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Senate

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 rollcall 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.

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

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.

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 decisionmaking. 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 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.

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

(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

(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

(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

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