little beyond that, if we did not reform entitlement spending in, what is it, the year 2013, 100 percent of the revenues that the Government would collect would be used to pay for entitlement spending and interest on the debt, and there would not be any money left for anything else.

As we looked even closer, we looked out and we learned that 7 years out, the Medicare part A trust fund would be broke, so we learned a lot of things about the budget. For the last number of months, we have been trying to help, help people understand, help our colleagues here in Washington understand what the implications were of the information that we have gathered, help the American people understand that if we continue down this irresponsible and reckless path of increased spending, increased spending beyond our limits, we are going to be facing some serious problems: children born today, in 1995, and over their lifetime, paying $182,000 in taxes, not for anything that is going to benefit them, but for things that are benefiting us today. That $182,000 is only going to cover the interest on the debt, their share of the interest on the debt, and that is for kids born today.

Mr. SHAYS. Not to pay back the debt, but just to pay the interest on the national debt.

Mr. HOEKSTRA. That is correct. They would pay an effective tax rate of around 82 percent over their lifetime if we did nothing, so we have listened to the American people, we have learned, and we have understood the problems. We are helping people understand the problems, and hopefully engaging them in the process to develop appropriate solutions, because the next thing is if we have listened, we have learned, and we have helped, the responsibility now comes, and this is what we are doing this week, we are leading.

Earlier this year we led with the Contract With America. We told people what we were going to do, then we went out and did it. All year we have been doing what we said we were going to do in 1994. We said we were going to get on a path to a balanced budget. We are leading. That is our vision, to get to a balanced budget, but more importantly, the benefits—and we talked about shared sacrifice for getting to a balanced budget.

Last week we had a policy committee hearing where we had outside experts come in and talk to us about the benefits of balancing the budget. They said, "We do not know where you are talking about shared sacrifice. Number one, Federal spending is still going up. It is going to go up from $1.5 trillion in 1995 to $1.8 trillion, a 27-percent increase in Federal spending. There is plenty of money to address the needs that this country is facing."

They said, "You should not be talking about shared sacrifice. You ought to be talking about shared benefits of balancing the budget." The vision is the shared benefits of lower interest rates, of an economy that is stronger because we are going to be more able to compete internationally, we are going to be better equipped to create new jobs, better-paying jobs. This impacts the kids that are going out and getting a student loan, they are going to pay less in interest rates. It affects the homeowners because they are going to be paying lower interest rates.

Greenspan came, and my colleague, the gentleman from Connecticut, and I are both on the Committee on the Budget. Alan Greenspan has come in and said we will face lower interest rates if we demonstrate to the financial markets that we are serious about balancing the budget. That is what it is about this week.

We have this vision where we are going. We would like to do it with our

colleagues on the other side of the aisle. We would like to do it with the President, but they have to share our vision of getting to a balanced budget and getting there within 7 years. We have our strategies for doing that. We are going to not cut spending, we are going to slow the growth of Federal spending. We are going to allow the American people to share with us in some of the benefits of decreasing the rate of spending increases. The projects we now face, I mean everything is coming together at one point in time.

□ 2300

We do need to finish the appropriations projects. Later on this week we are going to have the Balanced Budget Act of 1995, which changes entitlement spending to put it in line with the balanced budget. We are going to have to increase the debt limit. I know my colleague from Connecticut and I are not real excited about doing that, but we recognize that we cannot get to a balanced budget in 1 year or 2 years. I think that 7 years might be too long, but I think it is a reasonable time for us to change our behavior in Washington, to move to where we are today from deficit spending to a balanced budget.

Mr. Speaker, I yield to my colleague.

Mr. SHAYS. Mr. Speaker, I thank my colleague for yielding, and just to say to him that about a year and a half ago, actually a little longer, I went to my then-minority whip, NEWT GINGRICH and said to him, "The problem is not term limits, because if it is term limits, then you are the problem. The problem is," I said, "is 40 years of one-party control. Forty years of one-party control is wrong, whether it be Republican or Democrat."

Mr. Speaker, the next thing I knew was that I was being asked to participate in a group that the gentleman from Michigan [Mr. HOEKSTRA] heads. That is one of the things that I think people do not realize about the Speaker, is that if you go to him with a suggestion or concern, and the next thing he has empowered you and you are now a part of the process.

He put me on a group of people that you headed, Congressman HOEKSTRA, and it was basically an effort of how to decide how do we end 40 years of one-party control. This was the group that ultimately worked on the Contract With America, and the Capitol steps event.

Why was there a Capitol steps event? We wanted to catch the imagination of the American people and let them know that, if they were to elect us, that it would not be business as usual. It would be like in Great Britain or in Canada when there is a change of government. Mr. Speaker, we said, "Elect us and this is what we are going to do." We had a signed Contract With America and we invited all the challengers to participate.

I remember the incredible outcry that people had at first. "How can you sign a Contract With America?" And I said, "Well, have you read what is in it?" They said, "No." I said, "Why don't you look at it and then tell me what you think."

The press was critical, and I remember the press being critical before the election. I said, "What do you think the majority party's Contract With America, the 10 things, the 8 things they want to do on opening day, the 10 things they want to do in the first 100 days is?"

Is not it remarkable that this Contract With America does not criticize President Clinton, it does not criticize Democrats? It is a positive plan for America. So one of the things that I want to do, since I have not had a special order with the gentleman from Michigan, is I wanted to thank him for his leadership in helping to devise this Contract With America that gave us a real vision and a strategy for accomplishing change.

The gentleman talked about a "listen, learn, help, and lead model." The gentleman has talked in a sense about our vision strategies and our projects and our tactics, and all of it was positive.

When people said to me, "Well, you had this Contract With America, and admittedly, it helped you get elected, but you will not implement it." We implemented those eight reforms on opening day. Then in the first 100 days, we implemented 10 major reforms. I look at those 10 major reforms, and one of them was a balanced budget amendment.

People said, "You voted for a balanced budget amendment but you would not be so stupid as to vote to balance the budget." Whether they call it stupid or not, I guess they meant it from the political context; that it is heavy lifting and we are taking on a lot of special interests.

But my pride is that we have this Contract With America which is a positive plan for this country. We voted for a balanced budget amendment, but we did not stop there. We voted to balance the budget.

If the gentleman would just let me continue just a little longer, we are slowing the growth in spending as the gentleman has pointed out. In some cases we are cutting programs, particularly in discretionary programs, but in a lot of cases we are merely slowing the growth of programs.

The earned income tax credit that helps those who are the poorest, they end up not paying taxes. They are the working poor, and they actually get something in return. People are saying on the other side of the aisle that we are cutting the earned income tax credit. Today it is $19.8 billion. In the seventh year it grows to $27.5 billion. That is a significant increase.

The School Lunch Program. They said we were cutting the School Lunch Program. It is $6.3 billion today. In 5 years it will be $7.8 billion.

The Student Loan Program. They are saying we are cutting the Student Loan Program. All we are asking is that students pay interest on a period after graduation for the next 6 months, when the Federal Government has paid the interest. Now we are saying the students will pay the interest and they can defer it and amortize it over the length of the program. We are going to spend $25.5 billion today and it will grow, by 2002, to $36 billion; $36 billion from $24 billion. It is a 50-percent increase. Only in this place when we spend 50 percent more do people call it a cut.

Then I look at Medicaid and Medicare. Medicaid, we are going to spend $329 billion of additional dollars in the next 7 years that we did not spend in the last 7. We are going to go from $89 to $124 billion.

In Medicare, which is an incredible program that we have devised to give people choice, it is going to grow from $178 billion today to $273 billion in 7 years. We are going to spend $674 billion more in the next 7 years than we did in the last 7. Again, I say only in this place when we spend $674 billion more do people call it a cut.

On a per capita basis, they say more people are getting into the program. But we are going on a per capita basis from $4,800 per beneficiary, per elderly, to $6,700 per beneficiary, per elderly. That is a 47-percent increase per beneficiary. That is an increase any way we look at it.

Mr Speaker, I am so proud of what this Republican majority is doing. And I speak to my constituents in my district who are Republican, Democrat, unaffiliated, who do not vote at all. There are things that my party can be criticized for, but one thing it cannot be criticized for is that it cannot be criticized for not doing some heavy lifting and not trying to save this country from bankruptcy, because we are trying to save Medicare from bankruptcy. We are ultimately trying to save this country from bankruptcy.

Mr. Speaker, we want to stop mortgaging the farm so that our kids have such a great debt that they cannot pay it back. We want to begin to say no more debt, no more annual deficits which at the end of the year add to the national debt.

In the seventh year, our deficits disappear. They become zero. Our national debt does not keep going up and we have done it by allowing spending to go up. We simply want to slow the growth in that spending. And in the process, we allow for this social corporate welfare state to be transformed into what is truly an opportunity society.

There is going to be much more opportunity. We can go on. What is the

benefit of getting this deficit down? I mean the gentleman from Michigan has pointed out obviously interest rates go down. Mortgages go down. Car loans go down. Student loan costs go down. Even though we ask students pay a little more interest for 6 months, they are going to pay a lot less interest during the entire period of their loan. Businesses will start to invest more because money will be cheaper. When they invest more, they are going to create more jobs.

We borrow 42 percent of the money that is available for investment. We, the Federal Government, borrow 42 percent of all savings to fund the national debt. That has to end.

Mr. Speaker, I notice we are joined by my colleague from Maine. I would like to welcome him and yield back time to the gentleman from Michigan if he would like to go on, and then I would love, Mr. LONGLEY, if you would like to enter in. He looks like he is ready to enter in.

Mr. HOEKSTRA. I would like to make a couple of points, building off of what my colleague from Connecticut talked about. I think they really do talk about how we want to work as a majority, the kind of vision that we have for how we want the whole House to work. It is that we want to focus on a positive message.

Mr. Speaker, we have a positive message. We have, I think, all a positive vision for where this country needs to go and what we want to do. So we can talk about where we want it to be in the future. We can talk about it in a very, very positive way.

In a way, that reaches across to the other side of the aisle, and reaches out to the President and says, "We have a vision and a very positive vision. And we really would like you to work with us."

I think again on the Committee on the Budget, we are willing to work with Members who share this vision of financial stability and financial soundness. In the meetings that we had where we kicked off the year in the Committee on the Budget, we were joined by one of our colleagues from the other side of the aisle who said, "I share your vision for restoring this country to financial soundness," and that gentleman participated in all of our meetings because he recognized that where we wanted to go was where he wanted to go.

We recognized that it was going to be hard work. Getting to a balanced budget, I think we have found out, has not been easy. We have many differences from the Northeast to the West, to the South, to the Midwest. We all have our different priorities. But when we have come together as 234 Members and said, "We share this vision of getting to a balanced budget," and we keep our focus on that end goal, we have all been able to put aside some of our personal desires and our personal priorities and say, "It is more important for us to reach that goal together, because that is the only way that we are going to get there."

□ 2310

We are willing to put aside part of our personal interests because we share that objective of getting to a balanced budget. It is going to be hard work. I hope that the President, that he comes out and says, I will do it with you. I will balance it, because we will get a better solution because we will have 435 Members and the President taking a look and scrubbing our proposals. It will get better if we hang onto that balancing the budget within 7 years.

Mr. SHAYS. Mr. Speaker, I think the key point is that we believe that at the very latest we should balance the budget in 7 years. Someone said what is so magical about 7 years. Nothing except for the fact that over 300 Members of this House, Republicans and Democrats, have voted for a balanced budget amendment to be balanced in 7 years. So over 300 or more than three-quarters, almost three-quarters of the Members here voted for a 7-year balanced budget. Candidly, nothing magical about a 7-year budget. I think it should be 4 or 5. But at the very least, within 7. I think the gentleman's point that the President could make it a better budget, we are not saying it has to be our 7-year budget, "our" being Republican. It can be "our" being Democrat and Republican, a 7-year budget.

Mr. HOEKSTRA. We have seen that. This is not your 7-year budget. It is not mine. If you developed one, it probably would have been different than mine. But we have put aside our differences and agreed on one that we can get that kind of unanimity on. I just want to say, we are also making some key structural changes in programs that are going to reform programs and that are going to make these programs better for the long term.

I think the other thing that we have to recognize is, maybe one of my colleagues would like to share on this, the dynamics, after the year 2000, especially on entitlement programs do not get any better. If we blink in 1995, what happens in 2005 with the baby boomers, the dynamics are working against us. All the entitlement spending on Medicare, Social Security, and all of these programs is going to skyrocket as the baby boomers get there. And so if we do not solve or start addressing this problem in 1995, it is not going to go away. It is only going to get worse. That is why today, yesterday and the next 7 to 10 days are so, so critical to get this under control.

I yield to the gentleman from Maine [Mr. LONGLEY].

Mr. LONGLEY. Mr. Speaker, I appreciate the comments. I think the first thing that I would like to pick up on is what both of you have been saying which is that we have a positive agenda. We are not here to criticize anyone else. We are here to deal constructively with the Nation's problems, try to respond to what the public demanded last November. And I think it is important that we make a point that the easiest thing in the world for us to do as Members of Congress is to come in here and pretend that these problems do not exist. The easiest thing in the world is to say, sure, Mr. President, spend all the money you want. Go ahead and borrow all the money you want. But we know that it would not be right. And it has been a darn tough challenge over the last 10 months to take a look at a $1.5 trillion budget and make the kinds of adjustments, frankly, not the kinds of cuts that are being described, but adjustments in terms of a slower rate of growth in Government spending so that we can get to a point of having a balanced budget by the year 2002.

But again, I want to go back particularly because earlier this evening, there were Members on the floor that were discussing the fact that we should have had all our work done by July or August. The point that I would like to make is, yes, prior Congresses have had all their work done by July or August. They spent as much money as they wanted to spend. And when they did not have enough money, they just raised taxes to pay for it.

Mr. HOEKSTRA. Mr. Speaker, I think my colleague from Connecticut probably will want to jump in, our research shows that there have been nine Government shutdowns since 1981. And in that same period of time, there have been 57 continuing resolutions. Congress has not always gotten its work done in the first part of September.

Mr. SHAYS Mr. Speaker, I think we can be very candid. I would love it if we had had this budget done by October 1. I am not going to say because it happened in the past we should have done it, because we would like to think that we are different. I think the challenge has been that for the first time we are trying to balance the budget and get our financial house in order. We have taken on every special interest group you can imagine. By special interest group, I do not even mean that in a derogatory way. We have just taken every group and said that they need to share in this wonderful, and I say wonderful, opportunity to get this financial house in order. Because ultimately the benefits will be extraordinary. But it has not been ready by October 1.

But the one point I make is that by Friday we will have the job done. We will give the President a balanced budget. It will get us on a glidepath to a balance in 7 years. It will still allow spending to increase, and it would be easier if our colleagues on the other side of the aisle were contributing to helping.

Someone said, why have you not downsized Government, and we said we are, and we are in the process. But when a private company downsizes, the corporate people get together in a room. They decide the policy and they speak with unanimity. In this case, you have a government. We are trying to downsize the Government. And you have part of the board of directors on the other side saying, no, we should not downsize government and we should not control the growth in spending. But we are going to get the job done.

Mr. HOEKSTRA. In downsizing government, I came from a company that downsized. Actually, when we downsized in the private sector, when we got done the number of employees and our costs were actually less. Remember when we are downsizing in Washington, we are downsizing a $1.5 trillion budget. And in 7 years it will be $1.8 trillion budget. So downsizing in the private sector is a little different than downsizing in Washington.

Mr. SHAYS. It is. And it has not been easy. But the bottom line is, we are doing our best. I am really proud of the job we have been doing.

Mr. LONGLEY. Mr. Speaker, I think that the other point that needs to be made is that we have been given literally three or four different plans by the administration. And I think that it has been a challenge for us to sort through these different options in terms of trying to reach the honest objective of a balanced budget.

I think one of the things that was just astounding to me as a new Member of Congress was to come to Washington, to come to this body and to discover that there is a significant portion of the Congress and the administration that has no intention whatsoever of balancing the budget.

In fact, I think it is fair to say that this entire debate that we are now engaged in that began in earnest last night with the failure of the President to come to some agreement with the leaders of the Congress is that the bottom line is, they do not want to balance the budget. And I think I would defer to what the gentleman from Connecticut said, the issue is no later than 7 years. We will be lucky, frankly, if we have 7 years to balance the budget. And within that 7-year time frame, we are going to be willing to be as accommodating as we can in terms of different senses of priorities. But we have got to put an end to this mindlessness of just continuing debt as far as the eye can see because it is just not going to work for this country. It is going to destroy this country.

Mr. SHAYS. Mr. Speaker, half of our budget are entitlements: Social Security, Medicare, Medicaid, and a whole host of other entitlements, food stamps, welfare. You fit the title, you get the benefit. That is half of our budget. I do not get to vote on it. You do not get to vote on it. It does not come out of the appropriations committee. It is on automatic pilot.

Basically we have another 15 percent of our budget that is on automatic pilot, too. It is mandatory spending. It is interest on the national debt. I have been here 8 years now. I voted on one-third of the budget. The reason why Gramm-Rudman failed, one of the reasons that process that was intended to control the growth of spending because it only looked at what we call discretionary spending, the spending that funds the executive branch, the legislative branch, and the judicial branch, all the different departments and agencies in the executive branch, all the grants there, then foreign aid and then defense spending. That is what it basically looks at.

And we have been trying to control the growth of spending by just focusing on domestic spending, when we know and Mr. Panetta, when he was a Member of Congress, the chairman of the Committee on the Budget, he said, we are ultimately not going to control the growth of spending until we control the growth of entitlements. This is the first Congress that has taken on that task.

It is leading me to the point, my colleague may have wondered where I was headed here. He made the point that we have this incredible opportunity to balance the budget in 7 years. But even when we do it, we still have to come to grips with the baby boomers that start entering Social Security in the year 2010. And by the year 2030, you have 65- to 85-year-old baby boomers in the system, totally utilizing all the funds. And the system quickly becomes bankrupt.

So if we cannot come to grips with getting, slowing the growth of entitlements now, if we cannot do that now, we are doomed in the future. That is the bottom line. So we have to begin to slow the growth of entitlements and then ultimately we will have to revisit this issue on a bipartisan basis.

I will tell you this, I do not think it is going to be possible for one party to take that issue on like we are trying to take this issue on now.

□ 2320

When the experts came in last week and they talked about the advantages in how getting to a balanced budget is going to free us up, I mean it is going to drive to a stronger economy. But as we have talked about reforms that need to take place here in Washington, about just about how we budget, they said, you know, just think, when you actually lay out a plan, and you start going down the path of a balanced budget, think of how it will free us up to make the reforms that we need to make. If we actually—what is one of the stronger arguments against a balanced budget amendment? Well, nobody has laid out a path. Well, we have actually, we are going down the path. Maybe we can find that one more Senator, or we can find that one more person in the other body, that will vote for a balanced budget amendment so that balancing the budget does not become a nice to every year, it becomes a have to, it becomes the law of the land that we will not fall into this trap again.

Mr. SHAYS. Like every State in this country has to balance its budget, and obviously during times of emergencies, then during times of emergencies we can have a deficit budget, but only in emergencies.

Mr. HOEKSTRA. So that we have a realistic chance then of getting to that, changing the law of the land. It will enable us perhaps to do budget reform so that we can identify capital spending versus expense spending so we can do some budget reform. We maybe actually can even run the budget like the private sector does so that when accountants came in and took a look at our books, they would say, "Yeah, that makes sense."

How does Washington run today? The biggest budget in the country; how do we run it? We run it on a cash basis. No company in the country would pass any financial test by any auditing firm if they ran on a cash basis. The do accrual accounting. We have got liabilities out there for Federal employees who are earning pensions. If we are in the private sector, we would have to be setting money aside to make sure that that money is there to pay their pensions. We do not do that for Federal employees because we run on a cash basis.

I mean it is unbelievable, but, if we get to a balanced budget, maybe we can make that reform. Like the gentleman said, if we get to a balanced budget, maybe Congress can grab back this entitlement monster, not to change the programs, but to assume the responsibility each and every year, which is ours, that says, yes, we are going to spend this much money to provide these services rather than it being automatic. Entitlement spending is one of I do not know how it ever got here, but when Congress gave that authority away and said we are automatically going to spend that money without reviewing it each and every year, we gave up our responsibility in loss—well, we did not lose accountability, but we put in place a monster that has gotten out of control. If we actually get, as we move to a balanced budget, these are the kinds of reforms that we can get back in, and we can say we are actually going to run this country under the types of financial rules and regulations that insure long-term financial soundness.

I yield to the gentleman.

Mr. LONGLEY. I just would pick up on what the gentleman from Michigan is saying.

You have I think, and again I want to speak as a new Member and as somebody who is new to this body, albeit we have been here now for 10 or 11 months. It has been amazing to me to see the extent to which those who have been in Washington, particularly those who have been here much longer than any of the three of us, just take it for granted that we continue to spend and acquire the level of debt that we have been acquiring, and not only do they take it for granted, but even the entire, all of the, committee structures, the language that we use, everything is built on the assumption that Washington will take more and more of what the public is producing and having less and less go to the average citizen who is across the country, that it is almost—it is a mind set that we here in Washington have a right to take the money from the public and spend it the way that we want to and that it is almost heretical to even suggest the idea that we should be restoring power to individual citizens across the country, the most basic form of power, which is the ability to control your own income, and again the extent to—the public is confused about what we are discussing here, and again there is not anybody that regrets the partisanship more than I do and wishes that we could get constructive dialog from the other side of the aisle.

But the fact of the matter is this is all about whether or not we are going to balance the budget.

Mr. SHAYS. I was thinking, if the gentleman will yield, just in terms of determination. You know, I have had some people say, "What's so magical about a 7-year budget," and, as I pointed out, nothing is magical about it if we can do it in 4 or 5 years. If I were running for the President of the United States, I would want to tell the American people I would do it under my watch and not under somebody else's watch. So, nothing magical about 7 years. We could do it sooner.

But I was thinking, if I asked you, Mr. HOEKSTRA, and if the President of the United States said to you, "How do I get out of this mess?" I mean you all are insisting on a balanced budget amendment. I do not want to—I do not want to do what you are doing. How would you reach out to the President and say to him you need to be a part of this, and what are we asking the President to do?

Mr. HOEKSTRA. Well, we are asking the President to sit down, understand our vision for where we want America to be, where we want America to be in 7 years, understand the vision, understand what we want America to look like, understand what we perceive the benefits of moving in this direction, and understand what we believe to be a very rational way of getting there, by just slowing the growth of the Federal spending.

Mr. SHAYS. And following your very model of listening, we would be listening to him as well as to how he would do it, and then we could, I would think, hope to marry that vision that we have, but clearly I think I would be saying to the President of the United States, "Mr. President, we need to balance the budget within 7 years, and you need to understand our determination on that issue. Over 300 Members of Congress, Republicans and Democrats, felt that balancing the budget within that time was the outer limit. Now what goes in that budget can be a combination of our vision and your vision. How we do it is clearly open for debate. We think there also should be a tax cut. You think there should be a tax cut. We should determine how that should happen. But again that's a shared responsibility."

So we are really just saying to him, "Give us a balanced budget within 7 years."

Now what we could do when he did that is to say we have given you our 7-year budget, now you give us your 7-year budget. Let us see where the differences are, let us see what the similarities are, but by the President refusing to even agree to a 7-year budget, he has been able to basically stand on the sideline, almost as someone just watching this, and not weighing in. Ultimately he is the President, he has to weigh in.

Mr. HOEKSTRA. Well, I mean the process that we could use with the President is very similar to what we did in the Committee on the Budget. I mean we spent what, 3, 4 months, the first 4 months of this year, going through it saying, "OK, we've agreed as what, 18–20 Members, that we are going to balance the budget. We brought in experts from all the different departments. We brought in our own knowledge, our own staff, our own biases."

□ 2330

We said, "OK. We have to get to here, we have to get to there." You had some ideas, I had some ideas, and we all shared our ideas.

Mr. SHAYS. We had to compromise.

Mr. HOEKSTRA. We fought through the issues. I do not know if we compromised, but we listened to each other, we learned from each other. At the end, the gentleman from Ohio, JOHN KASICH, he led. He said, "I have listened to all of you, I have taken your input. You know, some of you are going to win, some are going to lose, but we have to get off the dime. Here is where we are going."

We sat down at the end of the day and said, "I do not agree with all the decisions that were made, but you know what, this package is something that we can all get behind and we are going there." If the President says "I am going to balance the budget in 7 years," he can put his plan and we will get in the room again and we will start doing the same give and take, and if we are all agreed on that vision, it would free us all up to have a wonderful dialog and a wonderful debate about how we are going to get to a very positive future.

Mr. LONGLEY. If the gentleman will continue to yield, let us put the whole issue in its simplest terms, Mr. Speaker. There are some people who believe the budget should be balanced today. There are also some people who believe the budget should never be balanced, so you have today versus never.

In between, there are some that say 3 and 4 years, there may be some that say 10 years. The President at different times has said either 5 years, 10 years, never, and sometimes he said 8 or 9, depending on what day of the week it is. The fact of the matter is that we have settled on 7 because not only is it a reasonable compromise, but we have also looked at what the gentleman from Connecticut [Mr. SHAYS] has anticipated in terms of the baby boomers and the tremendous pressure we face in the early part of the 21st century. These are some tough issues we need to deal with today to get them behind us, so that we can protect Medicare, protect Social Security for the generations to come.

But there is also something else that is very important, because 6 or 8 months ago we voted on the floor of this House for a balanced budget amendment. Three hundred Members of the Congress voted in favor of balancing the budget by the year 2002. That is what 300 Members said.

I guess the point that I would like to make is that sometimes there is a difference between what people say and what people are willing to do. The fact of the matter is that we have had 300 votes on record in this body for a 7-year balanced budget pursuant to the terms of the balanced budget amendment, and we are only doing exactly what we said we were going to do. That is what I find remarkable about all the disagreement and hullabaloo that we have been hearing on the floor of this House.

Mr. HOEKSTRA. What is that?

Mr. LONGLEY. Hullabaloo.

Mr. HOEKSTRA. It is a northeastern term.

Mr. SHAYS. It comes from Maine. I do not even know in Connecticut.

Mr. LONGLEY. I could come up with more terms, but I will save the dignity of this Chamber.

Mr. SHAYS. Mr. Speaker, if the gentleman will yield, I was thinking that the President did come in with a 10-year budget. I got excited. At least we had a 10-year budget. But he did not have any details. Then we gave it to the Congressional Budget Office, and they said the 10-year budget is never in balance. They point out in the last 6 years, basically in 1997 his deficits

would be $205 billion, then it goes to $203 billion, $250 billion, $221 billion, $215 billion, $209 billion, $207 billion, $206 billion. In the year 2005 it is at $209 billion of deficits.

Really, what I think we would be asking the President to do is come in with a 7-year plan, your plan. We have our plan. Then let us compare it. Let us see where the similarities are. Let us see how we can go forward.

Mr. Speaker, we have 15 minutes left, and I would love to weigh in on one issue, that is Medicare. It is just an example of a program that we designed which I think saves money and also improves the system. If the gentlemen do not mind, I would love to just kind of weigh in.

This is an example of a program that simply was growing at more than 10 percent to 12 percent a year, doubling every 5 to 7 years, depending on which years it was growing, and we said that we felt that we could make a savings in the program, allow it to grow at about 6.5 percent a year, save $270 billion in the process. We were able to do it by actually improving the service.

I have had people say, "How could I vote for the Medicare plan?" I say, "Describe it to me." They describe a plan described by my colleagues on the other side of the aisle, which is not our plan. Our plan has no copayment, no increase in the copayment, no increase in deduction, no new deduction. The premium stays at 31½ percent. As health care costs go up, the premium will go up at 31½ percent of additional health care costs. Who pays the other part of that Medicare Part B premium? The taxpayer. They pay 68½ percent.

We are saying that the taxpayers will continue to pay 68½ percent. Taxpayers will pay more and more of Medicare. Now, we have this plan and we basically do not change in a negative way any beneficiary except, candidly, some in my district that tend to be wealthy. Those who are the wealthiest, if you make $100,000, you would start to pay more for Medicare part B. If you make more than $125,000 and you are married, you start to pay more for Medicare part B. The wealthier, more affluent will pay more for a certain part of Medicare, but only the wealthiest.

Then I have people who say, "Congressman, I want the same kind of health care you have: Choice." What we have done with our Medicare plan is give them choice. We allow people to stay in the traditional fee-for-service system they have, or we say they can go and get any host of new programs.

The only way that they have to leave, they never have to leave, they can stay as long as they want in the present Medicare System, they keep their same doctors, and they would only leave if they proactively decide to leave. If they leave and get into private care plans, they can come back every month for the next 24 months, the next 2 years. We allow people to go in, and if they do not like it, they can come back and get what they always have had.

I think to myself, how can anyone oppose it? No increase in copayment, no increase in deduction, the premium stays at 31½ percent, and now they have MedicarePlus. They get to choose. Why would they leave the system they have? They can get eye care, dental care, they might get a rebate on their copayment or deduction, or they may have their Medigap paid for the new plan, or there may be no Medigap costs.

We devised a plan that gives them choice, allows them to keep what they have, allows the program to grow from $4,800 per beneficiary to $6,700 per beneficiary. To me this is just one of the good examples that we have found a way, nothing magical about it, just good common sense, to save money in Medicare and increase and improve the plan for everyone, and in the process save Medicare.

I would just make this final point: What happens to the $270 billion of savings? One hundred and thirty-three billion dollars of it goes into the Medicare part A trust fund that is going bankrupt. One hundred and thirty-seven billion dollars of it goes into Medicare part B, so that $270 billion is saving the program from bankruptcy. It is not going into the general fund, it is not being used for tax cuts. It is going directly into saving the Medicare plan.

Mr. LONGLEY. Mr. Speaker, if the gentleman will continue to yield, I think one of the things we forget about Medicare is that this is a program that is paid for by taxes on the wages of working people, or by seniors through their premiums.

We have an obligation, a serious fiduciary duty, to act in the best interests of the trusts and in the participants in the program. As the gentleman says, any dollars that are saved are staying in the program, but when we looked at the problems, and I want to speak to this, because I campaigned on the trustees' report, not this past year but over a year ago, in April 1994 when the trustees came out and said that all three of the major trust funds were going to run out of money, including the disability fund, the Medicare fund, and even the general trust fund.

I decried the fact that Congress and past Congresses had just blown this off, as if it was no big deal and nothing to worry about. I thought that was outrageous, and I think many of the voters that I spoke to felt exactly the same way.

When this later report came out in April 1995 and said exactly the same thing, I went back to my district and said, "This is exactly what I have been talking about for the last year." There is something else. Forget the fact that the trustees have warned us that the fund goes into deficit next year, and goes bankrupt by the year 2002. Let us forget the fact for a minute that despite all of the false accusations, we are actually going to provide a rate of increased funding that is twice the rate of inflation, maybe three times the rate of inflation, depending on the rate of inflation, but roughly, we are looking at about a 6 percent to 7-percent annual increase in spending, a per beneficiary increase from $4,800 to $6,700 per beneficiary per year, an astounding amount of money. Forget all of that for a minute. Let us assume none of these problems exist.

When I look at the choices that the gentleman from Connecticut and the gentleman from Michigan and others have developed, I see options that are potentially very positive, particularly for a State like mine, the State of Maine. We have a problem with rural health care.

We have a big government program in the form of Medicare that is highly consolidated, which drives participants and drives costs to the urban centers. We are going to be creating options in this plan for local physicians to establish their own provider service networks, which will give local seniors the ability to choose a health plan that is actually oriented to their own communities.

I see this as potentially helping reverse the trend toward elimination of rural health care, and consolidation in the urban areas. I think it is an exciting option, which, frankly, we ought to be considering whether or not there were problems with the Medicare System.

Mr. HOEKSTRA. If the gentleman will yield, I think if we go back and say, "Why can we do this?" When we are taking a look at Medicare, we are taking a look at a program that started in the 1960's; that basically for 30 years has remained unchanged.

I entered the work force in 1977. From 1977 to 1992, before I came into Congress, in the private sector we saw an explosion of, sure, health care costs, but also an explosion of health care options.

□ 2340

Changes, innovations in terms of the choices I had to make, the services that the company that I worked for provided. The options that they provided me and my family for health care coverage, all kinds of innovations going on in the health care field, none of which made their way into Medicare.

So now, finally, in 1995, we are bringing and we are catching up to 1960's program, fee-for-service, traditional fee-for-service. The most expensive, inefficient way to provide health care to individuals. We are updating that.

For those that like that program, I had that at my own employer. I said, "If you want to keep a traditional program, you can do that, but here are

some other options which may be more exciting and more advantageous to you. Take a look at them."

Mr. Speaker, and that is the same thing we are doing. If you like the traditional fee-for-service Medicare Program, can you keep it. Your premiums stay the same. Your copays do not change. It is the same program.

Mr. LONGLEY. Again, I want to reemphasize exactly what the gentleman from Michigan is saying. What we are really saying to the seniors of this country is that we are going to guarantee them the right to keep Medicare as they know it, if that is what they want. We are also going to be providing choices in either managed care type programs, or what I also view as an exciting opportunity, the possibility that they could obtain an association-sponsored plan or a union-sponsored plan or a company-sponsored plan that could continue after they turn 65 and would normally be in the Medicare Program.

By the way, if they do not like any of those programs, we are going to guarantee them the right on a monthly basis to go back into Medicare. It is astounding to me that we would be criticized for providing this kind of choice.

Mr. SHAYS. If the gentleman would yield, I was asked by a Time magazine reporter, she wanted to follow me around because she heard that so many people did not like the Medicare plan. She came to Greenwich and I had a dialog on the radio and people seemed comfortable with it. She was disappointed and she said "I know that people do not like it." I said, "You come to Bridgeport and we will get on Tim Quinn's program and I will let him get the troops all riled up."

We got there a half an hour after he started the program. The first call, I noticed that the Time reporter was very excited. The first call was, "Mr. SHAYS, I have a problem with my heart and I have Dr. So-and-so. I have a problem with my kidney, and I have Dr. So-and-so. My regular doctor is So-and-so." And they said, "Am I going to be denied the ability to have those doctors?" The answer was a simple, "No."

Just to reiterate the point, the calls from that point on, when people understood the plan was, "Tell me more about the plan." We can talk a long time about Medicare. The bottom line is that it is an exciting program that we are doing with MedicarePlus. Participants can keep the old system or get a new system.

Mr. HOEKSTRA. We can go back to how we started this special order. We went through a process in designing this new Medicare program of listening to seniors; listening to providers; listening to doctors; taking a look; listening; learning.

We are now in a process, we are still listening and learning as we roll out this program, but we are helping people understand what we are doing and we are leading which is our responsibility. We have gone through the steps. Listen, learn, help, lead.

Mr. LONGLEY. Something else, and this is important, we are daring to shatter the stereotypes that Washington will not respond to the problems that the average Americans are experiencing. It is demonstrating to me how entrenched many of the vested interests are in this city and how absolutely desperate they are to avoid any type of change whatsoever.

I think it is exciting that we are willing to stand up to the special interests and make the kinds of changes that we need to make; not only improve these programs to strengthen them for the future, but candidly on a positive basis to provide the kinds of choices that up to now Americans will not have ever had.

Mr. SHAYS. The concept of listening, learning, helping. We helped to make this program a better program and now we are going through the process of leading, and leading takes some heat. I am more than eager, because I believe so strongly in what we are doing, to take that heat.

Mr. Speaker, I give my colleague the minute left to close up this discussion.

Mr. HOEKSTRA. Mr. Speaker, I think we told the staff that has been so gracious in staying that we are going to let them out early. We will do this in the Republican way. We will not take the full hour; we will take 59½ minutes.

Mr. LONGLEY. I say to my colleagues, I appreciate the opportunity to be on the floor with you tonight.

Mr. SHAYS. Mr. Speaker, I yield back and I hope, Mr. Speaker, I have the opportunity to be at the dais and have you have a special order. It is a quarter of 12. You have been here a very long time and we thank you from the bottom of our heart.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. YATES (at the request of Mr. GEPHARDT) for yesterday and today, November 13 and 14, on account of illness.

Mr. TUCKER (at the request of Mr. GEPHARDT) for the week of November 13, on account of official business.

Mr. VOLKMER (at the request of Mr. GEPHARDT) after 3:30 p.m. today, on account of illness in the family.

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. PALLONE) to revise and extend their remarks and include extraneous material:)

Ms. KAPTUR, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Ms. JACKSON-LEE, for 5 minutes, today.

Mrs. MINK of Hawaii, for 5 minutes, today.

Ms. BROWN of Florida, for 5 minutes, today.

Mrs. THURMAN, for 5 minutes, today.

Mr. GENE GREEN of Texas, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. HILLIARD, for 5 minutes, today.

(The following Members (at the request of Mr. FOLEY) to revise and extend their remarks and include extraneous material:)

Mr. FOLEY, for 5 minutes, today.

Mr. MILLER of Florida, for 5 minutes, today.

Mr. SMITH of Michigan, for 5 minutes, today.

Mr. KIM, for 5 minutes, today.

Mr. DUNCAN, for 5 minutes, today.

Mr. TIAHRT, for 5 minutes, today.

Mr. KINGSTON, for 5 minutes, today.

Mr. RIGGS, for 5 minutes each day, on November 14 and 15.

Mr. LEACH, for 5 minutes, today.

Mr. FOX of Pennsylvania, for 5 minutes, today.

(The following Member (at her own request) to revise and extend her remarks and include extraneous material:)

Ms. MCKINNEY, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. BISHOP, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. PALLONE) and to include extraneous matter:)

Mrs. MEEK of Florida.

Mr. NEAL in two instances.

Mr. BARRETT of Wisconsin.

Mr. STOKES.

Mrs. MINK of Hawaii.

Mr. JACOBS.

Mr. LIPINSKI.

Mr. MILLER of California.

(The following Members (at the request of Mr. FOLEY) and to include extraneous matter:)

Mr. OXLEY.

Mr. CALVERT.

Mr. GILMAN.

Mr. SMITH of Texas.

Mr. ALLARD.

Mr. SOLOMON.

Mr. HORN.

(The following Members (at the request of Mr. SHAYS) and to include extraneous matter:)

Mr. STARK.

Mr. PACKARD.

Mr. COSTELLO.

Mr. PETERSON of Florida.

Mr. WHITE.
Mr. OBERSTAR.
Mr. REED.
Mr. STOKES.
Mr. JACOBS.
Mr. HAYES.

BILLS PRESENTED TO THE PRESIDENT

Mr. Thomas, from the Committee on House Oversight, reported that that committee did on this day present to the President, for his approval, bills of the House of the following title:

On November 13, 1995:

H.J. Res. 115. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes.

ADJOURNMENT

Mr. SHAYS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 45 minutes p.m.), the House adjourned until tomorrow, Wednesday, November 15, 1995, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1674. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report involving United States exports to Trinidad and Tobago, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Banking and Financial Services.

1675. A letter from the Director, Defense Security Assistant Agency; transmitting notification that the Department of Defense has completed delivery of defense articles, services, and training on the attached list to Jamaica, pursuant to 22 U.S.C. 2318(b)(2); to the Committee on International Relations.

1676. A communication from the President of the United States, transmitting the bimonthly report on progress toward a negotiated settlement of the Cyprus question, including any relevant reports from the Secretary General of the United Nations, pursuant to 22 U.S.C. 2373(c); to the Committee on International Relations.

1677. A communication from the President of the United States, transmitting the fiscal years 1994 and 1995 report entitled "International Exchange and Training Activities of the U.S. Government," prepared by the U.S. Information Agency [USIA] in coordination with the Vice President's National Performance Review, pursuant to section 229(a) of the Foreign Relations Authorization Act, fiscal years 1994 and 1995; to the Committee on International Relations.

1678. A letter from the Chairman, Defense Nuclear Facilities Safety Board, transmitting the Board's fiscal year 1995 report on the status of internal audit and investigative activities; to the Committee on Government Reform and Oversight.

1679. A letter from the Chairman, Harry S Truman Scholarship Foundation, transmitting the Foundation's annual report in compliance with the Inspector General Act Amendments of 1988, pursuant to 5 U.S.C. app. (Insp. Gen. Act) Sec. 5(b); to the Committee on Government Reform and Oversight.

1680. A letter from the Chairman, Merit Systems Protection Board, transmitting a report entitled "Sexual Harassment in the Federal Workplace: Trends, Progress, and Continuing Challenges," pursuant to 5 U.S.C. 1204(a)(3); to the Committee on Government Reform and Oversight.

1681. A letter from the Vice Chairman, Federal Election Commission, transmitting proposed regulations at 11 CFR parts 9034 and 9038 governing public financing of Presidential primary and general election candidates, pursuant to 26 U.S.C. 9039(c); to the Committee on House Oversight.

1682. A letter from the Deputy Associate Director for Compliance, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Resources.

1683. A letter from the Deputy Associate Director for Compliance, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Resources.

1684. A letter from the Chairperson, National Council on Disability, transmitting the Council's report entitled "Disability Perspectives and Recommendations on Proposals to Reform the Medicaid and Medicare Programs," pursuant to 29 U.S.C. 781(a)(8); jointly, to the Committees on Ways and Means and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HYDE: Committee on the Judiciary. H.R. 2525. A bill to modify the operation of the antitrust laws, and of State laws similar to the antitrust laws, with respect to charitable gift annuities (Rept. 104–336). Referred to the Committee of the Whole House on the State of the Union.

Mr. SOLOMON: Committee on Rules. House Resolution 250. Resolution to amend the Rules of the House of Representatives to provide for gift reform; with amendments (Rept. 104–337). Referred to the House Calendar.

Mr. DIAZ-BALART: Committee on Rules. House Resolution 267. Resolution waiving points of order against the conference report to accompany the bill (H.R. 2020) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1996, and for other purposes (Rept. 104–338). Referred to the House Calendar.

Mr. CANADY: Committee on the Judiciary. H.R. 2564. A bill to provide for the disclosure of lobbying activities to influence the Federal Government, and for other purposes (Rept. 104–339, Pt. 1). Referred to the Committee of the Whole House on the State of the Union.

Mr. SOLOMON. Committee on Rules. House Resolution 254. Resolution making technical corrections in the Rules of the House of Representatives: with amendments (Rept. 104–340). Referred to the House Calendar.

BILLS PLACED ON THE CORRECTIONS CALENDAR

Under clause 4 of rule XIII, the Speaker filed with the Clerk a notice requesting that the following bills be placed upon the Corrections Calendar:

H.R. 2519. A bill to facilitate contributions to charitable organizations by codifying certain exemptions from the Federal securities laws, and for other purposes.

H.R. 2525. A bill to modify the operation of the antitrust laws, and of State laws similar to the antitrust laws, with respect to charitable gift annuities.

DISCHARGE OF COMMITTEES

Pursuant to clause 5 of rule X the following action was taken by the Speaker:

H.R. 2564. The Committees on Government Reform and Oversight, Rules, and Ways and Means discharged from further consideration. Referred to the Committee of the Whole House on the State of the Union.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 5 of rule X the following action was taken by the Speaker:

H.R. 2564. Referral to the Committees on Government Reform and Oversight, Rules and Ways and Means extended for a period ending not later than November 14, 1995.

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. LIVINGSTON (for himself and Mr. SAM JOHNSON):

H.R. 2627. A bill to require the Secretary of the Treasury to mint coins in commemoration of the sesquicentennial of the founding of the Smithsonian Institution; to the Committee on Banking and Financial Services.

By Mr. GEPHARDT (for himself, Mr. BONIOR, Mr. FAZIO of California, Mrs. KENNELLY, Mr. MATSUI, Mr. GUTIERREZ, Ms. KAPTUR, Mr. TORRES, Mr. OWENS, Mr. BREWSTER, Mr. STUDDS, Mr. YATES, Mr. STARK, Mr. VOLKMER, Mrs. THURMAN, Mr. FROST, Mr. MILLER of California, Mr. LAFALCE, Mr. OBERSTAR, Mr. GEJDENSON, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. LIPINSKI, Mr. STUPAK, Mr. NEAL of Massachusetts, Mr. FATTAH, Ms. DANNER, Ms. SLAUGHTER, Mr. THORNTON, Mr. COSTELLO, Mr. ENGEL, Mr. MFUME, Mr. VENTO, Mr. CHAPMAN, Mr. HOLDEN, Mr. KLECZKA, Mr. DE LA GARZA, Mr. POSHARD, Ms. ESHOO, Mr. WISE, Mr. MARKEY, Mr. PETE GEREN of Texas, Mr. COLEMAN, Mr. LANTOS, Mr. RAHALL, Mr. CONYERS, Mr. KLINK, Ms. MCCARTHY, Mr. REED, Mr. FRANK of Massachusetts, Mr. KENNEDY of Rhode Island, Mr. DOYLE, Ms. HARMAN, Mr. DEUTSCH, Mr. TORRICELLI, Mr. SISISKY, Ms. WOOLSEY, Mr. FILNER, Mr. WILSON, Mr. ACKERMAN, Mr. TANNER, Mr. SCHUMER, Mr. MCDERMOTT, Mr. VISCLOSKY, Mr. DURBIN, Mr. BROWN of Ohio, Mrs.

MINK of Hawaii, Mr. PASTOR, Mr. SCOTT, Mr. POMEROY, Mr. DEFAZIO, Mr. WATT of North Carolina, Mr. BARRETT of Wisconsin, Ms. RIVERS, Mr. MINGE, Mrs. LOWEY, Ms. LOFGREN, Mr. FARR, Mr. MENENDEZ, Mr. PICKETT, Mr. RUSH, Mr. OBEY, Mr. PETERSON of Minnesota, and Mr. CONDIT):

H.R. 2628. A bill to confirm the President's commitment that the Social Security trust funds will not be used other than for payment of benefits; to the Committee on Ways and Means.

By Mr. DEFAZIO:

H.R. 2629. A bill to require Members of the House of Representatives to keep a public record of visits by lobbyists; to the Committee on House Oversight.

By Mr. COSTELLO:

H.R. 2630. A bill to extend the deadline for commencement of construction of a hydroelectric project in the State of Illinois; to the Committee on Commerce.

By Mr. GALLEGLY:

H.R. 2631. A bill to amend the American Indian Trust Fund Management Reform Act of 1994 to transfer certain authorities to the Office of Special Trustee for American Indians, and for other purposes; to the Committee on Resources.

By Mr. HUTCHINSON:

H.R. 2632. A bill to ensure that payments during fiscal year 1996 of compensation for veterans with service-connected disabilities and payments of dependency and indemnity compensation for survivors of such veterans are made regardless of Government financial shortfalls; to the Committee on Veterans' Affairs.

By Mr. STARK:

H.R. 2633. A bill to authorize the Secretary of the Interior to participate in the Alameda County wastewater reuse project; to the Committee on Resources.

By Mr. STEARNS (for himself, Mr. HANCOCK, and Mr. HOSTETTLER):

H.R. 2634. A bill to allow persons to carry concealed firearms in every State if they have been issued a license to do so by any State; to the Committee on the Judiciary.

By Mr. WHITE:

H.R. 2635. A bill to establish a temporary commission to recommend reforms in the laws relating to elections for congress; to the Committee on House Oversight, and in addition to the Committee on Rules, 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. OBEY:

H.J. Res. 119. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes; to the Committee on Appropriations.

By Mr. FARR:

H. Res. 266. Resolution to commend the community leaders of the Monterey Peninsula on the central California coast for their encouragement, support, and sponsorship of language diversity; to the Committee on Economic and Educational Opportunities.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 28: Mr. INGLIS of South Carolina.

H.R. 393: Mr. ANDREWS.

H.R. 540: Mr. BLUTE, Mrs. JOHNSON of Connecticut, and Mr. ZIMMER.

H.R. 739: Mr. BILBRAY.

H.R. 789: Mr. SALMON.

H.R. 911: Mr. CASTLE, Mr. ENSIGN, and Mr. TOWNS.

H.R. 941: Mr. BROWN of California.

H.R. 958: Mr. KENNEDY of Massachusetts, Mr. WILSON, Mr. FOX, Miss COLLINS of Michigan, Mr. PAYNE of Virginia, Mr. GONZALEZ, Mr. FRISA, Mr. EMERSON, Ms. BROWN of Florida, and Mr. LUTHER.

H.R. 1127: Mr. PACKARD, Mr. SAWYER, and Mr. WARD.

H.R. 1202: Mr. KLUG and Mr. FOX.

H.R. 1233: Mr. JOHNSTON of Florida.

H.R. 1305: Mr. SHAYS.

H.R. 1319: Mr. JOHNSTON of Florida.

H.R. 1406: Mr. GREENWOOD.

H.R. 1464: Mrs. CHENOWETH.

H.R. 1661: Ms. ROS-LEHTINEN, Ms. FURSE, Mr. LONGLEY, Mr. MARTINI, Mr. BREWSTER, Mr. KINGSTON, Mrs. KELLY, Mr. FILNER, Mr. NEAL of Massachusetts, and Mr. ROGERS.

H.R. 1666: Mr. BARCIA of Michigan, Mr. HOEKSTRA, Mr. CHRYSLER, and Ms. RIVERS.

H.R. 1754: Mr. SMITH of New Jersey.

H.R. 1802: Mr. NETHERCUTT.

H.R. 1856: Mr. HASTINGS of Washington and Mr. ENSIGN.

H.R. 1965: Ms. BROWN of Florida, Mr. SHAW, Mr. BENTSEN, Mr. VENTO, and Mr. MORAN.

H.R. 1968: Ms. DUNN of Washington.

H.R. 1972: Mr. GREENWOOD, Mr. BARR, Mr. MCCOLLUM, Mr. BALLENGER, Mrs. CHENOWETH, Mr. POMBO, Mr. CREMEANS, Mr. FIELDS of Texas, Mr. HERGER, and Mr. STEARNS.

H.R. 2007: Mr. SISISKY.

H.R. 2281: Mrs. LINCOLN, Mrs. CLAYTON, Mr. KLECZKA, and Mr. SISISKY.

H.R. 2333: Mr. GORDON and Mr. CHAMBLISS.

H.R. 2350: Mr. RAHALL, Mr. ENGEL, Mr. HUTCHINSON, Mr. WAMP, Mr. BUNNING of Kentucky, Mr. FOX, Mr. GENE GREEN of Texas, Mr. GILLMOR, Mrs. CHENOWETH, Mr. WELDON of Florida, and Mr. SMITH of New Jersey.

H.R. 2416: Mr. WELDON of Pennsylvania.

H.R. 2429: Ms. FURSE.

H.R. 2442: Mr. FILNER, Mr. FROST, Mr. UNDERWOOD, Mr. BARCIA of Michigan, Mr. DEUTSCH, Mr. TORRES, Mr. GENE GREEN of Texas, Mr. JOHNSTON of Florida, and Mr. STUPAK.

H.R. 2507: Mr. ZELIFF and Mr. HANCOCK.

H.R. 2525: Mr. HASTERT, Ms. WOOLSEY, Mr. QUILLEN, Mr. EMERSON, Mr. LEWIS of California, Mr. RAHALL, Mr. CRAMER, Mr. GOODLING, Mr. BROWDER, Mr. COBLE, Ms. DUNN of Washington, Mr. FUNDERBURK, Mr. WAXMAN, Mr. FROST, Mr. TANNER, and Mr. FAWELL.

H.R. 2564: Mr. SMITH of Texas, Mr. CASTLE, Mr. LEVIN, Mr. HINCHEY, and Mr. GOODLATTE.

H.R. 2567: Mr. FAZIO of California.

H.R. 2571: Ms. MCKINNEY.

H.R. 2600: Mrs. LOWEY.

H.R. 2603: Mr. DORNAN, Mr. BARR, Mr. FORBES, Mrs. KELLY, and Mr. SOLOMON.

H.R. 2606: Mr. WICKER.

H.J. Res. 97: Mr. DEFAZIO.

H.J. Res. 117: Mr. FRANK of Massachusetts, Mr. TRAFICANT, and Mr. MFUME.

H. Con. Res. 10: Mr. BAKER of California.

H. Con. Res. 36: Mr. FRANK of Massachusetts.

H. Con. Res. 37: Mr. FRANK of Massachusetts.

H. Con. Res. 91: Mr. RICHARDSON, Mr. HAMILTON, Ms. LOFGREN, and Mr. BROWN of Ohio.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 359: Ms. ROYBAL-ALLARD.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2564

OFFERED BY: MR. ENGLISH OF PENNSYLVANIA

AMENDMENT NO. 2: Page 38, line 9, strike **"representative"** and insert **"official"**.

Page 38, line 13, strike "or" and insert a comma and in line 14 insert before the close quotation marks a comma and the following: "Secretary of Commerce, or Commissioner of the International Trade Commission".

page 38, line 18, strike "APPOINTMENT" through "REPRESENTATIVE" in line 20 and insert "APPOINTMENTS".

Page 39, line 4, strike "or as a" and insert a comma and insert before the first period in line 5 a comma and the following: "Secretary of Commerce, or Commissioner of the International Trade Commission".

Page 39, line 8, strike "or as a" and insert a comma and in line 9 insert before "on" a comma and the following: "Secretary of Commerce, or Commissioner of the International Trade Commission".

EXTENSIONS OF REMARKS

INTRODUCTION OF LEGISLATION TO AUTHORIZE THE SECRETARY OF THE INTERIOR TO PARTICIPATE IN THE ALAMEDA COUNTY WASTEWATER REUSE PROJECT

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 14, 1995

Mr. STARK. Mr. Speaker, today I take great pride in introducing legislation authorizing Federal involvement in the design and construction of a water reuse project in southern Alameda County.

The Alameda County Water District and the Union Sanitary District provide drinking water supplies and wastewater treatment services respectively to the California cities of Newark, Fremont, and Union City. By the year 2030, the combined service area water demands are expected to increase by 44 percent. The anticipated increase in demand, the scarcity of available water supplies, and an increased awareness of the importance of protecting our natural resources led the two districts to form a joint program to develop and implement the Alameda wastewater reuse project.

In order for this project to proceed, a limited amount of Federal assistance will be required. It is for this reason that I, today, am introducing legislation authorizing the water reuse project for Federal assistance under title XVI of Public Law 102–575.

In 1991, the Alameda County Water District and the Union Sanitary District jointly sponsored a water reuse survey to determine the potential for use of reclaimed water in southern Alameda County. The survey concluded that a water reuse project would provide an environmentally sound water resources management program, facilitate continued economic activity and general growth in the communities, and also serve as a model for other urban joint projects throughout the arid west. No less important, this project will complement other Federal, State, and local government efforts to restore San Francisco Bay's water quality.

In 1993, the two districts developed a reclaimed water master plan. Based on the plan, the two districts determined that design and construction of the Alameda County wastewater reuse project would be feasible and would meet the objectives of ensuring a sound and growing economy while promoting sound stewardship of limited water resources. Specifically, the project would:

Reduce demand on potable water supplies that could be used more efficiently for human consumption and natural resource needs;

Reduce wastewater discharges into the San Francisco Bay, thereby complementing regional, State, and Federal efforts to improve the bay-delta's water quality;

Ensure a reliable water supply for industry and other nonpotable purposes that will not be subject to cutbacks mandated by Federal and State requirements during periods of drought; and

Reduce the need for expansion of current drinking water and wastewater treatment facilities' capacity.

Based in part on the successful test of a pilot scale facility, this project enjoys broad support from the cities, school districts, and numerous industries, including high technology companies that depend on a reliable water supply. The project is also endorsed by the Association of California Water Agencies.

As I said before, water demands are expected to increase significantly over the next several years. With almost 85 percent of southern Alameda County's water supply imported it is important that we recognize that we need to leverage every possibility we have to maximize our local water resources. The Alameda County wastewater reuse project provides us with that opportunity.

The reclamation project has undergone necessary studies and it is ready to proceed to design and construction. Only with Federal assistance can the project take the next step and my legislation puts that in motion.

I look forward to working with my colleagues on the Resources Committee on the legislation and hope they can support this key component of the San Francisco Bay area's water resource management program.

H.R.—

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

SECTION 1. ALAMEDA COUNTY WASTEWATER REUSE PROJECT.

(a) AUTHORIZATION.—The Secretary of the Interior is authorized to enter into agreements under the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h et seq.) with the Alameda County Water District and the Union Sanitary District of Alameda County and other appropriate authorities to participate in the design, planning, and construction of water reuse projects to treat effluent from the Union Sanitary District, in order to—

(1) provide new water supplies for industrial, environmental, landscape, and other beneficial purposes;

(2) reduce the demand for potable imported water; and

(3) improve the water quality of the San Francisco Bay-Delta.

(b) COST SHARE.—The Secretary's share of costs associated with any project described in subsection (a) shall not exceed 50 percent of the total cost of that project. The Secretary shall not provide funds for operation or maintenance of any such project.

CLINTON AND THE BUDGET

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 14, 1995

Mr. PACKARD. Mr. Speaker, it is clear that President Clinton cares little about what the American people want. The American people want a balanced budget. They want Medicare saved. They want to look toward to a brighter future. The continuing resolution my Republican colleagues and I passed is a down payment on that future.

I have heard over and over again the rhetoric on the catastrophic nature of a Government shutdown. Frankly Mr. Speaker, a Government shutdown is not catastrophic, not balancing the budget is. In fact, the vast majority of people will not even notice the Government is shut down. The mail will still be delivered. Social Security checks will still go out, and air traffic will continue flow.

The overwhelming majority of phone calls, faxes, and letters coming into my office on this issue are very supportive. I received a fax from a senior citizen in my district that said "Hang tough. Shut Government down. We seniors want a balanced budget in 7 years. And we want Medicare fixed, even if we have to pay some increase for the sake of our kids and grandkids. Hang tough!"

Mr. Speaker, while the folks back home are willing to hang tough, the President seems only willing to play golf. We've done our job.I urge the President to do his.

A VOICE FROM THE NEXT GENERATION SPEAKS OUT ON PROPERTY RIGHTS

HON. LAMAR S. SMITH

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 14, 1995

Mr. SMITH of Texas. Mr. Speaker, I want to bring to the attention of the House an especially timely and articulate letter I received from Honey Suzanne Hastings, a young constituent. She describes the impact the Endangered Species Act has had on her family as well as her own concerns regarding the weakening of property rights—an issue of particular interest to me and to many of my constituents. The letter is dated October 18, 1995, and reads in part:

DEAR REPRESENTATIVE SMITH: My name is Honey Suzanne Hastings. I am fourteen years old and a freshman at Bandera High School in Bandera, Texas.

In the past I have heard there was a conflict over property rights in Texas but it did not really mean much to me until my parents bought some hill country land in a nearby county.

It was their dream to retire and move out there when I graduate from high school, raise some livestock and live off the land.

Soon after they bought the land they found out that an endangered species would make it difficult for them to clear enough brush and cedar for the animals to graze without breaking the law.

My Dad and Grandpa both served their country in the military and have often told me how lucky we are to live in a free America. They have both chosen to live in Texas because of its great value of this freedom and the opportunity to pioneer.

This confusion over the rules about private property rights is making it hard for my parents dreams to live off the land to come true, and I hope that as my Representative you will work hard to make sure that my folks and others like them do not become endangered species.

Sincerely,

HONEY SUZANNE HASTINGS,
Pipe Creek, Texas.

CONGRATULATIONS TO MARTIN F. STEIN

HON. THOMAS M. BARRETT

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 14, 1995

Mr. BARRETT of Wisconsin. Mr. Speaker, today I congratulate Martin "Marty" F. Stein, winner of the 1995 Human Relations Award presented by the Milwaukee Chapter of the American Jewish Committee. The award is given annually to recognize individuals who through their skills, influence, and dedication, have demonstrated their unwavering commitment to preserving our democratic heritage.

Marty Stein is recognized for his profound commitment to humanitarian endeavors that have improved the lives of many Milwaukeeans. As president of the Boys & Girls Clubs of Greater Milwaukee from 1993–95 and as chairman of the executive's council and fundraising committee for the task force on battered women and children, Marty Stein has passionately mobilized resources for those less fortunate.

Marty Stein's civic and philanthropic activities have touched the lives of people throughout the world. He founded the Citizen Democracy Corps Business Entrepreneur Program, a Washington DC, group that provides business mentoring in Eastern Europe and the former Soviet Union. In 1984, Marty Stein led the Operation Moses campaign which rescued Ethiopian Jews and brought them to Israel. Deeply committed to his Jewish faith, Marty weaves the Jewish values of community, family, and respect into his efforts to help others.

Whether in his local community, State, national, or international endeavors, Marty Stein's benevolence has made a positive difference. The worthwhile projects he leads are noble and the results are widely admired. Marty's wife, Barbara, who has many charitable accomplishments of her own, has supported Marty's activities throughout their 37-year marriage. I am proud to join the American Jewish Committee in congratulating Marty Stein as the 1995 Human Relations Award winner.

TRIBUTE TO GARY WASHBURN

HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 14, 1995

Mr. CALVERT. Mr. Speaker, I take the floor of the House today to honor and praise the lifelong dedication of a friend and public servant of the great city of Lake Elsinore in California. The accomplishments of this individual make me proud to call him my personal friend, a fellow community member, and a fellow American. His love for his family as a father and a husband, and his love for his country as a veteran and a leader are a display of his utmost respect for the traditional American values and principles. This gentleman that I speak so highly of, and regard with the highest respect is the mayor of the city of Lake Elsinore, Mr. Gary Washburn.

For the past 16 years, Mr. Washburn has served the government of the city of Lake Elsinore as a member of the planning commission, a city council member, and mayor. His influence and involvement has played an integral role in the growth and development of his city. I would like to commend him on his accomplishments in representing his constituents and providing leadership as the elected mayor of the city of Lake Elsinore.

Prior to his involvement in the city government of Lake Elsinore, Mr.. Washburn served as a professor and is responsible for the education and welfare of many university-level students. He helped many young Americans open their minds, reach their goals, and build new dreams through education. In addition, Mr. Washburn is a combat veteran of Vietnam who was honorably discharged after 2 years of service as a crew chief on July 4, 1968. During his military career, he served our country in the 1st Aviation Brigade, the 54th Utility Airplane Company, and the Otter Air Service.

In addition to his involvement in representing city government and serving America, Mr. Washburn's other community involvements include: president of the Elsinore Elementary P.T.G., executive board of the Riverside County Economic Development Committee, president of the Rotary Club, chairman of the Riverside County City Selection Committee, board member of the Riverside Transit Agency, city representative to the Lake Elsinore Management Agency, city representative to the Riverside County Habitat Conservation Agency. His timeless dedication in serving his city and country have earned him the respect of his family, friends, colleagues, and constituents as a true champion of public service.

Unfortunately, on November 7, 1995, Mr. Gary Washburn will retire as mayor after a lifelong dedication to the public welfare of the citizens of the city of Lake Elsinore, CA. After over 16 years of service in city government, Mr. Washburn will end a long tradition of contributions of dedication and effort by his family dating back to 1889. On the occasion of his retirement, I would like to thank him for his service to our community, and offer my best wishes for his future endeavors.

VIGILANCE NEEDED AGAINST TERRORISM

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 14, 1995

Mr. GILMAN. Mr. Speaker, the events in Saudi Arabia with the deadly terrorist attack on American military support personnel, which resulted in the death of five innocent Americans, and the wounding of many others, make it clear that its still an unsafe world out there. Especially, so I might add, for American citizens and our personnel abroad, who are so often the target of these cowardly terrorists' attacks.

The deadly terrorist car bomb, as we saw once again in Saudi Arabia this week, is still the potent weapon of choice for those individuals or groups, who for whatever reason or cause, disagree with, or oppose American foreign policy, and goals.

Innocent American personnel abroad, as events this week again show, unfairly and most often become the target of these cowardly terrorists, whenever they want to intimidate, influence, or protest against our foreign policy.

The events in Israel earlier, with the assassination of Prime Minister Rabin, also make it clear that violence is far too often resorted to as a means of protest, and to address grievances. These trends toward violence and hatred in the world continue to cause grave concern, hardship, and instability around the globe today.

These most recent deadly and tragic events, and the continuing resort to violence and terrorism around the globe, make it clear that we must continue to be vigilant. We must maintain and support our law enforcement institutions, along with providing the continued resources needed to fight the scourge of terrorism, wherever and whenever it raises its ugly head.

We must also increase worldwide law enforcement cooperation and intelligence sharing in the struggle against international terrorism, and those who would practice this deadly trade and uncivilized means of influencing public policy and goals, no matter how well intentioned, or aggrieved these individuals or groups may feel they are today.

Let us not let down our guard; we must remain vigilant against the use of violence and terrorism as a means to any goal or policy. Together the whole world must strive cooperatively to thwart these evils wherever and whenever they emerge on the world scene today.

We owe this vigilance, not only to those Americans we send abroad to implement our foreign policy and goals, but also to our future generations, in order that they live in a more stable and violence-free world.

THE CHARACTER CONUNDRUM

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 14, 1995

Mr. OXLEY. Mr. Speaker, I would like to bring a recent column by Richard Harwood of the Washington Post regarding the media to the attention of my colleagues.

The reality is that journalists have real power in America. To a degree, this is as it should be, since a free and independent press is critical to the health of any democracy. With this power, however, come certain responsibilities. Accuracy is one. Objectivity is another. Now, as Mr. Harwood points out, a measure of good judgment would be welcome.

As more and more of the fourth estate descends into tabloid-quality reporting, the question arises as to the motives behind the trend. Increased circulation—or ratings, as the case may be—certainly tops the list. Sadly, sex, scandal, and negativism sell. Add to this a seemingly innate cynicism among reporters and an institutional bias against conservative tastes and ideas, and you have the makings of the current state of affairs.

This is not to say that reporters should avoid matters of controversy. Rather, it is to suggest that an attempt be made to run stories of real substance on matters of genuine consequence, rather than exploiting every topic for its gratuitous shock value.

The media elite like to make themselves out as selfless servants of the public good, standing up for the little guy against the establishment. The truth is that the press is one of the most entrenched, unaccountable institutions in Washington. The next time a group of news editors gets together to wring their hands over the tawdry state of their industry, they need look no further than their own daily decisions for responsibility.

With that, Mr. Speaker, I commend the following column to the attention of all interested parties.

THE 'CHARACTER' CONUNDRUM

(By Richard Harwood)

James David Barber of Duke University is the author of the proposition that our fate as a society is more dependent than we may realize on the quality of our journalism.

As the political parties have sunk into a state of virtual irrelevance, journalists have become the new bosses of presidential politics. They are the power brokers and character cops who dominate the process of "identifying, winnowing, advancing and publicizing" the people who would lead the nation.

The task of the journalist, Barber tells us, is to illuminate the "question of character. . . . The problem is to get behind the mask to the man, to the permanent basics of the personality that bear on Presidential performance." The key is "the life story, the biography. . . . For people sense that all our theoretical constructs and elaborate fantasies take their human meaning from their incarnation in the flesh and blood of persons. . . . Biography brings theory down to earth, history to focus, fantasy to reality."

The late Theodore White made a start on this kind of journalism with his book "The Making of the President 1960." "The idea," he wrote, "was to follow the campaign from beginning to end. It would be written as a novel is written, with anticipated surprises as, one by one, early contenders vanish in the primaries until only two jousters struggle for the prize in November. . . . It should be written as a story of a man in trouble, of the leader under the pressures of circumstance. The leader—and the circumstances. That was where the story lay."

The book was an enormous success. Other journalists followed his lead, including Richard Ben Cramer, whose thousand-page volume on the 1988 campaign—"What It takes"—is recognized as a masterpiece.

The problem with these great studies of character and action is that the information they contained was not available to voters until after the elections had long since been decided. Cramer's book involved six years of work and was not published until 1992.

Barber concedes the problem: "Journalism will continue to be history in a hurry. That is the main stumbling block." A fellow political scientist, Thomas Patterson of Syracuse University, insists it will always be so because that is the nature of the news business. "A party," Patterson argues, "is driven by the steady force of its traditions and constituent interests. . . . [It] has the incentive—the possibility of acquiring political power—to give order and voice to society . . . to articulate interests and to forge them into a winning coalition. The press has no such incentive and no such purpose. Its objective is the discovery and development of good stories."

And "good stories," he writes, increasingly are defined as "negative" stories, stories that "expose" some trivial gaffe or misbehavior on the superficial assumption that they tell us something important about the "character" and "fitness" of candidates. More often, he argues, stories of this kind tell us more about reporters' cynicism and contempt for politics than about the character of the people they write about.

Richard Ben Cramer observed this in the baby boomers of the press corps and was appalled and driven to hyperbole as they worked over Gary Hart and his "character flaws" in 1988. These were the people of whom it could be said that in their salad days "if sex were money, they all would have been rich." But now "the salient fact about this boom generation had nothing to do with its love-and-drug-addled idealism when it—when they—were the hope and heritors of the world.

"By 1987, they still felt the world was theirs . . . and ought, by all rights, to dance to their tune. . . . But the salient fact at this point in their lives was . . . they were turning forty. They were worried about their gums. They were experts on soy formula. They were working seriously on their (late or second) marriages. They were livid about saturated fats in the airline food. . . . They did not drink, they did not smoke, drugs were a sniggering memory. . . . And they certainly, God knows, did not mess around. Sex! It was tacky. It was dangerous. It was (sniff!) . . . not serious.

"And . . . no one else was going to get away with sex either. Or drugs. Or ill health. Or fouling their air."

They not only nailed Hart with charges of infidelity but nailed Douglas Ginsberg, a Supreme Court nominee, for smoking pot years earlier. They nailed Clarence Thomas for alleged lasciviousness, Bill Clinton for sex and experimentation with a joint, and tried to nail George Bush for an alleged affair with a co-worker. John Kennedy didn't live long enough to get the treatment.

Must presidential candidates—or journalists or bankers—come to marriage as virgins to prove their "character" and "fitness" for office? Must journalists, on those terms, be questioned on their fitness to judge others? Does an adulterous act, the sometime ingestion of a proscribed substance, too-slow dancing or the recitation of an ethnic joke now get you a permanent sentence in the political wilderness? Does having an abortion get you a disqualifying Scarlet Letter?

The columnist Mary McGrory asked some questions recently about Bill Clinton, who is now 2½ years into his first term as president; "Is his character not yet jelled—is he a 14-year-old who might still grow up? Or is this a permanent pattern of oscillation between mature grown-up and sniveling teenager?"

All the journalistic energies spend in 1992 on Gennifer Flowers and similar matters did not get to or have any obvious relevance to the character and fitness questions that still puzzle McGrory and countless other journalists and citizens.

One thing is certain. When Prof. Barber exhorted us to examine and illuminate character, he was not talking about the insubstantial trash that we too often pass off as wisdom and insight into who these people are who want to lead the country. "As far as I can see," he wrote, "all of us are more or less neurotic, damned, healthy, saved, debased and great. That does not mean you send the grocer to fix your your plumbing. . . . [You] try to reach beyond characterization to political impact."

A subsidiary industry of the news business is the post-election conference or seminar on how we went wrong in our work. Why did we commit so much "tabloid journalism"? Why was coverage of the "real issues" so lousy? Why didn't we better understand the candidates, their characters, their personalities?

When all this psycho-babble is over and the next campaign comes around, we tend to repeat the same scenario because we can't help ourselves, because the habits of journalism are too hard to kick, because our history is too hurried, because truth and news are not the same.

TRIBUTE TO W.D. "BILL" FARR

HON. WAYNE ALLARD

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 14, 1995

Mr. ALLARD. Mr. Speaker, I ask my colleagues to join me today in honoring Mr. W.D. "Bill" Farr for his 40 years of service on the board of the Northern Colorado Water Conservancy District [NCWCD]. Mr. Farr was a true pioneer in the development of water for Colorado's front range.

During the drought years of the 1930's, the importance of water to farmers, fishermen, and other users on the front range became all too clear. In response, a friend of Mr. Farr's established the Northern Colorado Water Users Association, which would later become the NCWCD. One of the association's first projects, with which Mr. Farr was intimately involved, was to push for the construction of the Colorado-Big Thompson project [C–BT]. In 1954, the C–BT became fully operational and brought a supplemental supply of water from the western slope to seven northeast Colorado counties. Mr. Farr was certainly correct when he said that the "C–BT is like a second

Poudre River. Without it, we would not have the front range we see today."

In 1955, Mr. Farr became a board member of the NCWCD. In the 1970's, Mr. Farr was instrumental in planning the C–BT's windy gap project and headed the municipal subdistrict of the NCWCD that built facilities below Granby Lake. As such, he is known as the father of the windy gap project.

Mr. Speaker, so that the House may fully appreciate W.D. Farr's unrivaled contribution to water development in Colorado, let me run through a brief chronology of his involvement with this issue: 1931—became board director with the Town-Boyd Lateral Co. of Eaton; 1942—named president of the board of the Sweet Jessup Canal of Carbondale; 1947—became board director of the Greeley-Loveland Irrigation Co.; 1955—became board director with the Northern Colorado Water Conservancy District; 1970—named first chairman of the Municipal Subdistrict of the Northern Colorado Water Conservancy District; 1971—became president of the National Cattlemen's Association; 1973—appointed to the Water Pollution Control Advisory Board of the U.S. Department of the Interior by President Richard Nixon; 1974—named chairman of the Region 208 Areawide Planning Commission of the Larimer-Weld Council of Governments; 1975—became first chairman of the Colorado Water Resources and Power Development Authority; 1975—became member of the Colorado Water Congress; 1985—named the Wayne Aspinall Water Leader of the Year by the Colorado Water Congress; 1994—represented the Farr Family at the dedication of the Farr pumping plant at Granby reservoir. The plant is part of the Colorado-Big Thompson project.

Clearly, Mr. Speaker, W.D. Farr's service to the State of Colorado cannot be overstated, and I thank you for joining me in recognizing his 40 years of service with the NCWCD. As the Representative for the mostly rural and agricultural Fourth Congressional District of Colorado, I have a deep appreciation for the lifetime commitment W.D. Farr has made to ensuring that the front range has an adequate water supply year after year.

Thank you, W.D. Farr.

PERSONAL EXPLANATION

HON. DOUGLAS "PETE" PETERSON

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 14, 1995

Mr. PETERSON of Florida. Mr. Speaker, as a member of the United States-Russian Joint Commission on POW/MIA's, I was asked to attend critical meetings with the government leaders of two former Soviet Republics during the week of November 6. This work precluded my attendance in the House and as a result I missed a number of rollcall votes. Had I been present, I would have voted as follows: Rollcall No. 765—Yea, rollcall No. 766—Yea, rollcall No. 767—Yea, rollcall No. 768—Yea, rollcall No. 769—Yea, rollcall No. 770—Yea, rollcall No. 771—Yea, rollcall No. 772—Nay, rollcall No. 773—Nay, rollcall No. 774—Yea, rollcall No. 775—Nay, rollcall No. 776—Yea, rollcall No. 777—Yea, rollcall No. 778—Nay, rollcall No. 779—Nay, rollcall No. 780—Yea, rollcall No. 781—Nay, rollcall No. 782—Yea, rollcall No. 783—Nay, rollcall No. 784—Nay, rollcall No. 785—Nay rollcall No. 786—Nay, rollcall No. 787—Nay.

PURPA: COSTING CONSUMERS BILLIONS OF DOLLARS

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 14, 1995

Mr. SOLOMON. Mr. Speaker, I would like to draw your attention to another Federal regulation which has outworn its welcome, the Public Utility Regulatory Policies Act [PURPA]. Born in the energy crisis of the 1970's, PURPA was designed to encourage renewable energy sources which would provide power more efficiently. We clearly have made great strides in producing energy in our country and a great many small, independent power producers have introduced us to alternative forms of power generation. These producers play a central role in fueling the wholesale power market. However, like many Government mandates, PURPA has created a backlash which runs counter to its original goals of less costly, more efficient power generation, and allows a loophole whereby producers that burn primarily fossil fuels qualify as independent wholesale generators. But even worse, Mr. Speaker, PURPA has become downright harmful to American taxpayers, consumers, laborers and business.

Allow me to submit for the RECORD an article which recently appeared in one of New York's capital region papers, the Schenectady Gazette. While focusing primarily on a case in my home State of New York, the message of the author, Charles Conine, holds true throughout many regions of the country.

[From the Schenectady Gazette]

FEDERAL RULE KEEPS N.Y.'S ELECTRIC RATES HIGH

(By Charles T. Conine)

Niagara Mohawk last week proposed opening its service territory to full competition. This may be the first of many such actions by utilities to stop the financial bleeding caused by the Public Utilities Regulatory Policies Act (PURPA), a little-known boondoggle from the 1970s that costs consumers tens of billions, deprives the government of billions in taxes, wastes resources and eliminates skilled industrial jobs.

If the House of Representatives is looking for a regulation to reform, it should consider this one. Ending PURPA would find support from Republicans, Democrats, organized labor and consumers.

PURPA was adopted during the oil shortage of 1978 to promote renewable, domestic energy sources and increase energy efficiency. But instead of small, independent projects fueled with renewable energy, PURPA has spawned hundreds of unnecessary electric-generating plants, most of which burn fossil fuels.

PURPA developers can force public utilities to buy their electricity at a premium, regardless of whether the power is needed. PURPA developers also pay less in taxes than utilities do. The combination can be economically devastating for a state. New York, California, Pennsylvania and Maine have been hardest hit, but Colorado, North Carolina, Oklahoma and New Jersey also have their share of "PURPA machines," as these projects are called.

UNNEEDED POWER

Let me tell you what PURPA has done to consumers and workers in upstate New York. This year, Niagara Mohawk has been forced to buy $1 billion of unneeded electricity from independent power producers, $400 million more than it would have cost the utility to generate the same electricity. In other words, business and residential customers will pay $400 million more this year for PURPA electricity, a figure that will continue to rise.

And because NiMo does not need the additional electricity, it has been forced to shut down power plants and eliminate the jobs of 2,000 electrical workers. Our union has worked closely with management to make changes in work practices and work flexibility, but the situation keeps getting worse.

These are prime industrial jobs that support many service jobs in the community—teachers, insurance agents, merchants, restaurant workers. The higher cost of electric power also puts other industrial jobs at risk and stifles growth. The only business that's growing in upstate New York is the moving business.

The loss of tax revenue also hurts. For example, the Nine Mile Point nuclear plant pays $52 million a year in local property taxes. Nearby is a independent power plant of equivalent size that burns natural gas, owned by Sithe Energies USA, a subsidiary controlled by Campagnie Generale des Euax of France. The huge Sithe plant pays less than $1 million in local property taxes. Incredible as it sounds, we are giving tax breaks to foreign investors so they can overcharge American consumers and hurt our industrial competitiveness.

A utility's long-term marginal cost to build and operate a gas-fired power plant is currently 2.5 cents per kilowatt hour, yet the PURPA contract price for most New York state projects is 6 cents per kilowatt hour, with contract lifetimes as long as 25 years. The flat 6-cent rate was canceled in 1992, but all existing and planned projects were "grandfathered" at this absurdly high price.

After 17 years of abuse, Congress has taken a few timid steps to close the door on new PURPA projects, but lawmakers and regulators have been extremely reluctant to revisit existing PURPA rates, on the dubious legal theory that a forced sale constitutes a "contract" between a utility and a PURPA developer. By this logic, so does a mugging. The only difference is scale. American consumers will pay $37 billion more than the current market price for PURPA electricity over the next five years.

What can Congress do at this point? A solution needs to focus on the most abusive provisions of PURPA, those that permit large-scale, fossil-fueled PURPA projects, as long as a little bit of industrial steam is produced on the side. Small, renewable energy projects represent only 20 percent of PURPA capacity.

A solution also needs to focus on consumers—commercial, residential and industrial—not on the investors and financiers who backed PURPA projects, or on the "sanctity of contracts." Investors were well aware of the risks inherent in an artificial market created by government regulation.

One solution would be to make these projects compete in the wholesale electricity

market, as new independent power plants already do. Since the National Energy Policy Act of 1992, the wholesale electricity market has been open to all comers. One-quarter to one-third of the electricity generated in the United States today moves on the competitive wholesale market. Electricity has a market price. This free-market solution would protect non-abusive PURPA projects while offering a fair price to the financially abusive.

Republican Sen. Don Nickles of Oklahoma has opened the debate with a bill in the Energy and Natural Resources Committee that would end new projects but preserve existing rates. This is too timid. Unless these financial boondoggles are ended, several utilities will be in Chapter 11 before this Congress ends.

If the House leadership is serious about getting costly and ineffective regulations off the books, PURPA offers an opportunity to bring together business, labor, and consumers in a $37 billion reform.

NATIONAL HOME HEALTH CARE MONTH

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 14, 1995

Mr. COSTELLO. Mr. Speaker, I rise today to recognize National Home Health Care Month. Illinois has the distinct honor of being recognized as establishing the Nation's first Home Care Association. The Illinois Home Care Council was founded in 1960.

Home care saves money and allows many elderly Americans the chance to spend their golden years at home with their families. Since its introduction, home care has received broad support across party lines.

Home care has rapidly grown since its start in the early 1960's. Council members sustain its growth through frequent meetings with governmental agencies and other health care associations. By keeping abreast of current issues home care has helped shape different aspects of health care legislation.

Thousands of nurses, therapists, physicians, and home care aides have devoted their lives to providing in-home health care to the sick and disabled. Please join me as I acknowledge all of them for their continued support of home care patients.

INTRODUCTION OF THE FAIR ELECTIONS ACT

HON. RICK WHITE

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 14, 1995

Mr. WHITE. Mr. Speaker, today, I am introducing the Fair Elections Act.

This bill creates a nonpartisan commission which will have 90 days to recommend reforms to the laws that govern congressional elections. The commission's recommendations will be unamendable and placed on a legislative fast track. The time has come for Congress to take itself out of the debate and turn the decisions over to an independent group devoid of politics.

Our current Federal election laws are flawed and have been since they were enacted following Watergate. Several aspects of that initial campaign finance reform effort were found to be unconstitutional by the Supreme Court. However, Congress never substantively revisited the pieces that were left standing. Therefore, the current election laws consist of an incomplete and complex web of regulations—a web which has not worked and is in need of a complete overhaul.

An overhaul is necessary because the current election laws have produced a system that is biased toward incumbent Members of Congress and where special interest financing has a disproportionate influence over the process. These items must be corrected but it must be done in a responsible manner that restores trust and confidence in Congress and those who serve here. We must not, in our haste for reform, further muddle the process by adding regulations which only perpetuate the advantage of incumbency.

Therefore, as we move forward with campaign finance reform, it is important that Congress engage in a substantive debate and approach the process with three objectives firmly in mind: First, we must encourage fair and open elections that provide voters with meaningful information about candidates and issues. Second, we must eliminate the disproportionate influence of special interest financing of congressional elections. And third, we must work to create a system where incumbent Members of Congress do not possess an inherent advantage over challengers.

It is my belief that the Fair Elections Act will result in real campaign finance reform that accomplishes those objectives.

For too long, Congress has allowed partisan politics to influence campaign finance reform efforts. Any campaign finance proposal that has seen the light of day in recent years has essentially been an incumbent protection plan, the bills receiving attention this year not excluded. Congress has not been willing to level the proverbial playing field where incumbent Members of Congress and challengers compete. Nor has Congress been able to move the campaign finance debate above partisan rhetoric and inject legitimate academic discourse and empirical findings into campaign finance reform proposals.

The Fair Elections Act will finally allow Congress to correct the deficiencies of previous reform efforts. By establishing a 12 member commission in which no more than 4 members may be of the same political party, we will create an environment which is nonpartisan. That is, we will establish an arena where the partisan gloves that have doomed past reform efforts are removed and legislation is produced which incorporates new ideas and solutions rather than recycling the stale rhetoric of recent years.

Real reform is about making sure our Federal campaign finance laws do not protect the incumbent. As a freshman, one of the lessons that I've learned is that Congress is the last body we should count on to do a fair, and quick, job of reforming our campaign finance laws. It has become clear to me that, unless Congress is forced to take an up or down vote on this issue, we are never going to get politics out of the process. No reform passed in this Congress will take effect until the 1998 election cycle. Therefore, rather than simply tinker around the edges, significant reform will only take place by forming a commission to revamp the entire system.

A SPECIAL SALUTE TO FATHER AUSTIN COOPER: MARKING 25 YEARS OF SERVICE

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 14, 1995

Mr. STOKES. Mr. Speaker, as a Member of Congress, I take pride in acknowledging individuals from my congressional district who have demonstrated outstanding leadership in the community. Today, I rise to salute an individual who has dedicated his life to serving others. For the past 25 years, Father Austin R. Cooper, Sr., has served as rector at St. Andrew's Episcopal Church in Cleveland, OH. Earlier this month, starting on November 5, 1995, St. Andrew's began a special month-long celebration to mark his tenure as a leader of this historic church. I take special pride in saluting Father Cooper on this important milestone. I want to share with my colleagues some information regarding this gifted individual and his service of ministry.

Father Cooper is the son of the late Benjamin and Louise Cooper, who came to the United States from the West Indies. As a young man, Father Cooper graduated from St. Augustine's College where he received a degree in sociology. He received a master of divinity degree from the Seabury-Western Theological Seminary in Evanston, IL. On May 13, 1961, Father Cooper celebrated his ordination as a priest. During his ministry, this gifted leader has served in churches located in Florida, New York, and Texas.

Father Cooper was chosen as rector at St. Andrew's Episcopal Church on September 15, 1970. For 25 years, he has been a strong leader of that congregation and a guiding force in the Cleveland community. The church has been a beacon of light, providing programs and services to assist families, the elderly, and youth throughout the community. In addition, under Father Cooper's leadership, St. Andrew's Church was not only able to burn its mortgage 9 years ahead of schedule, but the St. Andrew's Church Foundation which was established in 1983 with $35,000, now boasts assets in excess of one quarter million dollars.

Mr. Speaker, the awards and honors bestowed upon Father Cooper over the years represent the highest tribute to an individual who has dedicated his life to serving others. Father Cooper is the past recipient of the Distinguished Service Award and the Black Church Religious Award from the Cleveland Branch of the NAACP. He was also recognized by the executive council of the Episcopal Church for his leadership in the struggle for civil rights.

Father Cooper's name is included in published editions of "Notable Americans" and "Who's Who Among Black Americans." He is the cofounder, first secretary, and past president of the Union of Black Episcopalians. Father Cooper is also the former president of the

Cleveland Branch of the NAACP. Other memberships include Alpha Phi Alpha Fraternity and the Prince Hall Masons.

Mr. Speaker, Father Austin Cooper is a leader of both national and international prominence. He has visited the White House to participate in briefings and advise leaders on the issues confronting the Nation. In addition, Father Cooper has led delegations to international conferences in East Africa, the West Indies, and other points around the globe.

Throughout his service in the ministry, Father Austin Cooper has benefited from the support of a caring and understanding family. His devotion to his lovely wife of 30 years, Patricia, is unsurpassed. The Coopers are the proud parents of three children: Austin Rellins II, Angela Patricia, and Kimberly Louise. They are also the proud grandparents of Ashley Arianne.

Mr. Speaker, over the years, I have been the beneficiary of the friendship and counsel of Father Cooper. He is a gifted man of God and a devoted leader. On the occasion of his 25th anniversary in service to St. Andrew's, I take special pride in saluting Father Cooper. I ask that my colleagues join me in wishing him Godspeed as he continues on this important mission of service.

TRIBUTE TO WILLARD B. RANSOM

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 14, 1995

Mr. JACOBS. Mr. Speaker, those who never knew Willard Ransom are unfortunate. Those who did have had their lives enhanced.

As indicated in the following from the Indianapolis Star and the Indianapolis News, he was an uncommon man, one of God's nobleman.

We are all the poorer for his passing.

[From the IPCs News, Nov. 11, 1995]

WILLARD B. RANSOM

A pioneer in the civil rights movement in Indianapolis has passed away.

Willard B. "Mike" Ransom was active in community affairs as well as civil rights work.

With a law degree from Harvard University, he came back to Indianapolis after serving in the Army in Europe during World War II.

He fought for freedom overseas, only to run into barriers to freedom back home.

"The contrast between having served in the Army and running into this discrimination and barriers at home was a discouraging thing," he once explained.

He helped organize the state chapter of the National Association for the Advancement of Colored People and was involved in local protests against discrimination in the 1950s, several years before the civil rights movement gained national attention. He also successfully promoted the passage of civil rights legislation in the Indiana General Assembly.

His community service was part of a family tradition, as his father, Freeman Ransom, had been active in civic affairs and was general manager of the Madame C.J. Walker Co.

The civil rights movement may be just a period of history for younger people, but individuals such as Willard Ransom opened doors of opportunity and made sacrifices that ought to be remembered with gratitude.

[From the Star, Nov. 9, 1995]

CITY LOSES HONORED CIVIL RIGHTS ACTIVIST

Willard Ransom was an attorney, fought for desegregation and co-founded Black Expo.

Willard B. "Mike" Ransom, a Harvard-educated attorney who led sit-ins and other civil rights actions to fight for desegregation in Indianapolis and who was a co-founder of Indianapolis Black Expo, died Tuesday.

Mr. Ransom, of Indianapolis, was 79.

Services will be at 11 a.m. Nov. 11 at Stuart Mortuary, with calling from 5 p.m. to 9 p.m. Nov. 10. Interment will be at Crown Hill Cemetery.

Mr. Ransom became active in local civil rights efforts when he returned to his hometown after serving in the Army Air Forces in France and Belgium during World War II, attaining the rank of captain.

"The contrast between having served in the Army and running into this discrimination and barriers at home was a discouraging thing," Mr. Ransom, a 1932 graduate of Crispus Attucks High School, said in a 1991 interview.

He began reorganizing the state chapter of the National Association for the Advancement of Colored People, traveling the state to encourage people to take direct action for civil rights.

He organized some local protests in the late 1950s, years before the much-publicized sit-ins and marches in the South.

One protest targeted the bus station at the former Traction Terminal Building on Market Street between Capitol Avenue and Illinois Street.

"There was a big restaurant there (Fendrich's). And there were so many blacks traveling on buses. We were insulted in that place because no one would serve us," Mr. Ransom said.

Mr. Ransom began working as an attorney in 1939 and was inducted into the service in 1941 two months into a four-year term as assistant to the attorney general. He was assistant manager of Madame C. J. Walker Manufacturing Co. 1947–1954 and was general manager of the company and trustee of the Sarah Walker Estate 1954–1971.

He maintained a private law practice during that time and played a major role in passage of all significant civil rights legislation in Indiana since 1946.

Mr. Ransom had been legal counsel to blacks in the Indianapolis fire and police departments and at the time of his death was of counsel to the law firm Bamberger and Feibleman.

He was a director of National City Bank of Indiana, served five terms as chairman of the state NAACP and was a life member of the organization, and was a board member of the Madame C. J. Walker Urban Life Center.

He was one of the founders of Concerned Ministers of Indianapolis and in 1993 received the organization's Thurgood Marshall Award for his work in the civil rights movement.

He graduated summa cum laude from Talladega College in Alabama in 1936, majoring in history. He played on the varsity football and basketball teams for four years and was on the debate team for three years. He received his law degree from Harvard University in 1939.

Williard Ransom was born into a family of community leaders. His father, Freeman B. Ransom, was an attorney, civic leader, Indianapolis councilman and general manager of Madame C. J. Walker Co. The historic Ransom Place neighborhood is named for Freeman Ransom, who died in 1947.

Survivors: wife Gladys L. Miller Ransom: son Philip Freeman Ransom; daughter Judith Ellen Ransom; brothers Frederick A., Robert E. Ransom; sister A'Lelia E. Nelson; two grandchildren; a great-grandchild.

TRIBUTE TO COACH FRANK TUDRYN, JR., OF NORTHAMPTON, MA

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 14, 1995

Mr. NEAL of Massachusetts. Mr. Speaker, I rise today to call attention to the distinguished career of one of my constituents, Mr. Frank Tudryn, Jr., of Northampton, MA.

Mr. Tudryn, a longtime teacher and football coach at Northampton High School, is currently engaged in his 25th consecutive season as the head football coach at that school. During Coach Tudryn's tenure, the "Blue Devils" have consistently fielded strong teams. In fact, under his leadership, they have won four league championships and a western Massachusetts crown. As a testament to his team's continued success, Coach Tudryn was named "Coach of the Year" in 1995 by the Valley Advocate.

A graduate of both Northamption High School and the University of Massachusetts, Coach Tudryn has dedicated his life to making Northampton High School a better place to go to school. Since 1971 he has not only coached football, but taught history and worked as an assistant principal. Many students, including his own children, have benefited from his guidance on the playing fields and in the classroom.

Mr. Speaker, on November 17 of this year, a celebration will be held in Coach Tudryn's honor at the Elks Club in Northamption, MA. I ask my colleagues to join me today in paying tribute to Coach Frank Tudryn and his impressive record as a coach, a teacher, and a friend to the city of Northampton.

A SALUTE TO BERNIE FOGEL, M.D.

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 14, 1995

Mrs. MEEK of Florida. Mr. Speaker, I rise today to pay tribute to one of the true pioneers of health care education in the country today—Dean Bernard J. Fogel, M.D.—who for 13 years has nurtured and developed the University of Miami School of Medicine into one of the Nation's largest and most respected medical schools.

Under Dr. Fogel's leadership, the University of Miami School of Medicine has experienced phenomenal growth, unparalleled achievement, and unswerving commitment to excellence in medical education, research, patient care, and community service. Student enrollment increased by 36 percent; research funding quadrupled; the school's budget tripled;

fund raising more than doubled; the faculty grew by 78 percent; and several major research and patient care buildings were constructed, renovated, or purchased.

Though one of the country's youngest medical schools, during the Fogel years the University of Miami School of Medicine has achieved a level of excellence shared by some of the Nation's oldest and finest schools of medicine.

Mr. Speaker, I am particularly proud to note that the University of Miami School of Medicine has one of the most diverse student populations in the Nation. Fifty percent of its student body is female, and the school enrolls half of all African-American medical students in the State of Florida.

In the 13 years Dr. Fogel served as dean, the school established many new research and clinical programs including: the Miami Project to Cure Paralysis; the Center for Adult Development and Aging; the Comprehensive AIDS Programs; the Comprehensive Drug Research Center; the Ear Institute; and the Abrams Center for Health Services, Research, and Policy. The school further strengthened its cancer-related programs by expanding the Sylvester Comprehensive Cancer Center and building the Fox Cancer Research Center, the Papanicolaou annex, and the Gauiter Building. The Deed Club Bone Marrow Transplant Program was successfully launched and has performed more than 100 transplants. The Winn-Dixie Hope Lodge was also built to accommodate cancer patients and their families.

Under Dr. Fogel's leadership the University of Miami School of Medicine received the Association of American Medical Colleges first-ever Award for Outstanding Community Service, recognizing the unique blend of compassion and commitment that characterizes the school and its nationally acclaimed teaching hospital Jackson Memorial Medical Center.

A scholarly man, Dr. Fogel has authored more than 60 articles in professional magazines and publications, and he is a member of many national organizations and societies.

Finally, one of Dr. Fogel's projects that has been particularly close to my heart has been the University's Minority Student Health Careers Motivation Program, which has exposed hundreds of young Floridians to the rigors rewards of medical school. Dr. Fogel challenged each of these students to pursue careers in science and medicine, and over the past 19 years nearly 80 percent of them accepted the challenge and are now physicians, scientists, and health case workers.

On November 1, Dr. Bernie Fogel stepped down as dean of School of Medicine and senior vice president of medical affairs but, thankfully, he will continue his devoted service to his alma mater as dean emeritus and special advisor to the president.

Mr. Speaker, I ask all of my colleagues in the Congress to join with me in saluting this great man of education; a great man of medicine, and a great American—Bernie Fogel, M.D., dean emeritus, University of Miami School of Medicine.

TRIBUTE TO DONALD P. FREITAS

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 14, 1995

Mr. MILLER of California. Mr. Speaker, I know that all Members of the U.S. House of Representatives will join me in honoring an outstanding public servant, Donald Freitas, who is going to be leaving his position as a director of the Contra Costa Water District next month.

Don Freitas has been one of the great leaders in the effort to preserve and restore the water quality of San Francisco Bay and the Sacramento-San Joaquin Delta throughout his 16 year tenure on the board, including his service as its president in 1987–89. He has always been a trusted and valued ally to me as I have waged battle after battle here in the Congress to reform California's water policy and to make it more responsive both to the taxpayers and to the environment.

I want to mention some highlights of Don Freitas' service on the board, because he has made many contributions that will endure long after he has moved on to other challenges: Don has served as the manager of the Contra Costa County Clean Water program which is charged with implementing the Federal Clean Water Act storm water pollution program within our county; Don Freitas helped lead the successful fight in 1982 that stopped construction of the Peripheral Canal that was intended to divert much of the delta's water south to farms and cities in other regions of the State, with devastating consequences to the ecology of the delta and San Francisco Bay; Don was a leader in the long effort to build the Los Vaqueros Reservoir which is now under construction to serve the thousands of Contra Costans whose water quality has long been at risk because of the mismanagement of our State's water supply.

On these and many other challenges over the years, Don Freitas has demonstrated exceptional vision and leadership, and I am honored to have had him as a colleague and friend. We all join the 400,000 customers of the Contra Costa Water District, and all advocates of water policy reform, in wishing Don Freitas the very best in the future, and in thanking him for his years of dedicated service.

TRIBUTE TO CICERO BUSINESSES

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 14, 1995

Mr. LIPINSKI. Mr. Speaker, I rise today to pay tribute to 21 businesses located in Cicero, IL, which were honored for longevity at the Cicero Chamber of Commerce and Industry's ninth annual dinner on November 8, 1995. Illinois Lt. Gov. Bob Kustra was the guest speaker, and Betty Loren-Maltese, town president, was honored for her contributions to the community.

Establishments passing the 100 year mark were Chas. Fingerhut Bakeries, 5537 Cermak Road; Cermak Home for Funerals, 5844 Cermak Road; Central Federal Savings and Loan Association, formerly Vypomocny Spolek Jungman, 5959 Cermak Road; and Cicero Bible Church, formerly the Morton Park Congregational Church, 1230 Laramie Avenue.

Marking 75 years in business were Ida Florists, formerly John Ida Florist, 4928 W. 31st St.; Family Federal Savings of Illinois, formerly Morton Park Savings, 5225 W. 25th St.; Pinnacle Bank of Cicero, formerly First National Bank of Cicero, 6000 Cermak Road; Rosicky's National Cleaners, 5818 Cermak Road; Edward's Market, 2933 S. 49th Ave.; ComEd, formerly the Edison Co. for Isolated Lighting; and Family Service and Mental Health Center of Cicero, formerly the Cicero Welfare Center, 5341 Cermak Road.

Honored for 50 years were Walter M. Vlodek, attorney at law, formerly Miles Vlodek, 5814 Cermak Road; Prater Industries, formerly Prater Pulverizer, 1515 S. 55th Court; Chicago Extruded Metals Co., 1601 S. 16th St.; Walgreen Drug Store, 5958 Cermak Road; Manor Bakery, formerly Chester and Emily Matiask Bakery, 5906 W. 35th St.; St. Anthony Federal Savings Bank, formerly St. Anthony Savings and Loan Association; 1447 S. 49th Court; West Town. Savings Bank, formerly West Town Saving and Loan Association, 4852 W. 30th St.; Frank F. Kucera Co., 1800 Laramie Ave.; and MidAmerica Federal Savings Bank, 5900 Cermak Road.

Mr. Speaker, I congratulate these businesses for the many years they have provided services to their community and wish them the very best in the years yet to come.

ATTACHMENT OF THE DEPARTMENT OF COMMERCE DISMANTLING ACT TO THE DEBT EXTENSION BILL, H.R. 2586

HON. JAMES A. HAYES

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 14, 1995

Mr. HAYES. Mr. Speaker, I was pleased to see that reason prevailed and the provisions to eliminate the Department of Commerce were struck from the Short-Term Debt Ceiling Extension bill, H.R. 2586.

First of all, increasing the debt ceiling is an issue of public confidence—in our financial markets both at home and abroad. Even if we pass landmark legislation this year calling for a balanced budget by the year 2002—and I hope we do—the debt ceiling will still have to be raised periodically, at least in the near term, to meet our financial responsibilities on our $5 trillion debt. I am not willing to play political gamesmanship with the stability of our economy or strength of our credit.

We should be able to count on the Federal Government to pay its bills on time. It is for this very reason that, regardless of my objections to the extraneous amendments added onto this legislation, I strongly supported the passage of H.R. 2586.

Accordingly, I was glad to see that dismantling the Department of Commerce was not included. While I advocate reforming the nonessential and wasteful functions of the Department, I remain skeptical that budgetary savings result from simply reshuffling agencies into other bureaucratic boxes.

My home State of Louisiana depends heavily on many of the programs under the jurisdiction of the Department of Commerce. Of particular significance is research and funding provided by the National Oceanic and Atmospheric Administration [NOAA]. Although a source of frustration and consternation to area shrimpers, the research efforts of the National Marine Fisheries Service are critical to the restoration of our coastal wetlands. NMFS is continuously engaged in activities that enhance our ability to preserve wildlife and prevent flooding. The National Weather Service early warning system is also vital for a low lying coastal State like Louisiana to ensure adequate preparation for families and businesses in the event of a natural disaster.

I also wanted to give special mention to the importance of the Economic Development Administration [EDA] to rural Louisiana. In the western part of my district alone, EDA technical assistance grants have enabled communities to leverage small Federal dollars into other Federal grants totalling some $156 million over the past 20 years. Infrastructure improvements through EDA grants also entice entrepreneurs to invest in our communities, thus augmenting our competitive position and our ability to create jobs. Finally, with the downsizing of Fort Polk, EDA moneys are available to assist the base and the surrounding Leesville area in coping with potential job displacements.

The House overwhelmingly rejected an amendment by Congressman HEFLEY to the Commerce, Justice, State, and the Judiciary Appropriations bill, H.R. 2076, that would have eliminated EDA. The House Committee on Transportation and Infrastructure also approved, on three separate occasions, legislation to reform and preserve EDA. If these votes are indicative of our policy preferences—and I believe that they are—then the successful initiatives put forth by EDA to help my rural Louisiana district and the Nation should be allowed to continue.

Clearly, there should be some agent of the business community at the Cabinet level to appropriately defend and promote the powers of the marketplace and the necessity of job creation. Whether that representative has to be the Department of Commerce, I am uncertain. But, I am certain that, until savings can be verified and functions and programs are properly studied, we should not haphazardly act or unsuitably connect the issue to the debt ceiling.

DR. TOM CLARK AND HIS HONORABLE CAREER OF PUBLIC SERVICE

HON. STEPHEN HORN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 14, 1995

Mr. HORN. Mr. Speaker, for the past three decades the city of Long Beach has benefited from the efforts of an extraordinary public servant, Dr. Thomas Clark, whose commitment and dedication have been integral to the city's development and growth over those years.

Tom Clark, whom I am privileged to call a friend, has been described as "a living piece of Long Beach history" in a recent article in the Long Beach Press Telegram. He was first elected to the Long Beach City Council in 1966, and his list of achievements is considerable. As the Press Telegram reported, "Clark pushed for a measure to put fluoride in the city's water supply, sponsored legislation that led to the construction of the Main Library and El Dorado Park and even rode aboard the Queen Mary when the historic ocean liner first sailed into Long Beach."

When Tom Clark announced that he would not seek reelection, it indeed signaled an end of an era. In addition to his three decades on the Council, Tom served two terms as the city's mayor, spending a total of 7 years in that position. He and his helpful wife, Lois, who is a professional medical librarian, have spent thousands of hours representing Long Beach throughout the city and State, as well as nationally and abroad. And his leadership extended well beyond the city, ranging from the California League of Cities to the California Public Employees Retirement System.

Tom exemplifies the best of what we seek in public service. The same days that he was spending countless hours in service to his fellow citizens as a member of the council, he was also working full-time as an optometrist, a practice from which he retired in 1993.

In a November 8 editorial, the Press Telegram said this of Tom Clark: "Clark is the very model of a city councilman. He is earnest to the point of gravity; almost never raises his voice; thrives on meetings and compromise; relishes the role of public official; has only a moderately thin skin; is only modestly partisan; never seems to tire of solving neighborhood problems; and has served long and loyally for little pay. What more could we ask?"

Tom Clark has regularly walked his council district. With a listed telephone, he was available to his constituents all times of night and day.

Tom can take pride in his accomplishments and the legacy he has left. He will be missed on the council, but I am confident that he will always be available to serve the city he loves and has done so much to improve.

Mr. Speaker, Tom Clark has conducted himself with honor. As citizen and office holder, he has symbolized good government and decency, not only in the yes of his friends and neighbors, but also to all who have known him.

I ask that the Press Telegram editorial be placed at this point in the RECORD. The editorial follows:

[From the Long Beach Press-Telegram, Nov. 8, 1995]

AN ARCHETYPICAL COUNCILMAN

It's a bit early to say goodbye to Tom Clark, because he plans to finish out his term before he retires as a Long Beach city councilman. But a few kind words are timely, and he deserves them.

Clark is the very model of a city councilman. He is earnest to the point of gravity; almost never raises his voice; thrives on meetings and compromise; relishes the role of public official; has only a moderately thin skin; is only modestly partisan; never seems to tire of solving neighborhood problems; and has served long and loyally for little pay.

What more could we ask? (Actually, if we could, we'd change his position on one or two things, but that's a different subject.) Agree with him or not, he stood for what he believed was best for his district and his community.

As the longest-serving of his city's public officials, Clark has been associated, for better or worse, directly or indirectly, with a long list of public works and community change; a performing arts center, downtown redevelopment, creation of El Dorado Park and the purchase of the Queen Mary (he rode it into town on its last voyage, and never abandoned ship, so to speak).

He has taken some flack now and then, most recently for his support of reviewing the Los Altos Shopping Center (a difficult and important task, and one that could not possibly please everyone). But he seems to have created no real enemies.

Clark's most intense political opponent was former Mayor Ernie Kell. Neither Clark nor Kell missed many opportunities to take a shot at each other, mostly on the somewhat foggy issue of leadership, and each regarded the other as an easy target; yet both managed to keep their differences on a mostly civil level. Clark lost a close election to Kell for mayor at large, but in the end he outlasted him and at least in that sense will have the last word.

For years Clark was the best known of Long Beach officials. He served twice as mayor at a time when that position was filled by council members, and he so enjoyed city governance that in his spare time he served as a leader of the association of local elected officials, the California League of Cities. Even now he probably wouldn't be stepping aside if he felt there was no one properly qualified to take his place.

But, after all these years, he is retiring. Because he served for such a long time—nearly a third of the history of his city, it is hard to say what might be his most significant accomplishment. Maybe it is pretty much what the League of Cities might expect, or the charter of a council-manager municipal government might suggest: a citizen, gainfully employed, who dedicates himself to elective office, part-time, representing no special interest other than his constituents, whom he serves honorably. As for what was most important to him, it's probably best, as it nearly always was, to take him at his word: that he wants to be remembered as someone who cared.

"DOLE'S MOMENT"

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 14, 1995

Mr. OXLEY. Mr. Speaker, I commend the following column by James Glassman from the Washington Post to the attention of my colleagues.

[From the Washington Post, Nov. 14, 1995]

DOLE'S MOMENT

(By James K. Glassman)

For two good reasons, Bob Dole's campaign people liked having Colin Powell around.

First, Powell took the spotlight off Dole, letting him avoid the scrutiny that often destroys early front-runners. Second, Powell took the spotlight off the other candidates, depriving them of the publicity they needed to raise money and get traction.

Now Powell is gone, and the predictable stories have begun. The front page of The Post yesterday carried the headline: "Out in Front, but Losing Ground. Polls Expose Dole's Potential Vulnerabilities as Presidential Challenger." The New York Times opted for a piece on how "Moderates could pass up Dole and hold out for an independent." Etc. etc.

The hyperactive press demands novelty. It will never heed Pascal's famous warning "that all human evil comes from . . . man's being unable to sit still in a room." And, certainly, cynicism about politicians is nothing new. Thumbing through some issues of the New Yorker in its heyday, I found an article by Richard Rovere from June 1968 that described the intense dissatisfaction of voters with the presidential field at the time. What a field! Robert Kennedy, Hubert Humphrey, Eugene McCarthy, Richard Nixon, George Wallace and Nelson Rockefeller.

But what about Bob? I suspect that 14 months from now, at age 73, he'll be sworn in as president. He has a giant lead in New Hampshire. Sen. Phil Gramm (R-Tex.), who was supposed to give him a tough race, is in single digits. And his other top foes have never won an election—a reactionary pundit and a rich supply-sider who inherited a magazine from his famous dad.

In the general election, polls show Dole and President Clinton about even. But answers to two questions are ominous for the president. A Time/CNN survey found 41 percent would "definitely" vote against him. A Post survey asked, "Which party better represents your views on national issues." Republicans got 55 percent, Democrats 25 percent.

The White House, meanwhile, has adopted a weird reelection strategy. Harold Ickes, the lead official on the campaign, says that "the overall issue is going to be leadership. . . . People will make their judgments based on what they know about the person, what they think about his character."

Bill Clinton running on character? Certainly, the lesson of the Powell infatuation is that the nation desperately wants a leader, but it's hard to see the current president as that man—or Dole, right now. Still, if you look beyond the next few messy weeks (in which Speaker Newt Gingrich, far more than Dole, is taking the heat on the budget), you can catch a glimpse of Dole's own story emerging. It is a powerful one, and most Americans don't know it yet.

I didn't know it myself until I read "What It Takes," Richard Ben Cramer's brilliant but unwieldy book on the 1988 presidential campaign. Now Cramer has collated all the bits about Dole and put them into a single volume, "Bob Dole," recently out in paperback from Vintage.

The story is the wound, suffered 50 years ago when, as a 21-year-old Army lieutenant, Dole's upper body was torn apart by German gunfire on a hill in Italy. "Whatever hit Dole had ripped into everything," writes Cramer, "You could see into Dole through the jacket, through the shoulder, like a gouged fruit. See down to the core." Dole was sent back home, nearly died a few times, but hung on, fighting against what Cramer calls "his private vision of hell. . . . Sometimes, he could actually see himself on Main Street, Russell, in a wheelchair, with a cup."

In 1947, a Chicago surgeon named Hampar Kelikian, an Armenian immigrant who had come to America with $20 in his pocket, put Dole back together. Dr. K. refused to be paid, but Dole had to get to Chicago, and the folks in Russell chipped in, putting their dollar bills in a cigar box.

Three years later, Dole was elected to the Kansas state house, then county attorney, then U.S. representative, then, in 1968, U.S. senator; in 1976, vice presidential nominee; in 1984, majority leader; in 1994, leader again.

The trouble with this great American success story is that Dole himself is reluctant to tell it. As Cramer shows, he feels embarrassed about not being "whole"—as if his handicap should be hidden:

"If [Dole] ever let himself rest, that [right] arm would hang straight down, visibly shorter than his left arm, with the palm of his right hand twisted toward the back. But Dole never, lets anybody see that—his 'problem.' He keep a plastic pen in his crooked right fist to round its shape.

"If he ever let that pen go, the hand would splay, with the forefinger pointing and the others cramped in toward the palm. . . . No matter how that fist aches or spasms, Dole holds on—against his problem."

So what about Bob? He has few core beliefs, other than balancing the budget (as Cramer writes: "Bobby Joe Dole grew up in Russell, Kansas. He saw people die from debt."). He may be uncomfortable with Gingrich and his passionate conservative cohorts, but that doesn't mean he'll betray them. As president, he'll be a moderating force, but in the end, he'll sign, not veto.

Up to now, he's been ignored and underestimated. That's starting to change. Dole has to get through the Florida straw poll later this week with a good showing and get through the fight over the budget without serious damage. Then, it will be time to tell his story and show his stuff. Will Americans take to him as leader, as the last member of the heroic World War II generation to lead this country? Don't bet against it.