## VACATING PROCEEDINGS ON SEPTEMBER 13, 1995, APPOINTMENT OF CONFEREES ON H.R. 2126, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1996

Mr. YOUNG of Florida. Mr. Speaker I ask unanimous consent to vacate the proceedings of September 13, 1995, in which the House of Representatives disagreed to the Senate amendment to the bill, H.R. 2126, making appropriations for the Department of Defense for the fiscal year ending September 30, 1996, and for other purposes and agreed to the conference requested by the Senate; provided that the order of the House of Representatives of the same day enabling closed meetings of the conference remain in effect.

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

There was no objection.

## APPOINTMENT OF CONFEREES ON H.R. 2126, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1996

Mr. YOUNG of Florida. Mr. Speaker I ask unanimous consent to take from the Speaker's table the bill H.R. 2126, making appropriations for the Department of Defense for the fiscal year ending September 30, 1996, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

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

There was no objection.

MOTION TO INSTRUCT CONFEREES OFFERED BY MR. OBEY

Mr. OBEY. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. OBEY moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill H.R. 2126 be instructed to insist on Section 8075 of the House bill, limiting the allowable cost charged to the government for individual compensation to not more than $200,000 per year.

The SPEAKER pro tempore. The gentleman from Wisconsin [Mr. OBEY] will be recognized for 30 minutes, and the gentleman from Florida [Mr. YOUNG] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. OBEY].

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

Mr. Speaker, my motion to instruct is very simple. Last week the House adopted a motion which limited to $200,000 the amount that could be paid to any executive in any defense corporation from any contract which they had with the U.S. Government or any agency of the U.S. Government.

In plain language, this simply says that any dollars that any defense contractor wants to provide by way of compensation to any of their executives above the salary paid to the President of the United States should be paid out of their profits and not out of contract receipts with the U.S. Government.

If you take a look at the salaries of some of the CEO's of these corporations, you will see that, for instance, one of them was paid nearly $15 million in 1994. I do not really believe that, when we have the massive downsizing going on in the military, when we have the squeeze that we have not only in the military budget but on domestic budgets as well, I do not think we have any business encouraging the payment of those outlandish salaries. I do not see why anybody in this country ought to have to make more than the President of the United States.

□ 1330

Mr. Speaker, I urge the adoption of this motion to instruct.

Mr. YOUNG of Florida. Mr. Speaker, I yield myself such time as I might consume and simply say that, when the bill was before the House, we accepted the gentleman's amendment, and we accept his motion to instruct today, and, unless he has further speakers, I am prepared to yield back the balance of my time.

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

The SPEAKER pro tempore. (Mr. RADANOVICH). Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Wisconsin [Mr. OBEY].

The motion to instruct was agreed to.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees: Messrs. YOUNG of Florida, MCDADE, LIVINGSTON, LEWIS of California, SKEEN, HOBSON, BONILLA, NETHERCUTT, NEUMANN, MURTHA, DICKS, WILSON, HEFNER, SABO, and OBEY.

## GENERAL LEAVE

Mr. YOUNG of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2126.

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

There was no objection.

## PERMISSION TO FILE CONFERENCE REPORT ON H.R. 1817, MILITARY CONSTRUCTION APPROPRIATIONS ACT, 1996

Mr. YOUNG of Florida. Mr. Speaker, I ask unanimous consent that the managers on the part of the House may have until midnight tonight, September 14, 1995, to file a conference report on the bill (H.R. 1817) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 1996, and for other purposes.

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

There was no objection.

## FEDERAL ACQUISITION REFORM ACT OF 1995

The SPEAKER pro tempore. Pursuant to House Resolution 219 and rule XXIII, the Chair declares the House in Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 1670.

□ 1333

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 1670) to revise and streamline the acquisition laws of the Federal Government, to reorganize the mechanisms for resolving Federal procurement disputes, and for other purposes, with Mr. WELLER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, September 13, 1995, title III was open for amendment at any point.

Are there any amendments to title III?

AMENDMENT OFFERED BY MR. SPRATT

Mr. SPRATT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SPRATT: At the end of title III (page 100, after line 12), insert the following new section:

**SEC. 319. DEMONSTRATION PROJECT RELATING TO CERTAIN PERSONNEL MANAGEMENT POLICIES AND PROCEDURES.**

(a) COMMENCEMENT.—The Secretary of Defense is encouraged to take such steps as may be necessary to provide for the commencement of a demonstration project, the purpose of which would be to determine the feasibility or desirability of one or more proposals for improving the personnel management policies or procedures that apply with respect to the acquisition workforce of the Department of Defense.

(b) TERMS AND CONDITIONS.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, any demonstration project described in subsection (a) shall be subject to section 4703 of title 5, United States Code, and all other provisions of such title that apply with respect to any demonstration project under such section.

(2) EXCEPTIONS.—Subject to paragraph (3), in applying section 4703 of title 5, United States Code, with respect to a demonstration project described in subsection (a)—

(A) ''180 days'' in subsection (b)(4) of such section shall be deemed to read ''120 days'';

(B) ''90 days'' in subsection (b)(6) of such section shall be deemed to read ''30 days''; and

(C) subsection (d)(1)(A) of such section shall be disregarded.

(3) CONDITION.—Paragraph (2) shall not apply with respect to a demonstration project unless it—

(A) involves only the acquisition workforce of the Department of Defense (or any part thereof); and

(B) commences during the 3-year period beginning on the date of the enactment of this Act.

(c) DEFINITION.—For purposes of this section, the term ''acquisition workforce'' refers to the persons serving in acquisition positions within the Department of Defense, as designated pursuant to section 1721(a) of title 10, United States Code.

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

Mr. SPRATT. Mr. Chairman, I have been here for 7 terms now, and I have seen the cycles rise and cycles fall with respect to defense procurement policy making. In one period we get very prescriptive about the rules we make, and the next period we realize that we have been overprescriptive, we have been much too specific, and we back off and give the Department of Defense, in particular, more running room, more discretion, more flexibility, and more responsibility. But always mainly our effort is directed towards the black-letter rule, the procedures, and yet most of us who have ever been involved in running a business realize that when our businesses succeeded or failed, it was not the rule book or the policy manual we turned to first. It was the people who worked for us, and I think we should heed that own practical experience when we look at the defense procurement, and, in revisiting the rules one more time, making another cut at the rules to see if we cannot make defense procurement much more efficient.

I do not think we should overlook the fact that we have got to do something about the quality, the calibre, the incentives, the rewards, the accountability of the acquisition work force, and that is the purpose of my amendment. My amendment simply encourages the Secretary of Defense to set up pilot projects to improve acquisition or procurement by improving the people who manage the system. It will allow far greater flexibility in hiring, and firing, and promoting, and incentivizing the people who work in defense acquisition.

Frankly, Mr. Chairman, I would go further than this particular amendment does. I would actually impose upon the Secretary of Defense a requirement that he undertake certain demonstration projects to test out the viability or feasibility of flexing up his personnel policies in the acquisition work force, but in the interests of achieving a consensus this bill, this amendment, simply encourages the Secretary to do that and to use authority that is already on the books, title 5, section 4703, United States Code, which gives that same authority to the Office of Personnel Management.

This particular amendment simply starts out by saying the Secretary of Defense is encouraged to utilize that authority and to undertake demonstrational pilot projects that will experiment with, attempt on a broad scale, much more flexible and innovative procedures in hiring, and firing, and rewarding, and penalizing those who fail or succeed.

This is a first step, and is long overdue, towards implementing one of the key reforms that was recommended 10 years ago by the Packard Commission. In its report in 1986 the Packard Commission said DOD must be able to attract, and retain, and motivate well-qualified acquisition personnel. The Packard Commission recognized that acquisition reform would not happen if we just rewrite the rule book. This is an exercise that we do frequently, and we wonder why we do not get results. It is because we are not doing enough to change the people that implement and follow the rules. We have to upgrade the caliber of people who manage acquisition. We have got to reward them for good performance, penalizing or replacement for inadequate performance, and, above all, hold them accountable. My amendment would allow the DOD to restructure their personnel regulations for acquisition managers without regard to existing classifications in the Civil Service Code in order to attract better technical talent to keep people who are knowledgeable and capable, and reward them accordingly, and to motivate the whole work force better.

Mr. Chairman, this reform is not only recommended by the Packard Commission, but by the National Academy of Public Administration, once again more than 10 years ago, and our followup to it has been all too feeble.

Mr. CLINGER. Mr. Chairman, will the gentleman yield?

Mr. SPRATT. I yield to the gentleman from Pennsylvania.

Mr. CLINGER. Despite the fact the gentleman opposed my position on title I, I would say what I consider to be a very generous example of noblesse oblige, we are prepared to accept the gentleman's amendment, and I understand that any problems have been worked out with all the parties, and we are pleased to accept the amendment.

Mr. SPRATT. Mr. Chairman, I thank the gentleman for his magnanimity, as well as his support. I appreciate it.

Mrs. COLLINS of Illinois. Mr. Chairman, will the gentleman yield?

Mr. SPRATT. I yield to the gentlewoman from Illinois.

Mrs. COLLINS of Illinois. I am more than happy that this is really a great amendment. It is one that a great deal of work has been done by the gentleman from South Carolina [Mr. SPRATT] and of course we on this side accept this most wonderful amendment.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from South Carolina [Mr. SPRATT]. The amendment seeks to implement a recommendation made in 1986 by the Packard Commission that the Secretary of Defense be given the authority to establish a flexible personnel system for DOD acquisition personnel.

I want to commend the gentleman for his efforts to perfect this amendment since the committee markup. His office worked closely with my staff and with the Office of Personnel Management [OPM] to produce language that enjoys bipartisan support.

The Spratt amendment encourages the Secretary to work with OPM to conduct this demonstration project under the framework of existing demonstration project authority, with a few minor changes. It waives the statutory cap which limits the number of employees involved to 5,000. This is necessary because there are about 6,500 individuals in DOD's civilian acquisition work force. The amendment also makes minor changes in some of the timeframes for notifications sent the affected employees and the Congress.

I believe this provision can lead to greater productivity on the part of acquisition personnel. I urge the adoption of the amendment.

Mr. SPRATT. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from South Carolina [Mr. SPRATT].

The amendment was agreed to.

AMENDMENTS OFFERED BY MR. CHAMBLISS

Mr. CHAMBLISS. Mr. Chairman, I offer two amendments and ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. CHAMBLISS:

AMENDMENT NO. 6: (1) Strike out title IV (page 100, starting on line 13, and all that follows through line 18 on page 143) and insert in lieu thereof the following:

TITLE IV—STREAMLINING OF DISPUTE RESOLUTION

Subtitle A—General Provisions

**SEC. 401. DEFINITIONS.**

(a) IN GENERAL.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended by adding at the end the following:

''TITLE II—DISPUTE RESOLUTION

''Subtitle A—General Provisions

**''SEC. 201. DEFINITIONS.**

''In this title:

''(1) The term 'Defense Board' means the Department of Defense Board of Contract Appeals established pursuant to section 8(a) of the Contract Disputes Act of 1978 (41 U.S.C. 607).

''(2) The term 'Civilian Board' means the Civilian Board of Contract Appeals established pursuant to section 8(b) of the Contract Disputes Act of 1978 (41 U.S.C. 607).

''(3) The term 'Board judge' means a member of the Defense Board or the Civilian Board, as the case may be.

''(4) The term 'Chairman' means the Chairman of the Defense Board or the Civilian Board, as the case may be.

''(5) The term 'Board concerned' means—

''(A) the Defense Board with respect to matters within its jurisdiction; and

''(B) the Civilian Board with respect to matters within its jurisdiction.

''(6) The term 'executive agency'—

''(A) with respect to contract disputes and protests under the jurisdiction of the Defense Board, means the Department of Defense, the Department of the Army, the Department of the Navy, or the Department of the Air Force; and

''(B) with respect to contract disputes and protests under the jurisdiction of the Civilian Board, has the meaning given by section 4(1) of this Act except that the term does not

include the Department of Defense, the Department of the Army, the Department of the Navy, and the Department of the Air Force.

''(7) The term 'alternative means of dispute resolution' has the meaning given by section 571(3) of title 5, United States Code.

''(8) The term 'protest' means a written objection by an interested party to any of the following:

''(A) A solicitation or other request by an executive agency for offers for a contract for the procurement of property or services.

''(B) The cancellation of such a solicitation or other request.

''(C) An award or proposed award of such a contract.

''(9) The term 'interested party', with respect to a contract or a solicitation or other request for offers, means an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of the contract or by failure to award the contract.

''(10) The term 'prevailing party', with respect to a determination of the Board under section 214(h)(2) that a decision of the head of an executive agency is arbitrary or capricious or violates a statute or regulation, means a party that showed that the decision was arbitrary or capricious or violated a statute or regulation.''.

(b) CONFORMING AMENDMENTS.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is further amended—

(1) by inserting the following before section 1:

''TITLE I—FEDERAL PROCUREMENT POLICY GENERALLY'';

and

(2) in section 4, by striking out ''As used in this Act:'' and inserting in lieu thereof ''Except as otherwise specifically provided, as used in this Act:''.

Subtitle B—Establishment of Civilian and Defense Boards of Contract Appeals

**SEC. 411. ESTABLISHMENT.**

Subsections (a) and (b) of section 8 of the Contract Disputes Act of 1978 (41 U.S.C. 607) are amended to read as follows:

''(a) There is established in the Department of Defense a board of contract appeals to be known as the Department of Defense Board of Contract Appeals.

''(b) There is established in the General Services Administration a board of contract appeals to be known as the Civilian Board of Contract Appeals.''.

**SEC. 412. MEMBERSHIP.**

The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), as amended by section 401, is further amended by adding at the end the following:

**''SEC. 202. MEMBERSHIP.**

''(a) APPOINTMENT.—(1)(A) The Defense Board shall consist of judges appointed by the Secretary of Defense from a register of applicants maintained by the Defense Board, in accordance with rules issued by the Defense Board for establishing and maintaining a register of eligible applicants and selecting Defense Board judges. The Secretary shall appoint a judge without regard to political affiliation and solely on the basis of the professional qualifications required to perform the duties and responsibilities of a Defense Board judge.

''(B) The Civilian Board shall consist of judges appointed by the Administrator of General Services from a register of applicants maintained by the Civilian Board, in accordance with rules issued by the Civilian Board for establishing and maintaining a register of eligible applicants and selecting Civilian Board judges. The Administrator shall appoint a judge without regard to political affiliation and solely on the basis of the professional qualifications required to perform the duties and responsibilities of a Civilian Board judge.

''(2) The members of the Defense Board and the Civilian Board shall be selected and appointed to serve in the same manner as administrative law judges appointed pursuant to section 3105 of title 5, United States Code, with an additional requirement that such members shall have had not fewer than five years of experience in public contract law.

''(3) Notwithstanding paragraph (2) and subject to subsection (b), the following persons shall serve as Board judges:

''(A) For the Defense Board, any full-time member of the Armed Services Board of Contract Appeals serving as such on the day before the effective date of this title.

''(B) For the Civilian Board, any full-time member of any agency board of contract appeals other than the Armed Services Board of Contract Appeals serving as such on the day before the effective date of this title.

''(C) For either the Defense Board or the Civilian Board, any person serving on the day before the effective date of this title in a position at a level of assistant general counsel or higher with authority delegated from the Comptroller General to decide bid protests under subchapter V of chapter 35 of title 31, United States Code.

''(b) REMOVAL.—Members of the Defense Board and the Civilian Board shall be subject to removal in the same manner as administrative law judges, as provided in section 7521 of title 5, United States Code.

''(c) COMPENSATION.—Compensation for the Chairman of the Defense Board and the Chairman of the Civilian Board and all other members of each Board shall be determined under section 5372a of title 5, United States Code.''.

**SEC. 413. CHAIRMAN.**

The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), as amended by section 412, is further amended by adding at the end the following:

**''SEC. 203. CHAIRMAN.**

''(a) DESIGNATION.—(1)(A) The Chairman of the Defense Board shall be designated by the Secretary of Defense to serve for a term of five years. The Secretary shall select the Chairman from among sitting judges each of whom has had at least five years of service—

''(i) as a member of the Armed Services Board of Contract Appeals; or

''(ii) in a position at a level of assistant general counsel or higher with authority delegated from the Comptroller General to decide bid protests under subchapter V of chapter 35 of title 31, United States Code (as in effect on the day before the effective date of this title).

''(B) The Chairman of the Civilian Board shall be designated by the Administrator of General Services to serve for a term of five years. The Administrator shall select the Chairman from among sitting judges each of whom has had at least five years of service—

''(i) as a member of an agency board of contract appeals other than the Armed Services Board of Contract Appeals; or

''(ii) in a position at a level of assistant general counsel or higher with authority delegated from the Comptroller General to decide bid protests under subchapter V of chapter 35 of title 31, United States Code (as in effect on the day before the effective date of this title).

''(2) A Chairman of a Board may continue to serve after the expiration of the Chairman's term until a successor has taken office. A Chairman may be reappointed any number of times.

''(b) RESPONSIBILITIES.—The Chairman of the Defense Board or the Civilian Board, as the case may be, shall be responsible on behalf of the Board for the executive and administrative operation of the Board, including functions of the Board with respect to the following:

''(1) The selection, appointment, and fixing of the compensation of such personnel, pursuant to part III of title 5, United States Code, as the Chairman considers necessary or appropriate, including a Clerk of the Board, a General Counsel, and clerical and legal assistance for Board judges.

''(2) The supervision of personnel employed by or assigned to the Board, and the distribution of work among such personnel.

''(3) The operation of an Office of the Clerk of the Board, including the receipt of all filings made with the Board, the assignment of cases, and the maintenance of all records of the Board.

''(4) The prescription of such rules and regulations as the Chairman considers necessary or appropriate for the administration and management of the Board.

''(c) VICE CHAIRMEN.—The Chairman of the Defense Board or the Civilian Board, as the case may be, may designate up to four other Board judges as Vice Chairmen. The Chairman may divide the Board into two divisions, one for handling contract disputes and one for handling protests, and, if such division is made, shall assign a Vice Chairman to head each division. The Vice Chairmen, in the order designated by the Chairman, shall act in the place and stead of the Chairman during the absence of the Chairman.''.

**SEC. 414. RULEMAKING AUTHORITY.**

The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), as amended by section 413, is further amended by adding at the end the following:

**''SEC. 204. RULEMAKING AUTHORITY.**

''(a) IN GENERAL.—Except as provided by section 452 of the Federal Acquisition Reform Act of 1995, the Chairman of the Defense Board and the Chairman of the Civilian Board shall jointly issue and maintain—

''(1) such procedural rules and regulations as are necessary to the exercise of the functions of the Boards under sections 213 and 214; and

''(2) statements of policy of general applicability with respect to such functions.

''(b) BOARD PROCEDURES.—In issuing procedural rules and regulations for the exercise of the Boards' protest function under section 214, the Chairmen shall take due notice of executive agency procedures for the resolution of protests as a discretionary alternative to resolution of protests by the Boards and shall ensure that the rules and regulations governing the time for filing protests with the Boards make appropriate allowance for the use of such executive agency procedures by interested parties.''.

**SEC. 415. AUTHORIZATION OF APPROPRIATIONS.**

The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), as amended by section 414, is further amended by adding at the end the following:

**''SEC. 205. AUTHORIZATION OF APPROPRIATIONS.**

''There are authorized to be appropriated for fiscal year 1997 and each succeeding fiscal year such sums as may be necessary to carry out the provisions of this title. Funds for the activities of each Board shall be separately appropriated for such purpose. Funds appropriate pursuant to this section shall remain available until expended.''.

Subtitle C—Functions of Defense and Civilian Boards of Contract Appeals

**SEC. 421. ALTERNATIVE DISPUTE RESOLUTION SERVICES.**

The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), as amended by section 415, is further amended by adding at the end the following:

''Subtitle B—Functions of the Defense and Civilian Boards of Contract Appeals

**''SEC. 211. ALTERNATIVE DISPUTE RESOLUTION SERVICES.**

''(a) REQUIREMENT TO PROVIDE SERVICES UPON REQUEST.—The Defense Board and the Civilian Board shall each provide alternative means of dispute resolution for any disagreement regarding a contract or prospective contract of an executive agency upon the request of all parties to the disagreement.

''(b) PERSONNEL QUALIFIED TO ACT.—Each Board judge and each attorney employed by the Board concerned shall be considered to be qualified to act for the purpose of conducting alternative means of dispute resolution under this section.

''(c) SERVICES TO BE PROVIDED WITHOUT CHARGE.—Any services provided by the Board concerned or any Board judge or employee pursuant to this section shall be provided without charge.

''(d) RECUSAL OF CERTAIN PERSONNEL UPON REQUEST.—In the event that a matter which is presented to the Board concerned for alternative means of dispute resolution, pursuant to this section, later becomes the subject of formal proceedings before such Board, any Board judge or employee who was involved in the alternative means of dispute resolution shall, if requested by any party to the formal proceeding, take no part in that proceeding.''.

**SEC. 422. ALTERNATIVE DISPUTE RESOLUTION OF DISPUTES AND PROTESTS SUBMITTED TO BOARDS.**

The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), as amended by section 421, is further amended by adding at the end the following:

**''SEC. 212. ALTERNATIVE DISPUTE RESOLUTION OF DISPUTES AND PROTESTS SUBMITTED TO BOARDS.**

''With reasonable promptness after the submission to the Defense Board or the Civilian Board of a contract dispute under section 213 or a bid protest under section 214, a Board judge to whom the contract dispute or protest is assigned shall request the parties to meet with a Board judge, or an attorney employed by the Board concerned, for the purpose of attempting to resolve the dispute or protest through alternative means of dispute resolution. Formal proceedings in the appeal shall then be suspended until such time as any party or a Board judge to whom the dispute or protest is assigned determines that alternative means of dispute resolution are not appropriate for resolution of the dispute or protest.''.

**SEC. 423. CONTRACT DISPUTES.**

The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), as amended by section 422, is further amended by adding at the end the following:

**''SEC. 213. CONTRACT DISPUTES.**

''The Defense Board shall have jurisdiction as provided by section 8(a) of the Contract Disputes Act of 1978 (41 U.S.C. 601–613). The Civilian Board shall have jurisdiction as provided by section 8(b) of such Act.''.

**SEC. 424. PROTESTS.**

The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), as amended by section 423, is further amended by adding at the end the following:

**''SEC. 214. PROTESTS.**

''(a) REVIEW REQUIRED UPON REQUEST.—Upon request of an interested party in connection with any procurement conducted by an executive agency, the Defense Board or the Civilian Board, as the case may be, shall review, as provided in this section, any decision by the head of the executive agency alleged to be arbitrary or capricious or to violate a statute or regulation. A decision or order of the Board concerned pursuant to this section shall not be subject to interlocutory appeal or review.

''(b) STANDARD OF REVIEW.—In deciding a protest, the Board concerned may consider all evidence that is relevant to the decision under protest. The protester may prevail only by showing that the decision was arbitrary or capricious or violated a statute or regulation.

''(c) NOTIFICATION.—Within one day after the receipt of a protest, the Board concerned shall notify the executive agency involved of the protest.

''(d) SUSPENSION OF CONTRACT AWARD.—(1) Except as provided in paragraph (2) of this subsection, a contract may not be awarded in any procurement after the executive agency has received notice of a protest with respect to such procurement from the Board concerned and while the protest is pending.

''(2) The head of the procuring activity responsible for award of a contract may authorize the award of the contract (notwithstanding a protest of which the executive agency has notice under this section)—

''(A) upon a written finding that urgent and compelling circumstances which significantly affect interests of the United States will not permit waiting for the decision of the Board concerned under this section; and

''(B) after the Board concerned is advised of that finding.

''(3) A finding may not be made under paragraph (2)(A) of this subsection unless the award of the contract is otherwise likely to occur within 30 days after the making of such finding.

''(4) The suspension of the award under paragraph (1) shall not preclude the executive agency concerned from continuing the procurement process up to but not including the award of the contract.

''(e) SUSPENSION OF CONTRACT PERFORMANCE.—(1) A contractor awarded an executive agency contract may, during the period described in paragraph (4), begin performance of the contract and engage in any related activities that result in obligations being incurred by the United States under the contract unless the contracting officer responsible for the award of the contract withholds authorization to proceed with performance of the contract.

''(2) The contracting officer may withhold an authorization to proceed with performance of the contract during the period described in paragraph (4) if the contracting officer determines in writing that—

''(A) a protest is likely to be filed; and

''(B) the immediate performance of the contract is not in the best interests of the United States.

''(3)(A) If the executive agency awarding the contract receives notice of a protest in accordance with this section during the period described in paragraph (4)—

''(i) the contracting officer may not authorize performance of the contract to begin while the protest is pending; or

''(ii) if authorization for contract performance to proceed was not withheld in accordance with paragraph (2) before receipt of the notice, the contracting officer shall immediately direct the contractor to cease performance under the contract and to suspend any related activities that may result in additional obligations being incurred by the United States under that contract.

''(B) Performance and related activities suspended pursuant to subparagraph (A)(ii) by reason of a protest may not be resumed while the protest is pending.

''(C) The head of the procuring activity may authorize the performance of the contract (notwithstanding a protest of which the executive agency has notice under this section)—

''(i) upon a written finding that urgent and compelling circumstances that significantly affect interests of the United States will not permit waiting for the decision concerning the protest by the Board concerned; and

''(ii) after the Board concerned is notified of that finding.

''(4) The period referred to in paragraphs (2) and (3)(A), with respect to a contract, is the period beginning on the date of the contract award and ending on the later of—

''(A) the date that is 10 days after the date of the contract award; or

''(B) the date that is 5 days after the debriefing date offered to an unsuccessful offeror for any debriefing that is requested and, when requested, is required.

''(f) The authority of the head of the procuring activity to make findings and to authorize the award and performance of contracts under subsections (d) and (e) of this section may not be delegated.

''(g) PROCEDURES.—

''(1) PROCEEDINGS AND DISCOVERY.—The Board concerned shall conduct proceedings and allow discovery to the minimum extent necessary for the expeditious, fair, and cost-effective resolution of the protest. The Board shall allow discovery only in a case in which the Board determines that the written submissions of the parties do not provide an adequate basis for a fair resolution of the protest. Such discovery shall be limited to material which is relevant to the grounds of protest or to such affirmative defenses as the executive agency involved, or any intervenor supporting the agency, may raise.

''(2) PRIORITY.—The Board concerned shall give priority to protests filed under this section over contract disputes and alternative dispute services. Except as provided in paragraph (3), the Board concerned shall issue its final decision within 65 days after the date of the filing of the protest, unless the Chairman determines that the specific and unique circumstances of the protest require a longer period, in which case the Board concerned shall issue such decision within the longer period determined by the Chairman. An amendment that adds a new ground of protest should be resolved, to the maximum extent practicable, within the time limits established for resolution of the initial protest.

''(3) THRESHOLD.—(A) Except as provided in subparagraph (B), any protest in which the anticipated value of the contract award that will result from the protested procurement, as estimated by the executive agency involved, is less than $30,000,000 shall be considered under simplified rules of procedure. Such simplified rules shall provide that discovery in such protests shall be in writing only. Such written discovery shall be the minimum necessary for the expeditious, fair, and cost-effective resolution of the protest and shall be allowed only if the Board determines that the written submissions of the parties do not provide an adequate basis for a fair resolution of the protest. Such protests shall be decided by a single Board judge. The Board concerned shall issue its final decision in each such protest within 45 days after the date of the filing of the protest, unless the Chairman determines that the specific and unique circumstances of the protest require a longer period, in which case the Board concerned shall issue such decision within the longer period determined by the Chairman.

''(B) If the Chairman of the Board concerned determines that special and unique circumstances of a protest that would otherwise qualify for the simplified rules described in subparagraph (A), including the complexity of a protest, requires the use of full procedures as described in paragraphs (1)

and (2), the Chairman shall use such procedures in lieu of the simplified rules described in subparagraph (A).

''(4) CALCULATION OF TIME FOR ADR.—In calculating time for purposes of paragraph (2) or (3) of this subsection, any days during which proceedings are suspended for the purpose of attempting to resolve the protest by alternative means of dispute resolution, up to a maximum of 20 days, shall not be counted.

''(5) DISMISSAL OF FRIVOLOUS PROTESTS.—The Board concerned may dismiss a protest that the Board concerned determines—

''(A) is frivolous,

''(B) has been brought or pursued in bad faith; or

''(C) does not state on its face a valid basis for protest.

''(6) PAYMENT OF COSTS FOR FRIVOLOUS PROTESTS.—(A) If the Board concerned expressly finds that a protest or a portion of a protest is frivolous or has been brought or pursued in bad faith, the Board concerned shall declare that the protester or other interested party who joins the protest is liable to the United States for payment of the costs described in subparagraph (B) unless—

''(i) special circumstances would make such payment unjust; or

''(ii) the protester obtains documents or other information after the protest is filed with the Board concerned that establishes that the protest or a portion of the protest is frivolous or has been brought or pursued in bad faith, and the protester then promptly withdraws the protest or portion of the protest.

''(B) The costs referred to in subparagraph (A) are all of the costs incurred by the United States of reviewing the protest, or of reviewing that portion of the protest for which the finding is made, including the fees and other expenses (as defined in section 2412(d)(2)(A) of title 28, United States Code) incurred by the United States in defending the protest.

''(h) DECISIONS AND CORRECTIVE ACTIONS ON PROTESTS.—(1) In making a decision on protests filed under this section, the Board concerned shall accord due weight to the goals of economic and efficient procurement, and shall take due account of the rule of prejudicial error.

''(2) If the Board concerned determines that a decision of the head of the executive agency is arbitrary or capricious or violates a statute or regulation, the Board concerned may order the agency (or its head) to take such corrective action as the Board concerned considers appropriate. Corrective action includes requiring that the executive agency—

''(A) refrain from exercising any of its options under the contract;

''(B) recompete the contract immediately;

''(C) issue a new solicitation;

''(D) terminate the contract;

''(E) award a contract consistent with the requirements of such statute and regulation;

''(F) implement any combination of requirements under subparagraphs (A), (B), (C), (D), and (E); or

''(G) implement such other actions as the Board concerned determines necessary.

''(3) If the Board concerned orders corrective action after the contract award, the affected contract shall be presumed valid as to all goods or services delivered and accepted under the contract before the corrective action was ordered.

''(4) Any agreement that provides for the dismissal of a protest and involves a direct or indirect expenditure of appropriated funds shall be submitted to the Board concerned and shall be made a part of the public record (subject to any protective order considered appropriate by the Board concerned) before dismissal of the protest.

''(i) AUTHORITY TO DECLARE ENTITLEMENT TO COSTS.—(1)(A) Whenever the Board concerned determines that a decision of the head of an executive agency is arbitrary or capricious or violates a statute or regulation, it may, in accordance with section 1304 of title 31, United States Code, further declare an appropriate prevailing party to be entitled to the costs of—

''(i) filing and pursuing the protest, including reasonable attorneys' fees and consultant and expert witness fees, and

''(ii) bid and proposal preparation.

''(B) No party (other than a small business concern (within the meaning of section 3(a) of the Small Business Act)) may be declared entitled under this paragraph to costs for—

''(i) consultant and expert witness fees that exceed the highest rate of compensation for expert witnesses paid by the Federal Government, or

''(ii) attorneys' fees that exceed $150 per hour unless the Board concerned, on a case by case basis, determines that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for the proceedings involved, justifies a higher fee.

''(2) Payment of amounts due from an agency under paragraph (1) or under the terms of a settlement agreement under subsection (h)(4) shall be made from the appropriation made by section 1304 of title 31, United States Code, for the payment of judgments. The executive agency concerned shall reimburse that appropriation account out of funds available for the procurement.

''(j) APPEALS.—A final decision of the Board concerned may be appealed as set forth in section 8(g)(1) of the Contract Disputes Act of 1978 by the head of the executive agency concerned and by any interested party, including interested parties who intervene in any protest filed under this section.

''(k) ADDITIONAL RELIEF.—Nothing contained in this section shall affect the power of the Board concerned to order any additional relief which it is authorized to provide under any statute or regulation.

''(l) NONEXCLUSIVITY OF REMEDIES.—Nothing contained in this section shall affect the right of any interested party to file a protest with the contracting agency or to file an action in the United States Court of Federal Claims or in a United States district court.''.

**SEC. 425. APPLICABILITY TO CERTAIN CONTRACTS.**

The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), as amended by section 424, is further amended by adding at the end the following:

**''SEC. 215. APPLICABILITY TO CERTAIN CONTRACTS.**

''(a) CONTRACTS AT OR BELOW THE SIMPLIFIED ACQUISITION THRESHOLD.—Notwithstanding section 33 of this Act, the authority conferred on the Defense Board and the Civilian Board by this title is applicable to contracts in amounts not greater than the simplified acquisition threshold.

''(b) CONTRACTS FOR COMMERCIAL ITEMS.—Notwithstanding section 34 of this Act, the authority conferred on the Defense Board and the Civilian Board by this title is applicable to contracts for the procurement of commercial items.''.

Subtitle D—Repeal of Other Statutes Authorizing Administrative Protests

**SEC. 431. REPEALS.**

(a) GSBCA PROVISIONS.—Subsection (f) of the Brooks Automatic Data Processing Act (section 111 of the Federal Property and Administrative Services Act of 1949; 40 U.S.C. 759) is repealed.

(b) GAO PROVISIONS.—(1) Subchapter V of chapter 35 of title 31, United States Code (31 U.S.C. 3551–3556) is repealed.

(2) The analysis for chapter 35 of such title is amended by striking out the items relating to sections 3551 through 3556 and the heading for subchapter V.

Subtitle E—Transfers and Transitional, Savings, and Conforming Provisions

**SEC. 441. TRANSFER AND ALLOCATION OF APPROPRIATIONS AND PERSONNEL.**

(a) TRANSFERS.—

(1) ARMED SERVICES AND CORPS BOARDS OF CONTRACT APPEALS.—The personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available in connection with the functions vested by law in the Armed Services Board of Contract Appeals and the board of contract appeals of the Corps of Engineers established pursuant to section 8 of the Contract Disputes Act of 1978 (41 U.S.C. 607) (as in effect on the day before the effective date described in section 451), shall be transferred to the Department of Defense Board of Contract Appeals for appropriate allocation by the Chairman of that Board.

(2) OTHER BOARDS OF CONTRACTS APPEALS.—The personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available in connection with the functions vested by law in the boards of contract appeals established pursuant to section 8 of the Contract Disputes Act of 1978 (41 U.S.C. 607) (as in effect on the day before the effective date described in section 451) other than the Armed Services Board of Contract Appeals, the board of contract appeals of the Corps of Engineers, and the Postal Service Board of Contract Appeals shall be transferred to the Civilian Board of Contract Appeals for appropriate allocation by the Chairman of that Board.

(3) COMPTROLLER GENERAL.—(A) One-quarter (as determined by the Comptroller General) of the personnel employed in connection with, and one-quarter (as determined by the Comptroller General) of the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available in connection with the functions vested by law in the Comptroller General pursuant to subchapter V of chapter 35 of title 31, United States Code (as in effect on the day before the effective date described in section 451), shall be transferred to the Civilian Board of Contract Appeals for appropriate allocation by the Chairman of that Board.

(B) Three-quarters (as determined by the Comptroller General) of the personnel employed in connection with, and three-quarters (as determined by the Comptroller General) of the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available in connection with the functions vested by law in the Comptroller General pursuant to subchapter V of chapter 35 of title 31, United States Code (as in effect on the day before the effective date described in section 451), shall be transferred to the Department of Defense Board of Contract Appeals for appropriate allocation by the Chairman of that Board.

(b) EFFECT ON PERSONNEL.—Personnel transferred pursuant to this subtitle shall

not be separated or reduced in compensation for one year after such transfer, except for cause.

(c) REGULATIONS.—(1) The Department of Defense Board of Contract Appeals and the Civilian Board of Contract Appeals shall each prescribe regulations for the release of competing employees in a reduction in force that gives due effect to—

(A) efficiency or performance ratings;

(B) military preference; and

(C) tenure of employment.

(2) In prescribing the regulations, the Board concerned shall provide for military preference in the same manner as set forth in subchapter I of chapter 35 of title 5, United States Code.

**SEC. 442. TERMINATIONS AND SAVINGS PROVISIONS.**

(a) TERMINATION OF BOARDS OF CONTRACT APPEALS.—Effective on the effective date described in section 451, the boards of contract appeals established pursuant to section 8 of the Contract Disputes Act of 1978 (41 U.S.C. 607) (as in effect on the day before such effective date) other than the Postal Service Board of Contract Appeals shall terminate.

(b) SAVINGS PROVISION FOR CONTRACT DISPUTE MATTERS PENDING BEFORE BOARDS.—(1) This title and the amendments made by this title shall not affect any proceedings (other than bid protests pending before the board of contract appeals of the General Services Administration) pending on the effective date described in section 451 before any board of contract appeals terminated by subsection (a).

(2) In the case of any such proceedings pending before the Armed Services Board of Contract Appeals or the board of contract appeals of the Corps of Engineers, the proceedings shall be continued by the Department of Defense Board of Contract Appeals, and orders which were issued in any such proceeding by the Armed Services Board of Contract Appeals or the board of contract appeals of the Corps of Engineers shall continue in effect until modified, terminated, superseded, or revoked by the Department of Defense Board of Contract Appeals, by a court of competent jurisdiction, or by operation of law.

(3) In the case of any such proceedings pending before an agency board of contract appeals other than the Armed Services Board of Contract Appeals or the board of contract appeals of the Corps of Engineers, the proceedings shall be continued by the Civilian Board of Contract Appeals, and orders which were issued in any such proceeding by the agency board shall continue in effect until modified, terminated, superseded, or revoked by the Civilian Board of Contract Appeals, by a court of competent jurisdiction, or by operation of law.

(c) BID PROTEST TRANSITION PROVISIONS.—(1) No protest may be submitted to the Comptroller General pursuant to section 3553(a) of title 31, United States Code, or to the board of contract appeals for the General Services Administration pursuant to the Brooks Automatic Data Processing Act (40 U.S.C. 759) on or after the effective date described in section 451.

(2)(A) In the case of bid protest proceedings pending before the board of contract appeals of the General Services Administration on the effective date described in section 451—

(i) with respect to bid protests involving procurements of the Department of Defense, the Department of the Army, the Department of the Navy, and the Department of the Air Force, the proceedings shall be continued by the Defense Board of Contract Appeals; and

(ii) with respect to bid protests involving procurements of any other executive agency (as defined by section 4(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(1)), the proceedings shall be continued by the Civilian Board of Contract Appeals.

(B) The provisions repealed by section 431(a) shall continue to apply to such proceedings until the Department of Defense Board of Contract Appeals or the Civilian Board of Contract Appeals, as the case may be, determines such proceedings have been completed.

(3)(A) In the case of bid protest proceedings pending before the Comptroller General on the effective date described in section 451—

(i) with respect to bid protests involving procurements of the Department of Defense, the Department of the Army, the Department of the Navy, and the Department of the Air Force, the proceedings shall be continued by the Defense Board of Contract Appeals;

(ii) with respect to bid protests involving procurements of any other executive agency (as defined by section 4(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(1)), the proceedings shall be continued by the Civilian Board of Contract Appeals; and

(iii) with respect to bid protests involving procurements of an entity that is not an executive agency, the proceedings shall be continued by the Comptroller General.

(B) The provisions repealed by section 431(b) shall continue to apply to such bid protest proceedings until the Department of Defense Board of Contract Appeals, the Civilian Board of Contract Appeals, or the Comptroller General, as the case may be, determines that such proceedings have been completed.

**SEC. 443. CONTRACT DISPUTES AUTHORITY OF BOARDS.**

(a) Section 2 of the Contract Disputes Act of 1978 (41 U.S.C. 601) is amended—

(1) in paragraph (2), by striking out ‘‘, the United States Postal Service, and the Postal Rate Commission’’;

(2) by amending paragraph (6) to read as follows:

‘‘(6) the term ‘Defense Board’ means the Department of Defense Board of Contract Appeals established under section 8(a) of this Act;’’;

(3) by redesignating paragraph (7) as paragraph (8); and

(4) by inserting after paragraph (6) the following new paragraph (7):

‘‘(7) the term ‘Civilian Board’ means the Civilian Board of Contract Appeals established under section 8(b) of this Act; and’’.

(b) Section 6(c)(6) of the Contract Disputes Act of 1978 (41 U.S.C. 605(c)(6)) is amended—

(1) by striking out ‘‘court or an agency board of contract appeals’’ and inserting in lieu thereof ‘‘court, the Defense Board, or the Civilian Board’’;

(2) by striking out ‘‘an agency board of contract appeals’’ in the third sentence and inserting in lieu thereof ‘‘the Defense Board or the Civilian Board’’; and

(3) by striking out ‘‘agency board’’ and inserting in lieu thereof ‘‘the Board concerned’’.

(c) Section 7 of the Contract Disputes Act of 1978 (41 U.S.C. 606) is amended by striking out ‘‘an agency board of contract appeals’’ and inserting in lieu thereof ‘‘the Defense Board or the Civilian Board’’.

(d) Section 8 of the Contract Disputes Act of 1978 (41 U.S.C. 607), as amended by section 411, is further amended—

(1) by amending the heading to read as follows:

‘‘DEFENSE AND CIVILIAN BOARDS OF CONTRACT APPEALS’’;

(2) by striking out subsection (c);

(3) in subsection (d)—

(A) by striking out the first sentence and inserting in lieu thereof the following:

‘‘The Defense Board shall have jurisdiction to decide any appeal from a decision of a contracting officer of the Department of Defense, the Department of the Army, the Department of the Navy, or the Department of the Air Force relative to a contract made by that department. The Civilian Board shall have jurisdiction to decide any appeal from a decision of a contracting officer of any executive agency (other than the Department of Defense, the Department of the Army, the Department of the Navy, the Department of the Air Force, the United States Postal Service, or the Postal Rate Commission) relative to a contract made by that agency.’’; and

(B) in the second sentence, by striking out ‘‘the agency board’’ and inserting in lieu thereof ‘‘the Board concerned’’;

(4) in subsection (e), by striking out ‘‘An agency board shall provide’’ and inserting in lieu thereof ‘‘The Defense Board and the Civilian Board shall each provide,’’;

(5) in subsection (f), by striking out ‘‘each agency board’’ and inserting in lieu thereof ‘‘the Defense Board and the Civilian Board’’;

(6) in subsection (g)—

(A) in the first sentence of paragraph (1), by striking out ‘‘an agency board of contract appeals’’ and inserting in lieu thereof ‘‘the Defense Board or the Civilian Board, as the case may be,’’;

(B) by striking out paragraph (2); and

(C) by redesignating paragraph (3) as paragraph (2); and

(7) by striking out subsection (h) and inserting in lieu thereof the following:

‘‘(h) There is established an agency board of contract appeals to be known as the ‘Postal Service Board of Contract Appeals’. Such board shall have jurisdiction to decide any appeal from a decision of a contracting officer of the United States Postal Service or the Postal Rate Commission relative to a contract made by either agency. Such board shall consist of judges appointed by the Postmaster General who shall meet the qualifications of and serve in the same manner as judges of the Civilian Board of Contract Appeals. This Act and title II of the Office of Federal Procurement Policy Act shall apply to contract disputes before the Postal Service Board of Contract Appeals in the same manner as they apply to contract disputes before the Civilian Board.’’; and

(8) by striking out subsection (i).

(e) Section 9 of the Contract Disputes Act of 1978 (41 U.S.C. 608) is amended—

(1) in subsection (a), by striking out ‘‘each agency board’’ and inserting in lieu thereof ‘‘the Defense Board and the Civilian Board’’; and

(2) in subsection (b), by striking out ‘‘the agency board’’ and inserting in lieu thereof ‘‘the Board concerned’’.

(f) Section 10 of the Contract Disputes Act of 1978 (41 U.S.C. 609) is amended—

(1) in subsection (a)—

(A) in the first sentence of paragraph (1)—

(i) by striking out ‘‘Except as provided in paragraph (2), and in’’ and inserting in lieu thereof ‘‘In’’; and

(ii) by striking out ‘‘an agency board’’ and inserting in lieu thereof ‘‘the Defense Board or the Civilian Board’’;

(B) by striking out paragraph (2); and

(C) by redesignating paragraph (3) as paragraph (2), and in that paragraph by striking out ‘‘or (2)’’;

(2) in subsection (b)—

(A) by striking out ‘‘any agency board’’ and inserting in lieu thereof ‘‘the Defense Board or the Civilian Board’’; and

(B) by striking out ‘‘the agency board’’ and inserting in lieu thereof ‘‘the Board concerned’’;

(3) in subsection (c)—

(A) by striking out ‘‘an agency board’’ and inserting in lieu of each ‘‘the Defense Board or the Civilian Board’’; and

(B) by striking out ''the agency board'' and inserting in lieu thereof ''the Board concerned''; and

(4) in subsection (d)—

(A) by striking out ''one or more agency boards'' and inserting in lieu thereof ''the Defense Board or the Civilian Board (or both)''; and

(B) by striking out ''or among the agency boards involved'' and inserting in lieu thereof ''one or both of the Boards''.

(g) Section 11 of the Contract Disputes Act of 1978 (41 U.S.C. 610) is amended—

(1) in the first sentence, by striking out ''an agency board of contract appeals'' and inserting in lieu thereof ''the Defense Board or the Civilian Board''; and

(2) in the second sentence, by striking out ''the agency board through the Attorney General; or upon application by the board of contract appeals of the Tennessee Valley Authority'' and inserting in lieu thereof ''the Defense Board or the Civilian Board''.

(h) Section 13 of the Contract Disputes Act of 1978 (41 U.S.C. 612) is amended—

(1) in subsection (b), by striking out ''an agency board of contract appeals'' and inserting in lieu thereof ''the Defense Board or the Civilian Board''; and

(2) in subsection (d)(2), by striking out ''by the board of contract appeals for'' and inserting in lieu thereof ''by the Defense Board or the Civilian Board from''.

**SEC. 444. REFERENCES TO AGENCY BOARDS OF CONTRACT APPEALS.**

(a) DEFENSE BOARD.—Any reference to the Armed Services Board of Contract Appeals or the board of contract appeals of the Corps of Engineers in any provision of law or in any rule, regulation, or other paper of the United States shall be treated as referring to the Department of Defense Board of Contract Appeals.

(b) CIVILIAN BOARD.—Any reference to an agency board of contract appeals other than the Armed Services Board of Contract Appeals, the board of contract appeals of the Corps of Engineers, or the Postal Service Board of Contract Appeals in any provision of law or in any rule, regulation, or other paper of the United States shall be treated as referring to the Civilian Board of Contract Appeals.

**SEC. 445. CONFORMING AMENDMENTS.**

(a) TITLE 5.—Section 5372a of title 5, United States Code, is amended—

(1) in subsection (a)(1), by striking out ''an agency board of contract appeals appointed under section 8 of the Contract Disputes Act of 1978'' and inserting in lieu thereof ''the Department of Defense Board of Contract Appeals or the Civilian Board of Contract Appeals appointed under section 202 of the Office of Federal Procurement Policy Act or the Postal Service Board of Contract Appeals appointed under section 8(h) of the Contract Disputes Act of 1978''; and

(2) in subsection (a)(2), by striking out ''an agency board of contract appeals'' and inserting in lieu thereof ''the Department of Defense Board of Contract Appeals, the Civilian Board of Contract Appeals, or the Postal Service Board of Contract Appeals''.

(b) TITLE 10.—(1) Section 2305(e) of title 10, United States Code, is amended—

(A) in paragraph (1), by striking out ''subchapter V of chapter 35 of title 31'' and inserting in lieu thereof ''title II of the Office of Federal Procurement Policy Act''; and

(B) by striking out paragraph (3).

(2) Section 2305(f) of such title is amended—

(A) in paragraph (1), by striking out ''subparagraphs (A) through (F) of subsection (b)(1) of section 3554 of title 31'' and inserting in lieu thereof ''section 214(h)(2) of the Office of Federal Procurement Policy Act''; and

(B) in paragraph (2), by striking out ''paragraph (1) of section 3554(c) of title 31 within the limits referred to in paragraph (2)'' and inserting in lieu thereof ''subparagraph (A) of section 214(i)(1) of the Office of Federal Procurement Policy Act within the limits referred to in subparagraph (B)''.

(c) FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949.—(1) Section 303B(j) (as redesignated by section 104(b)(2)) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b(h)) is amended—

(A) in paragraph (1), by striking out ''subchapter V of chapter 35 of title 31, United States Code'' and inserting in lieu thereof ''title II of the Office of Federal Procurement Policy Act''; and

(B) by striking out paragraph (3).

(2) Section 303B(k) (as redesignated by section 104(b)(2)) of such Act (41 U.S.C. 253b(i)) is amended—

(A) in paragraph (1), by striking out ''in subparagraphs (A) through (F) of subsection (b)(1) of section 3554 of title 31, United States Code'' and inserting in lieu thereof ''section 214(h)(2) of the Office of Federal Procurement Policy Act''; and

(B) in paragraph (2), by striking out ''paragraph (1) of section 3554(c) of such title within the limits referred to in paragraph (2)'' and inserting in lieu thereof ''subparagraph (A) of section 214(i)(1) of the Office of Federal Procurement Policy Act within the limits referred to in subparagraph (B)''.

(d) OFFICE OF FEDERAL PROCUREMENT POLICY ACT.—The table of contents for the Office of Federal Procurement Policy Act (contained in section 1(b)) is amended—

(1) by inserting the following before the item relating to section 1:

''TITLE I—FEDERAL PROCUREMENT POLICY GENERALLY''; and

(2) by adding at the end the following:

''TITLE II—DISPUTE RESOLUTION

''SUBTITLE A—GENERAL PROVISIONS

''Sec. 201. Definitions.
''Sec. 202. Membership.
''Sec. 203. Chairman.
''Sec. 204. Rulemaking authority.
''Sec. 205. Authorization of appropriations.

''SUBTITLE B—FUNCTIONS OF THE DEFENSE AND CIVILIAN BOARDS OF CONTRACT APPEALS

''Sec. 211. Alternative dispute resolution services.
''Sec. 212. Alternative dispute resolution of disputes and protests submitted to Boards.
''Sec. 213. Contract disputes.
''Sec. 214. Protests.
''Sec. 215. Applicability to certain contracts.''.

Subtitle F—Effective Date; Regulations and Appointment of Chairmen

**SEC. 451. EFFECTIVE DATE.**

Title II of the Office of Federal Procurement Policy Act, as added by this title, and the amendments and repeals made by this title shall take effect 1 year after the date of the enactment of this Act.

**SEC. 452. REGULATIONS.**

(a) REGULATIONS REGARDING PROTESTS AND CLAIMS.—Not later than 1 year after the date of the enactment of this Act, the Chairman of the Armed Services Board of Contract Appeals and the Chairman of the General Services Board of Contract Appeals, in consultation with the Comptroller General with respect to protests, shall jointly issue—

(1) such procedural rules and regulations as are necessary to the exercise of the functions of the Department of Defense Board of Contract Appeals and the Civilian Board of Contract Appeals under sections 213 and 214 of the Office of Federal Procurement Policy Act (as added by this title); and

(2) statements of policy of general applicability with respect to such functions.

(b) REGULATIONS REGARDING APPOINTMENT OF JUDGES.—Not later than 1 year after the date of the enactment of this Act—

(1) the Chairman of the Armed Services Board of Contract Appeals shall issue rules governing the establishment and maintenance of a register of eligible applicants and the selection of judges for the Department of Defense Board of Contract Appeals; and

(2) the Chairman of the General Services Board of Contract Appeals shall issue rules governing the establishment and maintenance of a register of eligible applicants and the selection of judges for the Civilian Board of Contract Appeals.

**SEC. 453. APPOINTMENT OF CHAIRMEN OF DEFENSE BOARD AND CIVILIAN BOARD.**

Notwithstanding section 451, not later than 1 year after the date of the enactment of this Act—

(1) the Secretary of Defense shall appoint the Chairman of the Department of Defense Board of Contract Appeals; and

(2) the Administrator of General Services shall appoint the Chairman of the Civilian Board of Contract Appeals.

(2) Page 12, lines 2 and 23, strike out ''chapter'' and insert in lieu thereof ''title''.

(3) Page 26, line 18, strike out ''and'' and insert in lieu thereof ''but''.

(4) Page 28, line 14, strike out ''and'' and insert in lieu thereof ''but''.

(5) Add at the end of section 302 (at the end of page 51) the following:

(c) POLICY OF CONGRESS.—Section 29 of the Office of Federal Procurement Policy Act (41 U.S.C. 425) is further amended by adding after subsection (a) the following new subsection:

''(b) CONSTRUCTION OF CERTIFICATION REQUIREMENTS.—A provision of law may not be construed as requiring a certification by a contractor or offeror in a procurement made or to be made by the Federal Government unless that provision of law specifically refers to this subsection and provides that, notwithstanding this subsection, such a certification shall be required.

Page 50, line 18, strike out ''(b)'' and insert in lieu thereof ''(c)''.

(6) Page 52, line 10, strike out ''August 1, 1995'' and insert in lieu thereof ''October 1, 1996''.

Page 52, lines 10 and 11, strike out ''August 1, 2000'' and insert in lieu thereof ''October 1, 2000''.

(7) Add at the end of section 306 (at the end of page 65) the following new subsection:

(e) REPEAL OF DATA COLLECTION REQUIREMENT.—Subsection (h) of section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) is repealed.

(8) Strike out section 316 (page 75, line 15, through the end of page 81) and insert in lieu thereof the following:

**SEC. 316. ADDITIONAL DEPARTMENT OF DEFENSE PILOT PROGRAMS.**

(a) AUTHORITY TO CONDUCT DEFENSE FACILITY-WIDE PILOT PROGRAM.—The Secretary of Defense may conduct a pilot program, to be known as the ''defense facility-wide pilot program'', for the purpose of determining the potential for increasing the efficiency and effectiveness of the acquisition process in facilities.

(b) SCOPE OF PROGRAM.—At a facility designated as a participant in the pilot program, the pilot program shall consist of the following:

(1) All contracts and subcontracts for defense supplies and services that are performed at the facility.

(2) All contracts and subcontracts performed elsewhere that the Secretary determines are directly and substantially related

to the production of defense supplies and services at the facility and are necessary for the pilot program.

(c) DESIGNATION OF PARTICIPATING FACILITIES.—(1) The Secretary may designate up to two facilities as participants in the defense facility-wide pilot program.

(2) Subject to subsection (g), the Secretary may determine the scope and duration of a designation made under this paragraph.

(d) CRITERIA FOR DESIGNATION.—(1) Not later than 90 days after the date of the enactment of this Act, the Secretary shall provide to the congressional defense committees a detailed description of the proposed criteria to be used in selecting facilities for designation as participants in the defense facility-wide pilot program. The Secretary may not select any facilities for participation in the program until at least 30 days have passed after providing such criteria.

(2) After selecting both facilities for designation as participants in the program, the Secretary shall notify the congressional defense committees of the selection and submit a description—

(A) of the management goals and objectives intended to be achieved for each facility selected; and

(B) of the method by which the Secretary intends to monitor and measure the performance of the selected facilities in meeting such management goals and objectives.

(3)(A) In developing the criteria referred to paragraph (1), the Secretary shall ensure that such criteria reflect the following objectives:

(i) A significant reduction of the cost to the Government for programs carried out at the designated facilities.

(ii) A reduction of the schedule associated with programs carried out at the designated facilities.

(iii) An increased used of commercial practices and procedures for programs carried at the designated facilities.

(iv) That the designation of a facility under subsection (c) does not place a competing domestic manufacturer at a significant competitive disadvantage.

(B) The criteria shall also require that, with respect to any facility designated under subsection (c), all or substantially all of the contracts to be awarded and performed at the facility after the designation, and all or substantially all of the subcontracts to be awarded under those contracts and performed at the facility after the designation, will be—

(i) for the production of supplies or services on a firm-fixed price basis;

(ii) awarded without requiring the contractors or subcontractors to provide certified cost or pricing data pursuant to section 2306a of title 10, United States Code; and

(iii) awarded and administered without the application of cost accounting standards under section 26(f) of the Office of Federal Procurement Policy Act (41 U.S.C. 422(f)).

(e) EXEMPTION FROM CERTAIN REQUIREMENTS.—In the case of a contract or subcontract that is to be performed at a facility designated for participation in the defense facility-wide pilot program and that is subject to section 2306a of title 10, United States Code, or section 26(f) of the Office of Federal Procurement Policy Act (41 U.S.C. 422(f)), the Secretary of Defense may exempt such contract or subcontract from the requirement to obtain certified cost or pricing data under such section 2306a or the requirement to apply mandatory cost accounting standards under such section 26(f) if the Secretary determines that the contract or subcontract—

(1) is within the scope of the pilot program (as described in subsection (b)); and

(2) is fairly and reasonably priced based on information other than certified cost and pricing data.

(f) SPECIAL AUTHORITY.—The authority provided under subsection (a) may include authority for the Secretary of Defense—

(1) to apply any amendment or repeal of a provision of law made in this Act to the pilot program before the effective date of such amendment or repeal; and

(2) to apply to a procurement of items other than commercial items under such program—

(A) any authority provided in the Federal Acquisition Streamlining Act of 1994 (Public Law 103–355) (or in an amendment made by a provision of that Act) to waive a provision of law in the case of commercial items, and

(B) any exception applicable under this Act or the Federal Acquisition Streamlining Act of 1994 (Public Law 103–355) (or an amendment made by a provision of either Act) in the case of commercial items,

before the effective date of such provision (or amendment) to the extent that the Secretary determines necessary to test the application of such waiver or exception to procurements of items other than commercial items.

(g) APPLICABILITY.—(1) Subsections (e) and (f) apply with respect to—

(A) a contract that is awarded or modified during the period described in paragraph (2); and

(B) a contract that is awarded before the beginning of such period and is to be performed (or may be performed), in whole or in part, during such period.

(2) The period referred to in paragraph (1) is the period that begins 45 days after the date of the enactment of this Act and ends on September 30, 1998.

(h) COMMERCIAL PRACTICES ENCOURAGED.—With respect to contracts and subcontracts within the scope of the defense facility-wide pilot program, the Secretary of Defense may, to the extent the Secretary determines appropriate and in accordance with the law, adopt commercial practices in the administration of contracts and subcontracts. Such commercial practices may include elimination of Government audit and access to records provisions; incorporation of commercial oversight, inspection, and acceptance procedures; use of alternative dispute resolution techniques (including arbitration); and elimination of contract provisions authorizing the Government to make unilateral changes to contracts.

(9) In sections 501 and 502 (page 143, line 23, through the end of page 146), strike out ''title'' each place it appears and insert in lieu thereof ''Act''.

Mr. CHAMBLISS (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. CHAMBLISS. Mr. Chairman, H.R. 1670, the Federal Acquisition Reform Act of 1995, which Chairman SPENCE introduced along with Chairman CLINGER and a number of other distinguished Members, will revamp the current regulatory morass which passes for an acquisition system. A significant part of the reform in H.R. 1670 concerns the consolidation of title IV of the 11 different agency administrative tribunals which currently resolve contract disputes and the two bid protests into two boards—one in the Department of Defense to handle DOD protests and disputes and one in the General Services Administration to handle civilian agency protests and disputes. A single set of efficient procedures will govern both.

The House National Security Committee amendment I propose will further refine and streamline the procedures of the two boards with a special emphasis on the efficient, fair, and cost-effective resolution of protests. Complaints about the current bid protest process have come from the administration and from some segments of industry. The detractors of the current protest system attack it as too complex, too intrusive, and too prudently intensive. Others argue that the current protest resolution process is an essential feature of the acquisition system and must be maintained with court-like procedures. H.R. 1670 creates a new consolidated protest resolution process that achieves a better balance between the need to ensure the fundamental fairness of the Government's acquisition system and the need to acquire the goods and services needed by the Government in an efficient manner.

The main point of the committee amendment is to inject further refinement into the new protest resolution system created by H.R. 1670. Among other things, it would simplify the standard of review to be used for the resolution of protest cases, ensure that board judges permit the use of discovery only where necessary to minimize costly litigation, increase the use of special simplified procedures for the speedy resolution of protests in appropriate cases, provide for the selection of judges by the Secretary of Defense for the defense board and by the Administrator of General Services for the civilian board, and simplify and clarify the process of transitioning from the current administrative tribunals to the two new consolidated boards.

Mr. Chairman, I would like to once again commend Chairmen SPENCE and CLINGER for their hard work on bringing this legislation to the floor. It represents a responsible, long-overdue approach to Government procurement.

I urge my colleagues to vote for this amendment which will strengthen the reforms already in H.R. 1670 by ensuring a robust, cost-effective, and efficient process.

□ 1345

Mr. CLINGER. Mr. Chairman, will the gentleman yield?

Mr. CHAMBLISS. I yield to the gentleman from Pennsylvania.

Mr. CLINGER. Mr. Chairman, I thank the gentleman for yielding. I am pleased to rise in support of the amendment and I am willing to accept the amendment.

Mr. Chairman, this represents some items that were still left hanging after

we reported the bill out of the Committee on Government Reform and Oversight. The gentleman from South Carolina [Mr. SPENCE] agreed that he would not take up the bill in his committee, and we worked together to resolve those issues, and I think they have now been resolved, and they are incorporated in this amendment, and I am pleased to accept the amendment on this side.

Mr. CHAMBLISS. Mr. Chairman, I thank the gentleman for his support.

Mrs. COLLINS of Illinois. Mr. Chairman, I rise in opposition to this amendment which would eliminate the ability of companies to protest against the improper cancellation of a contract by amending the definition of ''protest.''

Congress voted just last year to include this provision as a part of the Federal Acquisition Streamlining Act, after years of careful legislative consideration. That bill was overwhelmingly supported by Members on both sides of the aisle.

A business will typically protest the improper cancellation of a contract when an agency decides to cancel a contract because the agency doesn't like the company that won the contract, or in order to avoid litigation.

For example, suppose a small business wins a contract fair and square, but an agency cancels that contract because some contracting bureaucrat doesn't want it to go to a small business. Under existing practice that small business could protest. The Spence amendment would deny the right of that small business to protest.

No witness has come before the Government Reform and Oversight Committee raising any concerns about the ability of businesses to protest the improper cancellation of Federal contracts. There has been no allegation nor any evidence presented that protesting the improper cancellation of contracts is a problem.

I am also concerned that this amendment would allow discovery only if a judge determines it to be necessary. Once again, this amendment creates solutions for problems that don't exist. No one testifying before the Government Reform Committee has alleged any problems with the discovery process. In fact GAO, whose discovery process this bill is based on, has been hailed throughout our hearings as a model bid protest forum. Why are we now at the 11th hour substituting an untested system, for discovery process that works well?

We talk a lot around here about the need to have Government work in the sunshine, and forcing the bureaucracy to operate in the open. This amendment is a turn toward Government in the back room and bureaucracy operating in secret.

I urge the defeat of this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia [Mr. CHAMBLISS].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title III?

AMENDMENT OFFERED BY MR. ZELIFF

Mr. ZELIFF. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ZELIFF: At the end of title III (page 100, after line 12), add the following new section:

**SEC. 319. COOPERATIVE PURCHASING.**

(a) DELAY IN OPENING CERTAIN FEDERAL SUPPLY SCHEDULES TO USE BY STATE, LOCAL, AND INDIAN TRIBAL GOVERNMENTS.—The Administrator of General Services may not use the authority of section 201(b)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481(b)(2)) to provide for the use of Federal supply schedules of the General Services Administration until after the later of—

(1) the date on which the 14-month period beginning on the date of the enactment of this Act expires; or

(2) the date on which all of the following conditions are met:

(A) The Administrator has considered the report of the Comptroller General required by subsection (b).

(B) The Administrator has submitted comments on such report to the congressional committees as required by subsection (c).

(C) A period of 30 days after the date of submission of such comments to the congressional committees referred to in subsection (d) has expired.

(b) REPORT.—Not later than one year after the date of the enactment of this Act, the Comptroller General shall submit to the Administrator of General Services and to the congressional committees referred to in subsection (d) a report on the implementation of section 201(b) of the Federal Property and Administrative Services Act of 1949. The report shall include the following:

(1) An assessment of the effect on industry, including small businesses and local dealers, of providing for the use of Federal supply schedules by the entities described in section 201(b)(2)(A) of the Federal Property and Administrative Services Act of 1949.

(2) An assessment of the effect on such entities of providing for the use of Federal supply schedules by them.

(c) COMMENTS ON REPORT BY ADMINISTRATOR.—Not later than 30 days after receiving the report of the Comptroller General required by subsection (b), the Administrator of General Services shall submit to the congressional committees referred to in subsection (d) comments on the report, including the Administrator's comments on whether the Administrator plans to provide any Federal supply schedule for the use of any entity described in section 201(b)(2)(A) of the Federal Property and Administrative Services Act of 1949.

(d) CONGRESSIONAL COMMITTEES.—The report required by subsection (b) and the comments required by subsection (c) shall be submitted to the Governmental Affairs Committee of the Senate and the Committee on Government Reform and Oversight of the House of Representatives.

(e) CALCULATION OF 30-DAY PERIOD.—For purposes of subsection (a)(2)(C), the calculation of the 30-day period shall exclude Saturdays, Sundays, and holidays, and any day on which neither House of Congress is in session because of an adjournment sine die, a recess of more than 3 days, or an adjournment of more than 3 days.

Mr. ZELIFF (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read.

The CHAIRMAN. Is there objection to the request of the gentleman from New Hampshire?

There was no objection.

Mr. ZELIFF. Mr. Chairman, first, I would like to state my strong support for H.R. 1670, the Federal Acqusition Reform Act of 1995. I would also like to commend Chairman CLINGER for his leadership on this bill. As a member of the Government Reform and Oversight Committee, I can say with confidence that we have an excellent bipartisan bill before us today.

Throughout the debate, I have heard numerous Members claim that the bill is not small business friendly.

I believe Chairman CLINGER has taken into consideration the interests of our Nation's small businesses and worked hard to create a reformed procurement system designed to assist all businesses.

With that said, I rise today, Mr. Chairman, to offer an amendment which seeks to address small business concerns set forth in FASA, the Federal Acquisition Streamlining Act of 1994. With my amendment, I intend to address a rule currently being promulgated by the General Services Administration [GSA] which would implement section 1555.

Section 1555 allows State and local governments to obtain procurement items directly from the GSA's Federal supply schedule [FSS]. Section 1555, if implemented, would prove disastrous for our small and local businesses. Currently, State and local governments obtain their items through their own procurement processes. This is almost always through local and small businesses.

It is those businesses that will suffer if suddenly their State and local governments do not purchase from them anymore.

In addition, there are serious concerns regarding the effect of guaranteed warranties and servicing agreements. Under section 1555, if implemented, there are very real concerns to be addressed as to how State and local governments would receive these services through a federally operated procurement system. I am afraid the answer would be a whole new bureaucracy at GSA in a time when we should be streamlining.

From the local car dealer who supplies and services police cars to the local office supply store that supplies the pencils, the effects of section 1555 could be disastrous.

My amendment would delay the opening of the Federal supply schedules to use by State and local governments for a total of 14 months.

It allows all businesses to continue to sell and lease to State and local governments—just as they do now.

It is worth noting that the Senate Treasury/Postal Appropriations Committee Report states: ''[we] direct that GSA postpone rules to implement section 1555 until a comprehensive analysis of the effect of such rules, including the impact on private sector vendors, has been completed * * *.'' Passage of my amendment will put the House and

Senate on a parallel course on this issue.

My amendment provides an acceptable compromise between those who would prefer a straight repeal of section 1555 and those who believe it still has merit. Specifically, my amendment establishes a mere 1-year moratorium on the GSA implementation of section 1555 while directing the General Accounting Office [GAO] to submit a report to Congress and GSA that includes an assessment of the effect on the industry, including small businesses, and local dealers, of providing the use of Federal supply schedules to State and local entities. Once GSA has commented on the report, Congress has a 30-day period in which to take additional action or allow GSA's implementation of section 1555. I might add that my amendment has the support of Chairman CLINGER.

Let me reiterate to my colleagues that this is a commonsense solution to a possible serious problem for our local small businesses. My amendment is certainly not harmful to State and local governments since they currently do not even have the ability to purchase from the Federal supply schedule.

Now that Congress is aware of the possible consequences for our local businesses, we can and should take a step back and examine the effects implementation of section 1555 would have on our Nation's small business community.

The purpose of this legislation is most eloquently stated in the Government Reform and Oversight's Committee Report, as one of the goals of this Congress, to curb the ''Government's inflated cost of doing business.'' I believe my amendment is in step with this country's desire for less government, less bureaucracy.

Once again, I want to commend Chairman CLINGER for his dedicated effort in bringing this reform measure to the floor. And, I want to thank him for his continued leadership and support in working with me on this amendment.

Let's send a message to our local businesses back home by allowing them to continue to supply State and local governments their goods and services.

We, as responsible policymakers, should take time to review the potential negative impact of this regulatory action on those businesses.

Please support your small and local businesses and vote for the Zeliff amendment.

Mr. CLINGER. Mr. Chairman, will the gentleman yield?

Mr. ZELIFF. I yield to the gentleman from Pennsylvania.

Mr. CLINGER. Mr. Chairman, I first of all want to commend the gentleman for his hard work on this amendment and for his willingness and tenacity in negotiating what is truly a good compromise, which I think has been reached between two different positions.

I think it is a very good compromise, because it basically delays the implementation of this for 1 year. The amendment is well timed in that regard, because GSA has not at this point implemented the program as of yet or even published regulations to implement it. It is really anticipated it is going to take at least a year before GSA would be prepared to do this, and in the meantime we would have GAO doing the study, which would be very helpful. So I commend you again for your efforts in reaching this compromise and I am pleased to accept the amendment.

Mr. ZELIFF. Mr. Chairman, I thank the chairman for his comments and I urge my colleagues to support the amendment.

Mrs. COLLINS of Illinois. Mr. Chairman, I rise in support of the amendment. Last year the Congress passed the Federal Acquisition Streamlining Act. Through an amendment to the Federal Property Act, it gave the General Services Administration new discretionary authority to operate what is called the Cooperative Purchasing Program.

The law permits GSA to allow State and local governments, Indian tribes, and some others to purchase commercial goods and services through GSA's present Federal Supply Schedule Program, originally established for Federal agency use. Potentially eligible entities number in the thousands.

GSA soon plans to issue regulations to implement the new authority; but many businesses, including small businesses, are expressing serious concern about the impact the Cooperative Purchasing Program would have on them. GSA itself recognizes a potential impact on small business.

The Federal Supply Schedule Program's purpose is to serve Federal agency purchasers. Any incidental benefits to the Federal Government are, of course, secondary. We do not know at this time how great the impact on small business as well as other business will be.

Certainly, I would like to enable State and local entities to save money for their taxpayers, but I do not believe a purchasing program designed for Federal agencies should be broadened before it is known whether it is likely to be a substantial detriment to small business.

The amendment by the gentleman from New Hampshire [Mr. ZELIFF] requires at least a 14-month delay in putting the program into effect. Within a year, however, GAO must make a study and submit a report to GSA and concerned congressional committees. The report will include assessments of the potential effect that implementing the new program would have on industry, small businesses, and local dealers, as well as on the non-Federal entities that would use the program. GSA must then submit comments to the committees about plans for program use of any schedule.

The amendment will enable Congress, GSA, vendors, and participating entities to gain the understanding they now lack of pitfalls and promises in the new ground this program would open up. My decision, therefore, is to support the amendment.

Mr. ZELIFF. Mr. Chairman, I ask unanimous consent to strike the requisite number of words.

The CHAIRMAN. Is there objection to the request of the gentleman from New Hampshire?

There was no objection.

Mr. ZELIFF. Mr. Chairman, I would like to thank the gentlewoman from Illinois for her comments.

Mr. Chairman, I would like to join in a colloquy with the gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Chairman, will the gentleman yield?

Mr. ZELIFF. I yield to the gentleman from West Virginia.

Mr. WISE. Mr. Chairman, the gentleman from New Hampshire [Mr. ZELIFF] has been very, very forthcoming, and he and his staff have been very helpful in working out this colloquy and also this amendment.

Mr. Chairman, Congress has developed positive legislation and programs in recent years in the spirit of H.R. 1670 designed to save precious fiscal resources of State and local governments. I, myself, have had the opportunity to sponsor legislation that enables State and local law enforcement agencies to purchase certain items for counter drug activities, through the Department of Defense and the GSA.

Mr. Chairman, I would like to express my support for the gentleman from New Hampshire's amendment which will put off implementation of section 1555 of the Federal Acquisition Streamlining Act of 1994 pending an investigation by GAO on how this provision would impact the private sector. This will help to ensure that the current sales system is not dismantled at the expense of small business which frequently represents a significant portion of these dealers' revenues.

Mr. Chairman, the gentleman from New Hampshire's amendment will preserve the ability of small businesses to sell and lease equipment to State and local governments, while ensuring that programs such as the 1122 Police Procurement Program will continue to offer sensible support for local governments.

□ 1400

Mr. ZELIFF. Mr. Chairman, I share the gentleman from West Virginia's view regarding the importance of this amendment. I agree it is important that we do not hamper small businesses or jeopardize effective existing programs as we search for practical solutions to the Federal Government waste. Mr. Chairman, it is our intent that this amendment would not affect existing programs like the 1122 Police Procurement Program that the gentleman is concerned about.

I thank the gentleman for bringing this important issue to the attention of the House. I compliment the gentleman on the excellent work he does on the Nation's work program, and will be happy to work with him.

Mr. WISE. Mr. Chairman, if the gentleman will yield further, I greatly appreciate the gentleman's efforts on this issue, and appreciate his joining me in this colloquy.

Mr. LAFALCE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from New Hampshire [Mr. ZELIFF] to postpone the implementation of the cooperative purchasing agreement for 1 year, until we have had time to study its effect on small businesses which stand to lose State and local government customers and on all government suppliers who have clearly stated that they cannot offer over the long term one set of terms and prices to diverse customers in innumerable locations.

The rationale for extending the GSA schedule to State and local governments was a good one, to help those governments save money. But if what we are hearing from businesses is correct, such an arrangement would be short-lived. Businesses are adamant that a one-price-fits-all approach will not work, and that prices will rise.

As a result, should we proceed to implement the cooperative purchasing agreement it is most probable that no government entity would save the amount of money envisioned; that it might will cost money; and most certainly would adversely impact the small business community.

So this cooperative purchasing agreement was a well-intentioned effort, but one which at a minimum should be studied further, which is precisely what the Zeliff amendment calls for. I urge support for this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Hampshire [Mr. ZELIFF].

The amendment was agreed to.

AMENDMENT NO. 3 OFFERED BY MRS. MALONEY

Mrs. MALONEY. Mr. Chairman, I offer an amendment, printed as No. 3 in the RECORD.

The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mrs. MALONEY: Strike out section 304 (relating to international competitiveness).

Mrs. MALONEY. Mr. Chairman, my amendment deals with what sometimes lies within so-called procurement reform legislation.

My amendment deals with a corporate subsidy in this bill that has nothing to do with procurement reform.

The subsidy in question is the elimination of a program that requires defense contractors to repay the Government for some of the $30 billion annually taxpayers invest in research and development for private military contractors.

The recoupment fee is intended to recoup some of the billions the taxpayers have paid to develop major military systems when the defense contractor sells this technology to a foreign nation.

The fee averages just 3 to 5 percent of the gross price of the contract.

The authors of this bill are eliminating the recoupment program calling it a tax on American defense contractors.

I say recoupment gives a fair return for the American taxpayer's investment in the research and development of new weapons and technology.

Taxpayer dollars help fund the research and development in the first place. There wouldn't be these new weapons systems if it wasn't for the american taxpayer.

This public-private partnership is one of the reasons the United States is the world's leading arms exporter, dominating the market with 70 percent of the world's share.

We sell more arms than all the other nations of the world combined.

Some people are saying recoupment makes the U.S. military less competitive in the international market.

My colleagues, over the last 4 years, sales of United States military equipment totaled more than the sales of all the most aggressive arms exporters—Russia, China, France, and Britain combined.

In fact, our share is still rising.

Between 1991 and 1994, our share of the world market increased 62 percent.

If the recoupment requirement is making American military equipment less competitive in the world market—as the authors of this bill are stating—why is our share growing, not shrinking?

And in cases where the contractor can demonstrate that an individual sale is jeopardized, the DOD will grant a waiver.

In fact, there is already a blanket waiver for all nonmajor items, as well as all NATO participants.

For all these reasons, the deputy inspector general of the Defense Department says, and I quote, and ask to place this letter in the RECORD:

Since the U.S. sales of military hardware exceed all other countries combined, there is in my mind a great deal of doubt about the need to eliminate the recovery requirement when it can be done through waivers, on a case-by-case basis.''

There's still more.

The bill before us requires these recoupment losses of more than $1 billion to be offset from savings in the mandatory spending account at the Department of Defense.

What's in that account? The pensions of our veterans and military retirees.

So the bill before us has the American taxpayer funding research and development for private defense contractors, who can turn around and make a profit overseas, without returning a penny to the Treasury.

And—we'll pay for the lost revenue by cutting the pension benefits of our military retirees.

It's wrong.

It's unwise.

My amendment saves recoupment and the pensions of our veterans.

I ask for Members' support of the Maloney amendment.

Mrs. COLLINS of Illinois. Mr. Chairman, I rise in support of the amendment.

(Mrs. COLLINS of Illinois asked and was given permission to revise and extend her remarks.)

Mrs. COLLINS of Illinois. Mr. Chairman, this amendment will preserve the current recoupment requirements eliminated by H.R. 1670. Recoupment will allow the Federal Government to continue to recover that portion of the over $30 billion in annual research and development costs that would otherwise be lost when foreign governments purchase our weapons.

The opponents of the Maloney amendment argue that recoupment fees raise the price of U.S. weapons and make them uncompetitive on the international market, but the facts indicate otherwise. According to the Congressional Research Service, the United States secured over 70 percent of all arms sales worldwide in 1993, and sold $12.8 billion of arms through foreign military sales in 1994. This hardly seems like an industry in need of more Federal assistance.

Moreover, at a time when we are considering severe cuts in Medicare and Medicaid, and the reduction in student loans and welfare benefits, how can we justify a massive new direct subsidy to the arms industry, which currently has 70 percent of all arms sales worldwide?

Eliminating recoupment fees also makes absolutely no sense in view of our current budget deficit. Over the past 5 years, foreign governments have paid nearly $1 billion in recoupment fees to the U.S. Treasury. Over the next 5 years, recoupment fees are expected to again amount to $1 billion. If we are serious about deficit reduction, the bill's provision eliminating recoupment fees is the wrong way to go.

Mr. Chairman I strongly support the Maloney amendment, and I urge its adoption.

Mr. GILMAN. Mr. Chairman, I move to strike the requisite number of words.

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

Mr. GILMAN. Mr. Chairman, I rise to reluctantly oppose the gentlelady's amendment to strike the provisions in section 304 of H.R. 1670 which would restructure this country's current policy with regard to recoupment charges on military equipment sales to foreign governments.

Mr. Chairman, these recoupment charges were initially instituted in the early 1960's. The intent of these recoupment charges was to enable our

Government to recover part of the cost of developing the technology needed to fight and win the cold war with our NATO allies. However, those allies—the British, French, Italians, and others have now become our economic competitors. Now when American corporations attempt to sell military goods, their products are burdened with a surcharge that makes American products less competitive.

Let us bear in mind that these exports create and protect thousands of American jobs and contribute billions of dollars to our national economy. Lowering barriers and expanding opportunities for American companies to trade abroad is critical to America's long term well being and international competitiveness.

Accordingly, Mr. Chairman, I urge my colleagues to vote in opposition to the gentlelady's amendment.

Mr. SPRATT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, for years and years the Department of Defense out of simple basic prudence has retained the right to recoup some of the billions of dollars that we invest, the U.S. Government invests, through the Department of Defense in the development of highly technical and highly sophisticated military systems. In order to facilitate the sale of nonmajor pieces of equipment, a blanket waiver has been in effect for some time so that these items, items of electronics gear and what have you of not major cost, can be sold without any issue of recoupment being collected.

In addition, the Department, out of ordinary prudence, has also said to defense contractors, if it is necessary to make the deal, if you need to have the recoupment waived in order to be price competitive, then you can apply to us. And in fact the record shows that recoupment is routinely waived, almost invariably waived. The Department of Defense has in fact waived $773 million in these nonrecurring cost charges from 1991 through 1994 alone. So whenever it is necessary to waive it, it is there, no further statutory authority is necessary for that purpose, and it is routinely and liberally granted in order to make the sale go.

So we have before us a statutory provision in a bill that is supposed to save the Government money that would waive this authority altogether.

Why do we want to wipe out the authority to recoup some of the investment that we, the United States, has made in these systems, that is about to be cashed in by the defense contractors when they sell the system abroad?

Let me give you one particular case why I do not think clearly we need to waive the recoupment. Let us assume we have a very unique system for which there is no competition, no match anywhere else in the world, there is not even a question of price competitiveness, and another country wants to buy that system, and they come to the Department of Defense for approval to make the sale. Why should not DOD, why should not the American people collect some percentage of what we invested to develop that unique system?

If we wipe out as a matter of statutory law the provision that allows DOD to exact this charge, 3 to 5 percent on military sales, then we will forego that opportunity altogether, willy-nilly across the board.

Mr. BURTON of Indiana. Mr. Chairman, will the gentleman yield?

Mr. SPRATT. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Chairman, as I understand it, the recoupment provision is waived only for our NATO ally countries, and the rest of the world it is not waived for, is that correct?

Mr. SPRATT. Mr. Chairman, reclaiming my time, that is my understanding. It is waived on a case-by-case basis obviously. It is not waived as a blanket matter except for nonmajor pieces of equipment.

Mr. BERMAN. Mr. Chairman, will the gentleman yield?

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

Mr. BERMAN. Mr. Chairman, I think it is important to respond to the point of the gentleman from Indiana [Mr. BURTON]. The only plausible argument that I have heard to justify providing this subsidy for arms exports is to make our products competitive with other nations. The gentleman from South Carolina [Mr. SPRATT] has pointed out very effectively that there are a number of items where we are essentially the best in the world, we are either the sole supplier or have such a qualitative advantage in the product, there is no other serious competitor, and, therefore, there is no need to remove this recoupment of the subsidy that that exporter has.

Mr. SPRATT. Mr. Chairman, reclaiming my time, especially when it is liberally waived in the discretion of the Secretary of Defense whenever required.

□ 1415

Mr. BERMAN. The gentleman from Indiana sought to try and make a point, I think, by implication, that this is only done for NATO countries, not for other purchasers of arms. But that is not correct.

The law allows a case-by-case waiver anytime we want to give an advantage to our exporter over a competitive exporter from another country that perhaps is being subsidized by that country. The Department of Defense has the authority right now to waive this.

The strangest thing in the world, we are coming in the context of trying to balance the budget, our majority would say in 7 years, with massive cuts in all kinds of discretionary programs, with an effort to because they think it is important to expand what we are spending on defense, with major slashes in Medicare and other entitlement programs, and reinstating for the first time since the 1960's in commercial arms sales a subsidy to defense contractors, not just to win the particular sale but whether there is competition or not for that sale.

It is not just for NATO countries. It allows that waiver any other time. There is no reason in the world to go with this blanket repeal which will require an offset to make up for the loss of revenue.

The CHAIRMAN. The time of the gentleman from South Carolina [Mr. SPRATT] has expired.

(On request of Mr. BERMAN, and by unanimous consent, Mr. SPRATT was allowed to proceed for 2 additional minutes.)

Mr. BURTON of Indiana. Mr. Chairman, will the gentleman yield?

Mr. SPRATT. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Chairman, this is really for informational purposes. Has any country outside of a NATO country benefited from the recoupment provision we are talking about? I know the gentleman is saying it is not limited just to NATO. What I would like to know is, has any other country really benefited because our own Government waived that provision?

Mr. BERMAN. Mr. Chairman, if the gentleman will continue to yield, I am told the answer is yes, that the recoupment provision has been waived in the case of arms sales, commercial arms sales to Israel. And the key thing is not what has happened in the past. The law allows case-by-case waivers. If the French notorious subsidizers of their defense industries decide in a product which they are competitive to compete with an American exporter and are subsidizing that sale, the law right now allows the Department of Defense to waive it so that the American company can make that sale. It is in there.

Why would we want to repeal the law which allows us to grab back the subsidies that otherwise the foreign country that wants to buy the goods is willing to pay when there is no meaningful competition? We are either the sole supplier or our particular weapons system is so much better than any other ones. This is really ridiculous.

I thank the gentleman for yielding to me.

Mr. SPRATT. Mr. Chairman, reclaiming my time, let me also point out that the cost of this waiver, depending, could be as much as a billion over the next 5 years. That has to be recovered under the budget rules from some source. The rule book solution to that is it must be recovered from mandatory spending. If it comes out of DOD's mandatory spending, that means it comes out of personnel retirement accounts. It is the only place we have got any real mandatory or direct spending in the DOD budget. The offset, therefore, requirement to make

this waiver possible will be DOD retirement programs.

Mr. MINGE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the recoupment amendment. What we have here, it appears, is a type of corporate welfare. We have a sector of American industry which is faring extremely well in global competition. It has increased its market share dramatically.

At the same time we are attempting to balance the budget, we are asking veterans, we are asking students, we are asking farmers, we are asking seniors, we are asking many sectors of our society to take deep dramatic cuts in programs that they have historically found extremely important.

And here, over a 5-year period of time we are offering to essentially forgive, as a revenue opportunity for the Federal Government, $1 billion. I cannot see that, if we are asking the Nation to tighten its belts in the spirit of shared sacrifice, that we can with any credibility reject the amendment that has been offered. I urge support of this amendment.

Mr. LAFALCE. Mr. Chairman, I move to strike the requisite number of words.

First, I would like to praise the gentlewoman from New York for offering this amendment. I think that it is an excellent one, one that must be passed. Second, I noticed that the provision in the bill that would repeal the recoupment provision is under the title competitiveness.

Everything can be done under the umbrella of competitiveness, but I think very often improperly so. I just came from a luncheon meeting of the Competitiveness Policy Council which issued its fourth annual report today. I started promoting the creation of the Competitiveness Policy Council back in the early 1980's. The competitiveness issue has been near and dear to my heart.

Not once in the past decade and a half did I ever hear any contractor object to this provision of the law because it hindered their competitiveness, especially given the ability of the administration to waive it, if that ever was a factor.

Most importantly, perhaps, though, is we are dealing right now with the great problem of the budget deficit. We are hearing proposals from the GOP for cuts in Medicare of $270 billion over the next several years, cuts in Medicaid of about $180 billion, cuts in the earned income tax credit, et cetera. And now we want to increase the deficit by eliminating this recoupment fee. That is ironic. It is an anomaly, it ought not to happen.

In this morning's paper we saw that the GOP is now considering abolishing corporate welfare, primarily through provisions of the Tax Code which gives them tax incentives, their tax expenditures. If they bring such a bill to the floor, then perhaps we could consider the abolition of the recoupment fee in concert with the repeal of all the corporate welfare provisions, but not right now. Right now this is simply a gift to corporate America at the expense of the taxpayer. We should support the Maloney amendment.

Mr. CLINGER. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to this amendment.

Mr. Chairman, I would point out to the Members that one of the reasons we really decided to revisit procurement reform in the first place and the reason we have this bill on the floor is because that was an issue that was considered in the last Congress, one of the items that was not included in the bill that we brought to the floor last year.

This measure, this repeal of the recoupment provision is strongly, and I repeat that, strongly supported by this administration who feels that it has really been a very severe impediment to the ability to have military sales.

It was also supported prior to that by the Bush administration. So this is not a partisan issue. It has been one that has been supported by the executive branch under both Republicans and Democrats. So it is one that we felt needed to be addressed. I think it is important that we have this debate because I think there is no question in my mind that there is a strong disincentive for dealing with Americans on these issues because of the recoupment clause. I know that we have had testimony, discussion here the other way.

I think the other point I wanted to address was that the argument is made that this is somehow going to encourage arms sales. We are going to become an arms merchant, that we are going to contribute to the escalation of arms sales all over the world if this recoupment provision is repealed.

I think that is just absolutely not true. The fact is that the decision as to whether or not to buy a particular weapons system is not made in this context at all. This is an issue that arises only after the decision has been made to buy the system. Then it becomes a question of who do we deal with.

So the fact that we have somehow taken off the recoupment is in no way going to act as an incentive for a spur to additional arms sales. It will, however, have the result of making us much more competitive in terms of being able to compete with those people who used to be our allies in the world and are now our competitors. We really enacted this provision primarily for their benefit, to enable our NATO allies to have these weapons.

Now that is no longer the case. They are our competitors, and in many cases they are having us for lunch on some of these arms sales. This is a question of jobs, Mr. Chairman. We really are jeopardizing a number of jobs, many many jobs in this country by retaining this——

Ms. HARMON. Mr. Chairman, will the gentleman yield?

Mr. CLINGER. I yield to the gentlewoman from California.

Ms. HARMON. Mr. Chairman, is it not also a question of national security in this sense, that if we can keep these aerospace companies and defense contractors healthy doing things that are fully circumscribed by U.S. foreign policy constraints, then they will be alive to produce weapons and defense assets for the future in the event that we should need them in an increasingly unstable world?

Mr. CLINGER. The gentlewoman makes a very, very strong point. This is one way that we can help preserve the industrial base. If we see that shrink dramatically, it would, in fact, jeopardize us in the event we have hostilities somewhere else in the world. So it really has national security implications.

It has jobs implications, economic implications for this country. And it really will not, in any way, enhance or increase the number of sales. It just makes it more competitive in the world market. That is what we are dealing in. We are dealing in a world market in these areas.

I must regretfully oppose the gentlewoman's amendment.

Mrs. MALONEY. Mr. Chairman, will the gentleman yield?

Mr. CLINGER. I yield to the gentlewoman from New York.

Mrs. MALONEY. Mr. Chairman, one of the problems, when we say that it does not make us as competitive, No. 1, we dominate the world market with over 70 percent of sales. We have to remember that it is American tax dollars that create the research and development that makes our companies so successful in the world market.

We allocate well over $30 billion a year to research and development. The moneys that come back to the Department of Defense then go back into research and development. I must tell the gentleman that the offset would come out of a mandatory spending in the Defense Department, which would be military pensions.

Mr. CLINGER. Mr. Chairman, reclaiming my time, that is not the case. In fact, the offsets can come, when this happens, if the President decides to waive it now, he, under this bill, would be required to provide the offset.

We could make it very clear that they were not to be taken out of military spending or out of defense spending or anything else. I think it misrepresents to say it would necessarily work to the detriment of any group.

Mrs. MALONEY. Mr. Chairman, if the gentleman will continue to yield, the offset must come out of mandatory spending. Mandatory spending in the Defense Department is overwhelming, all mandatory spending is the quality of living.

Mr. CLINGER. But it does have to be the Defense Department.

Mrs. MALONEY. This comes from the staff of the Department of Defense.

Mr. CLINGER. But it does not have to be Defense Department. Mandatory spending is all across the board.

Mr. BURTON of Indiana. Mr. Chairman, I move to strike the requisite number of words.

Let me say first of all, one of the things that has not been discussed is the amount of jobs that would be lost. For each $1 billion in sales, these are big ticket items, these things cost 25, 30, 100 million a copy. For each $1 billion in sales that are lost, we lose 16,000 jobs.

I wish the gentlewoman would listen to this, the gentlewoman who has been involved in this discussion.

For each $1 billion in sales that are lost, we lost 16,000 jobs. If we put a pencil to it, for each 1 percent of unemployment, it costs the Treasury about $42 billion for each 1 percent of unemployment. So one of the things that needs to be factored into the equation is the number of jobs that are lost and what kind of an impact that has on the national unemployment rate which also has a bearing on the deficit that we face every year in the Treasury. So there are other things that need to be factored in.

Let me read something out of statutes. There has been some misunderstanding, I believe, on whether or not we can sell these products and of the recoupment provision being employed outside of NATO. Let me read what the law says. The law says: The President may reduce or waive the charge or charges which would otherwise be considered appropriate under paragraphs 1(b) and 1(c) for particular sales that would, if made, significantly advance the United States Government interests in the North Atlantic Treaty Organization standardization, standardization with the armed forces of other countries, Japan, Australia or New Zealand and in furtherance of the mutual defense treaties between the United States and those countries or foreign procurement in the United States under coproduction arrangements.

□ 1430

Even now, when the gentleman from California a while ago was talking about Israel, I believe that is as a direct result of a coproduction arrangement on weapons systems that we did sell and the recoupment feature was employed, because of that coproduction. But there are many countries, many countries, that we may sell products to that do not fall into any of these categories. If that is the case, then there is no latitude in the law for the recoupment provisions to be waived. This may involve billions of dollars of sales to countries that are not NATO, that are not part of an agreement that we have for a mutual defense treaty, or a country under which there was a coproduction arrangement. So the fact of the matter is there are limitations for the recoupment procedures to be employed outside of the countries I just mentioned.

Now, let us say that there is a large number of these countries that do want to buy products from the United States, but the French, for instance, are trying to sell us a French Mirage and we are trying to sell them an F–16 fighter plane. The French would have a distinct advantage if this recoupment provision was not able to be removed, and under current law, the way I read it, it cannot be removed. So the fact of the matter is this legislation which the gentleman from Pennsylvania has been talking about is necessary to make us competitive, not just with our NATO allies, not just with those that have a mutual defense treaty, and not with those where we have a coproduction agreement, but with the rest of the world.

Some of these bids, as I understand it, are time-sensitive. The French may say, ''Hey, we want to sell you a French Mirage,'' and we may want to sell them an F–16, and there is a time frame under which they have to make an agreement in a fairly rapid manner. There is no provision in the law for the recoupment provision to be employed, so that sale by default would go to the French. And along with it would go American jobs, and along with those American jobs would be a higher rate of unemployment, which would translate into additional expenditures from the Treasury, which would exacerbate the deficit.

So the fact of the matter is my good friends, for whom I have the highest respect, are only telling half of the story. The other half is that the law needs to be changed in order to make us competitive worldwide.

Mrs. MALONEY. Mr. Chairman, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentlewoman from New York.

Mrs. MALONEY. Mr. Chairman, the Department of Defense Deputy Inspector General, when he testified before the Committee on Small Business, stated that it could be waived on a case-by-case basis, and invariably it is always waived when you can show there is some detriment to achieving the sale.

The CHAIRMAN. The time of the gentleman from Indiana [Mr. BURTON] has expired.

(By unanimous consent, Mr. BURTON of Indiana was allowed to proceed for 2 additional minutes.)

Mr. BURTON of Indiana. Mr. Chairman, I want to direct the gentlewoman's attention to page 725 and page 726 of title II of the U.S. Code. It is right there in black and white. I will be happy to bring it over to the gentlewoman and let her read it.

Mr. LAFALCE. Mr. Chairman, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman from New York.

Mr. LAFALCE. Mr. Chairman, I think there has been some problem in the course of this debate. First of all, if we are going to change the law we ought to be able to point out a problem. I do not see anyone who has identified a problem that contractors have had with these recoupment fees. I have yet to hear of a case where a contractor has lost a contract because of this recoupment fee. That is point No. 1.

Point No. 2, the gentleman is charging that the ability to waive under the law is narrowly circumscribed. We argue that it has invariably been granted. We know of no instance when a request for a waiver has been denied. If, however, the gentleman is correct on that issue, then the cure is to broaden the waiver authority.

Mr. BURTON of Indiana. That is what we are trying to do.

Mr. LAFALCE. Mr. Chairman, I would say to the gentleman, no, he is not broadening the waiver authority, he is repealing the fee. He is throwing the baby out with the bath water.

Mr. BURTON of Indiana. No, we are not.

Mr. LAFALCE. The totality of the argument went to what the gentleman saw is the narrowness of the waiver authority. We do not think it is narrow, we think it is extremely broad. If in fact you are correct, however, then come in with an amendment to broaden the waiver authority but not to repeal the basic recoupment fee.

Mr. BURTON of Indiana. If I may reclaim my time, I think we are splitting hairs here. The fact of the matter is that is what we are doing by repealing this law, what we are doing is we are making American industry competitive around the world with any foreign competitor. The people who used to be our allies, as the gentleman from New York [Mr. GILMAN] said a while ago, now are our economic competitors. We have to be competitive. This provision, which the gentleman from Pennsylvania [Mr. CLINGER] is trying to get repealed will make sure that takes place, that there is no advantage for any other country.

Mr. CLINGER. Mr. Chairman, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman from Pennsylvania.

Mr. CLINGER. I would like to make two points. First of all, we are the only nation in the world that has a recoupment provision of this sort. Clearly it is making us noncompetitive.

The CHAIRMAN. The time of the gentleman from Indiana [Mr. BURTON] has expired.

(By unanimous consent, Mr. BURTON of Indiana was allowed to proceed for 1 additional minute.)

Mr. CLINGER. Mr. Chairman, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman from Pennsylvania.

Mr. CLINGER. Mr. Chairman, the fact of the matter is our competitors are getting better and better all the time. They are getting more and more competitive. This looms as a problem in the future much greater than perhaps it does now. It is really going to set us very much at a disadvantage in

terms of world sales. Why should we be the only one that disadvantages ourselves and our American workers when we do not need to, and when we really need to be more competitive at this stage of the game.

Mr. BURTON of Indiana. Let me just conclude by restating what my colleague just said. I hope Members hear this very clearly. We are the only country that has this recoupment provision in law, the only country. Our competitors subsidize their military production, their military equipment, which they sell around the world, but they do not have that recoupment provision. As a result, it does give them a distinct advantage. So I think that my colleague's legislation is well founded. I hope my colleague will support it.

Ms. HARMAN. Mr. Chairman, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentlewoman from California.

Ms. HARMAN. Mr. Chairman, I share the gentleman's view and want to associate myself with it.

The CHAIRMAN. The time of the gentleman from Indiana [Mr. BURTON] has expired.

(By unanimous consent, Mr. BURTON of Indiana was allowed to proceed for 1 additional minute.)

Ms. HARMAN. Mr. Chairman, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentlewoman from California.

Ms. HARMAN. Mr. Chairman, I see these advantages in promoting foreign military sales that are definitely circumscribed by our limitations on arms exports, and these are carefully circumscribed. We are not changing the rules with respect to what can be exported and to whom. We are just making it easier to export.

If we encourage appropriate commercial foreign military sales, we do three things. Jobs is one. The second thing is we save the industrial base, which, as I mentioned before, we can use to our advantage later as national security problems arise. Third, and this is very important in terms of saving money for the government, we are able to manufacture more units of whatever is exported, because of the exports, and we lower by that means of the per-unit cost of the airplane or whatever the item is, which means that when the U.S. Government purchases that item in the future, for example, the C–17, the per——

The CHAIRMAN. The time of the gentleman from Indiana [Mr. BURTON] has expired.

(By unanimous consent, Mr. BURTON of Indiana was allowed to proceed for 30 additional seconds.)

Ms. HARMAN. Mr. Chairman, will the gentleman yield?

Mr. BURTON of Indiana. I am happy to yield to the gentlewoman from California.

Ms. HARMAN. Mr. Chairman, the per unit cost of the C–17 or whatever it might be is lower to the U.S. Government so, bottom line, we save jobs, we save the industrial base, we lower the cost of defense purchases for the U.S. Government. For all these reasons I think this proposed change in the law is a good idea, and I oppose the amendment being offered by my very good friends over here.

Ms. PELOSI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise today in support of the amendment being offered by the gentlewoman from New York [Mrs. MALONEY] which strikes a section of the bill before us repealing the recoupment fees provision of the Arms Control Export Act. I would also like to commend our colleague, the gentleman from California [Mr. BERMAN], for his leadership, his ongoing leadership, on this important issue.

As we know, recoupment fees are intended to reimburse the U.S. taxpayer for some of the $35 billion spent annually on research and development costs for major weapons systems. These fees are then built into the cost of these weapons when they are sold to foreign countries.

Mr. Chairman, foreign governments have paid nearly $1 billion in recoupment fees for the last 5 years. According to the Congressional Research Service, collections over the next 5 years will also amount to approximately $1 billion. Failure to pass this amendment will not only shortchange the U.S. taxpayer, but it will guarantee the highly successful defense industry yet another corporate subsidy.

Mr. Chairman, corporate recoupment fees also act as an important check on weapons proliferation. Without such fees we will in effect further subsidize foreign military sales and regional arms races. Our foreign military sales programs allows the United States control over who may take advantage of subsidized purchases of weapons systems.

By striking recoupment fees, we are relinquishing this control. Every potential purchaser would be able to take advantage of this taxpayer-funded largesse. A vote for this amendment is a vote for greater accountability and control over these weapons systems. It is also a vote for greater financial accountability and a vote against corporate welfare.

Mr. Chairman, I would like to, as I continue my remarks, comment on some of what I have heard from recent speakers, all of whom, let us all stipulate, we respect, and we are all distinguished representatives of our constituents.

Having said that, I would like to take issue with some of the statements that have been made. One is that this recoupment fee, eliminating it will make us more competitive. In fact, as it has been stated, does not the recoupment requirement make the U.S. military equipment less competitive in international markets, depriving our contractors of their foreign sales needed?

No, no, no, for several reasons. U.S. military equipment simply dominates the world market. It is just too good, dollar for dollar. Sales data confirms this. Each year sales of United States military equipment was more than the combined sales of all other countries combined, including France, Great Britain, Russia, China, the most aggressive arms exporters, referencing all of those countries combined. During the fiscal year 1991 to 1994 period, sales of U.S. equipment would increase 62 percent over the previous 4-year period, while total world purchases have declined 42 percent.

There is a case-by-case waiver authority. It is generally granted, so when others, in addition to the competitive argument, say there cannot be a waiver, in the law itself there is a case-by-case waiver. It is generally granted if the contractor can demonstrate to DOD that recoupment is the difference between making a foreign sale or no foreign sale.

The issue of jobs has come up. When are we going to stop having our economy be based on a military and defense economy only? Why are we not talking about developing other kinds of exports?

As far as the industrial base is concerned, we spend a quarter of a trillion dollars a year on defense. A great deal of that is invested into our industrial base. We do not need to have further underwriting and corporate welfare there.

Mr. Chairman, I would like to reference a letter from the deputy inspector general, who has confirmed some of what I have said. He said, ''Since the U.S. sales of military hardware exceeds all other countries combined, there is in my mind a great deal of doubt about the need to eliminate the recovery requirement when it can be done through waivers of a case-by-case basis.''

I say, referencing further his testimony before the Congress, he said ''We disagree with the change,'' and this is the inspector general, the deputy inspector general of the Department of Defense, he said ''We disagree with the change. The current law and regulations allow the charge to be waived if the charge is an impediment to the sale. Request for waivers are invariably granted.''

The CHAIRMAN. The time of the gentlewoman from California [Ms. PELOSI] has expired.

(By unanimous consent, Ms. PELOSI was allowed to proceed for 30 additional seconds.)

Ms. PELOSI. Mr. Chairman, I urge our colleagues to support the Maloney amendment. The recoupment fee issue is corporate welfare, it is back door military assistance. It contributes to arms proliferation. It is not about competition, and it will be much more costly than its proponents suggests.

Let us not have this House of Representatives be the handmaiden of the military industrial complex. Let us have a strong national defense. Let us

try to end the proliferation of weapons of mass destruction. Sure, here we are talking international, but we sell far too many of those and we have a moral responsibility to hold that in check.

The CHAIRMAN. That time of the gentlewoman from California [Ms. PELOSI] has expired.

(By unanimous consent, Ms. PELOSI was allowed to proceed for 30 additional seconds.)

Mr. CLINGER. Mr. Chairman, will the gentlewoman yield?

Ms. PELOSI. I yield to the gentlewoman from Pennsylvania.

Mr. CLINGER. Briefly, Mr. Chairman, I would like to make the point that the Defense Security Assistance Agency and the administration strongly support repeal of this. I would just question the appropriateness of the inspector general making policy in these kinds of areas. It seems to me it is the policymakers of the Department of Defense who really should be paid attention to in this area.

Ms. PELOSI. Mr. Chairman, I was referencing the letter from the deputy inspector general of the Department of Defense when I talked about the use of the waiver.

□ 1445

Mr. FARR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I really want to rise to question what is really broke here. If we say that the military defense industry is broke because they cannot compete in the world, then we have to look at the fact that 70 percent of the world market is controlled by U.S. industry, so we would not say that U.S. industry is really hurting there.

If we say, well, this is an impact on American industry that other foreign competitors do not have, we have to look at the way this industry generates its revenue. The taxpayers of this country have put forth $30 billion in R&D military research money. The law, which has been in effect for a number of years, estimates that in the next 5 years it is going to recoup from that $30 billion investment $1 billion. That is certainly not a very good return on the taxpayers' investment.

I think we have to also compare that we put a lot of money into universities. When universities come up with an idea and invent it, they patent it, and that goes into marketing that idea and the university is able to recoup over time the invention, the effort in that invention. I mean, they own it.

What we are saying here is that the American taxpayers own this invention, They put the money in and they ought to get something back for it.

The defense industry, I think this is a weak issue to be pleading on. I come from California where the majority of defense contract dollars go. We get 23 percent of the entire defense contracts, and I think New York was second with 12 percent. We got about as much in defense contracting a few years ago that equaled the entire State budget.

The industry has not been moving out of California. The tax base in California is very high. Labor costs in California are very high. The next thing we are going to hear is, let us repeal all of those local taxes and those job incentives because the industry has got to leave.

I rise in support of the Maloney-DeFazio-Berman amendment because I want to support the American taxpayers who are the real shareholders in the defense industry, and they ought to get a return on their investment.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New York [Mrs. MALONEY].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mrs. MALONEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 164, noes 259, not voting 11, as follows:

[Roll No. 662]

AYES—164

Abercrombie
Andrews
Baesler
Baldacci
Ballenger
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clement
Coleman
Collins (IL)
Collins (MI)
Condit
Costello
Coyne
DeFazio
Dellums
Deutsch
Dingell
Dixon
Doggett
Doyle
Duncan
Durbin
Ehrlich
Ensign
Eshoo
Evans
Farr
Fattah
Fawell
Fazio
Fields (LA)
Filner
Flake
Foglietta
Foley
Ford
Frank (MA)
Furse
Gibbons
Green
Gutierrez
Hall (OH)
Hastings (FL)
Hefner
Hinchey
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kasich
Kennedy (MA)
Kennedy (RI)
Kildee
Kingston
Kleczka
Klug
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
LoBiondo
Lofgren
Lowey
Luther
Maloney
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McKinney
Meehan
Menendez
Mfume
Miller (CA)
Minge
Mink
Montgomery
Nadler
Neal
Ney
Oberstar
Obey
Olver
Owens
Pallone
Payne (NJ)
Payne (VA)
Pelosi
Peterson (MN)
Petri
Pomeroy
Porter
Portman
Poshard
Rahall
Ramstad
Rangel
Reed
Rivers
Rose
Roth
Roybal-Allard
Rush
Sabo
Sanders
Sanford
Sawyer
Scarborough
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Shadegg
Shays
Skaggs
Slaughter
Spratt
Stark
Stenholm
Stockman
Stokes
Studds
Stupak
Tanner
Thurman
Torres
Torricelli
Towns
Traficant
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Whitfield
Williams
Wise
Woolsey
Wyden
Yates
Zimmer

NOES—259

Ackerman
Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clinger
Clyburn
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLauro
DeLay
Diaz-Balart
Dickey
Dicks
Dooley
Doolittle
Dornan
Dreier
Dunn
Edwards
Ehlers
Emerson
Engel
English
Everett
Ewing
Fields (TX)
Flanagan
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hilliard
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kelly
Kennelly
Kim
King
Klink
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
Longley
Lucas
Manton
Manzullo
Martini
McCollum
McCrery
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Mollohan
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Pastor
Paxon
Peterson (FL)
Pickett
Pombo
Pryce
Quillen
Quinn
Radanovich
Regula
Richardson
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Salmon
Saxton
Schaefer
Schiff
Seastrand
Shaw
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Souder
Spence
Stearns
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Wicker
Wilson
Wolf
Wynn
Young (AK)
Young (FL)
Zeliff

NOT VOTING—11

Conyers
Frost
McDade
Meek
Mineta
Moakley
Reynolds
Sisisky
Solomon
Tucker
Velazquez

□ 1509

Mr. SHADEGG and Ms. JACKSON-LEE changed their vote from ''no'' to ''aye.''

Mr. PETERSON of Florida changed his vote from ''aye'' to ''no.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there any further amendments to title III?

Mr. FRANKS of New Jersey. Mr. Chairman, I move to strike the last word for the purpose of entering into a colloquy with the distinguished chairman regarding one specific area of Federal contracts, the acquisition and management of the cars and trucks used by the Federal Government.

Mr. HORN. Mr. Chairman, will the gentleman yield?

Mr. FRANKS of New Jersey. I yield to the gentleman from California.

Mr. HORN. Mr. Chairman, As chairman of the Subcommittee on Government Management, Information and Technology, I would be pleased to have a colloquy with the gentleman from New Jersey.

Mr. FRANKS of New Jersey. Mr. Chairman, earlier this year, I introduced a bill, H.R. 1981, that would bring much needed reform to the way that the Federal Government buys and manages its fleets of almost 400,000 vehicles at an annual cost in excess of a billion dollars. This bill, the Efficient Fleet Management Act of 1995, would require all Federal agencies to obey a 1985 law demanding a full account of their fleet operations cost and to make all related contract decisions based on fully developed cost comparisons of both public and private vendors.

Mr. Chairman, as the gentleman knows, at my request, the GAO submitted a report last December on the poor compliance with that 1985 law and the poor cost of accounting that still plagues the Government's fleet management. My bill would address many of the problems that the GAO identified in that report.

Instead of offering my bill as an amendment to the bill today, I look for assurances from the committee that it will address these problems.

Mr. HORN. I commend my distinguished colleague from New Jersey for his innovative bill, H.R. 1981. I agree with the gentleman that the current lack of clear cost accounting and real cost comparisons are a very troubling problem. Many agencies simply cannot track those costs by activity. Any business in America can do that, but only a handful of Federal agencies can make the same claim.

As the gentleman knows, the Committee on Government Reform and Oversight is in the process of reviewing how the General Services Administration and other agencies administer their fleets. The GSA fleet covers 30 percent of all Federal vehicles. This investigation is taking more time than we had hoped, since we are awaiting the release of the Arthur Anderson business line review of GSA's operations.

In due course, the Subcommittee on Government Management, Information and Technology of the Committee on Government Reform and Oversight will have a hearing on GSA's restructuring of its fleet management operations. In this context, we will certainly examine the gentleman from New Jersey's bill and see what the General Accounting Office has to say on the same subject. I am optimistic we can resolve this matter before too many months have gone by.

Mr. FRANKS of New Jersey. Mr. Chairman, I want to thank the gentleman from California and Chairman CLINGER, and I look forward to working with the gentleman on making certain Government agencies reform the way they conduct their fleet management operations.

Mr. HORN. I thank the gentleman.

□ 1515

The CHAIRMAN. Are there further amendments to title III?

If not, the Clerk will designate title IV.

The text of title IV is as follows:

***TITLE IV—STREAMLINING OF DISPUTE RESOLUTION***

***Subtitle A—General Provisions***

***SEC. 401. DEFINITIONS.***

*(a) IN GENERAL.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended by adding at the end the following:*

***"TITLE II—DISPUTE RESOLUTION***

***"Subtitle A—General Provisions***

***"SEC. 201. DEFINITIONS.***

*''In this title:*

*''(1) The term 'Defense Board' means the Department of Defense Board of Contract Appeals established pursuant to section 8(a) of the Contract Disputes Act of 1978 (41 U.S.C. 607).*

*''(2) The term 'Civilian Board' means the Civilian Board of Contract Appeals established pursuant to section 8(b) of the Contract Disputes Act of 1978 (41 U.S.C. 607).*

*''(3) The term 'Board judge' means a member of the Defense Board or the Civilian Board, as the case may be.*

*''(4) The term 'Chairman' means the Chairman of the Defense Board or the Civilian Board, as the case may be.*

*''(5) The term 'Board concerned' means—*

*''(A) the Defense Board with respect to matters within its jurisdiction; and*

*''(B) the Civilian Board with respect to matters within its jurisdiction.*

*''(6) The term 'executive agency'—*

*''(A) for purposes of contract disputes under section 213—*

*''(i) with respect to contract disputes under the jurisdiction of the Defense Board, means the Department of Defense, the Department of the Army, the Department of the Navy, or the Department of the Air Force; and*

*''(ii) with respect to contract disputes under the jurisdiction of the Civilian Board, has the meaning given by section 2(2) of the Contract Disputes Act of 1978 (41 U.S.C. 601(2)) except that the term does not include the Department of Defense, the Department of the Army, the Department of the Navy, and the Department of the Air Force; and*

*''(B) for purposes of protests under section 214—*

*''(i) with respect to protests under the jurisdiction of the Defense Board, means the Department of Defense, the Department of the Army, the Department of the Navy, or the Department of the Air Force; and*

*''(ii) with respect to protests under the jurisdiction of the Civilian Board, has the meaning given by section 4(1) of this Act except that the term does not include the Department of Defense, the Department of the Army, the Department of the Navy, and the Department of the Air Force.*

*''(7) The term 'alternative means of dispute resolution' has the meaning given by section 571(3) of title 5, United States Code.*

*''(8) The term 'protest' means a written objection by an interested party to any of the following:*

*''(A) A solicitation or other request by an executive agency for offers for a contract for the procurement of property or services.*

*''(B) The cancellation of such a solicitation or other request.*

*''(C) An award or proposed award of such a contract.*

*''(D) A termination or cancellation of an award of such a contract, if the written objection contains an allegation that the termination or cancellation is based in whole or in part on improprieties concerning the award of the contract.*

*''(9) The term 'interested party', with respect to a contract or a solicitation or other request for offers, means an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of the contract or by failure to award the contract.*

*''(10) The term 'prevailing party', with respect to a determination of the Board under section 214(h)(2) that a decision of a contracting officer violates a statute or regulation, means a party that demonstrated such violation.''.*

*(b) CONFORMING AMENDMENTS.—The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is further amended—*

*(1) by inserting the following before section 1:*

***"TITLE I—FEDERAL PROCUREMENT POLICY GENERALLY"****;*

*and*

*(2) in section 4, by striking out ''As used in this Act:'' and inserting in lieu thereof ''Except as otherwise specifically provided, as used in this Act:''.*

***Subtitle B—Establishment of Civilian and Defense Boards of Contract Appeals***

***SEC. 411. ESTABLISHMENT.***

*Subsections (a) and (b) of section 8 of the Contract Disputes Act of 1978 (41 U.S.C. 607) are amended to read as follows:*

*''(a) There is established in the Department of Defense a board of contract appeals to be known as the Department of Defense Board of Contract Appeals.*

*''(b) There is established in the General Services Administration a board of contract appeals to be known as the Civilian Board of Contract Appeals.''.*

***SEC. 412. MEMBERSHIP.***

*The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), as amended by section 401, is further amended by adding at the end the following:*

***"SEC. 202. MEMBERSHIP.***

*''(a) APPOINTMENT.—(1)(A) The Defense Board shall consist of judges appointed by the Chairman, without regard to political affiliation and solely on the basis of the professional qualifications required to perform the duties and responsibilities of a Defense Board judge, from a register of applicants maintained by the Defense Board.*

*''(B) The Civilian Board shall consist of judges appointed by the Chairman, without regard to political affiliation and solely on the basis of the professional qualifications required to perform the duties and responsibilities of a Civilian Board judge, from a register of applicants maintained by the Civilian Board.*

*''(2) The members of the Defense Board and the Civilian Board shall be selected and appointed to serve in the same manner as administrative law judges appointed pursuant to section 3105 of title 5, United States Code, with an additional requirement that such members shall have had not fewer than five years of experience in public contract law.*

*''(3) Notwithstanding paragraph (2) and subject to subsection (b), the following persons shall serve as Board judges:*

''(A) For the Defense Board, any full-time member of the Armed Services Board of Contract Appeals serving as such on the day before the effective date of this title.

''(B) For the Civilian Board, any full-time member of any agency board of contract appeals other than the Armed Services Board of Contract Appeals serving as such on the day before the effective date of this title.

''(C) For either the Defense Board or the Civilian Board, any person serving on the day before the date of the enactment of this title in a position at a level of assistant general counsel or higher with authority delegated from the Comptroller General to decide bid protests under subchapter V of chapter 35 of title 31, United States Code.

''(b) REMOVAL.—Members of the Defense Board and the Civilian Board shall be subject to removal in the same manner as administrative law judges, as provided in section 7521 of title 5, United States Code.

''(c) COMPENSATION.—Compensation for the Chairman of the Defense Board and the Chairman of the Civilian Board and all other members of each Board shall be determined under section 5372a of title 5, United States Code.''.

**SEC. 413. CHAIRMAN.**

The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), as amended by section 412, is further amended by adding at the end the following:

**''SEC. 203. CHAIRMAN.**

''(a) DESIGNATION.—(1)(A) The Chairman of the Defense Board shall be designated by the Secretary of Defense to serve for a term of five years. The Secretary shall select the Chairman from among sitting judges each of whom has had at least five years of service—

''(i) as a member of the Armed Services Board of Contract Appeals; or

''(ii) in a position at a level of assistant general counsel or higher with authority delegated from the Comptroller General to decide bid protests under subchapter V of chapter 35 of title 31, United States Code (as in effect on the day before the effective date of this title).

''(B) The Chairman of the Civilian Board shall be designated by the Administrator of General Services to serve for a term of five years. The Administrator shall select the Chairman from among sitting judges each of whom has had at least five years of service—

''(i) as a member of an agency board of contract appeals other than the Armed Services Board of Contract Appeals; or

''(ii) in a position at a level of assistant general counsel or higher with authority delegated from the Comptroller General to decide bid protests under subchapter V of chapter 35 of title 31, United States Code (as in effect on the day before the effective date of this title).

''(2) A Chairman of a Board may continue to serve after the expiration of the Chairman's term until a successor has taken office. A Chairman may be reappointed any number of times.

''(b) RESPONSIBILITIES.—The Chairman of the Defense Board or the Civilian Board, as the case may be, shall be responsible on behalf of the Board for the executive and administrative operation of the Board, including functions of the Board with respect to the following:

''(1) The selection, appointment, and fixing of the compensation of such personnel, pursuant to part III of title 5, United States Code, as the Chairman considers necessary or appropriate, including a Clerk of the Board, a General Counsel, and clerical and legal assistance for Board judges.

''(2) The supervision of personnel employed by or assigned to the Board, and the distribution of work among such personnel.

''(3) The operation of an Office of the Clerk of the Board, including the receipt of all filings made with the Board, the assignment of cases, and the maintenance of all records of the Board.

''(4) The prescription of such rules and regulations as the Chairman considers necessary or appropriate for the administration and management of the Board.

''(c) VICE CHAIRMEN.—The Chairman of the Defense Board or the Civilian Board, as the case may be, may designate up to four other Board judges as Vice Chairmen. The Chairman may divide the Board into two divisions, one for handling contract disputes and one for handling protests, and, if such division is made, shall assign a Vice Chairman to head each division. The Vice Chairmen, in the order designated by the Chairman, shall act in the place and stead of the Chairman during the absence of the Chairman.''.

**SEC. 414. RULEMAKING AUTHORITY.**

The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), as amended by section 413, is further amended by adding at the end the following:

**''SEC. 204. RULEMAKING AUTHORITY.**

''The Chairman of the Defense Board and the Chairman of the Civilian Board shall jointly issue and maintain—

''(1) such procedural rules and regulations as are necessary to the exercise of the functions of the Boards under sections 213 and 214; and

''(2) statements of policy of general applicability with respect to such functions.''.

**SEC. 415. AUTHORIZATION OF APPROPRIATIONS.**

The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), as amended by section 414, is further amended by adding at the end the following:

**''SEC. 205. AUTHORIZATION OF APPROPRIATIONS.**

''There are authorized to be appropriated for fiscal year 1997 and each succeeding fiscal year such sums as may be necessary to carry out the provisions of this title. Funds for the activities of each Board shall be separately appropriated for such purpose. Funds appropriate pursuant to this section shall remain available until expended.''.

**Subtitle C—Functions of Defense and Civilian Boards of Contract Appeals**

**SEC. 421. ALTERNATIVE DISPUTE RESOLUTION SERVICES.**

The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), as amended by section 415, is further amended by adding at the end the following:

**''Subtitle B—Functions of the Defense and Civilian Boards of Contract Appeals**

**''SEC. 211. ALTERNATIVE DISPUTE RESOLUTION SERVICES.**

''(a) REQUIREMENT TO PROVIDE SERVICES UPON REQUEST.—The Defense Board and the Civilian Board shall each provide alternative means of dispute resolution for any disagreement regarding a contract or prospective contract of an executive agency upon the request of all parties to the disagreement.

''(b) PERSONNEL QUALIFIED TO ACT.—Each Board judge and each attorney employed by the Board concerned shall be considered to be qualified to act for the purpose of conducting alternative means of dispute resolution under this section.

''(c) SERVICES TO BE PROVIDED WITHOUT CHARGE.—Any services provided by the Board concerned or any Board judge or employee pursuant to this section shall be provided without charge.

''(d) RECUSAL OF CERTAIN PERSONNEL UPON REQUEST.—In the event that a matter which is presented to the Board concerned for alternative means of dispute resolution, pursuant to this section, later becomes the subject of formal proceedings before such Board, any Board judge or employee who was involved in the alternative means of dispute resolution shall, if requested by any party to the formal proceeding, take no part in that proceeding.''.

**SEC. 422. ALTERNATIVE DISPUTE RESOLUTION OF DISPUTES AND PROTESTS SUBMITTED TO BOARDS.**

The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), as amended by section 421, is further amended by adding at the end the following:

**''SEC. 212. ALTERNATIVE DISPUTE RESOLUTION OF DISPUTES AND PROTESTS SUBMITTED TO BOARDS.**

''With reasonable promptness after the submission to the Defense Board or the Civilian Board of a contract dispute under section 213 or a bid protest under section 214, a Board judge to whom the contract dispute or protest is assigned shall request the parties to meet with a Board judge, or an attorney employed by the Board concerned, for the purpose of attempting to resolve the dispute or protest through alternative means of dispute resolution. Formal proceedings in the appeal shall then be suspended until such time as any party or a Board judge to whom the dispute or protest is assigned determines that alternative means of dispute resolution are not appropriate for resolution of the dispute or protest.''.

**SEC. 423. CONTRACT DISPUTES.**

The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), as amended by section 422, is further amended by adding at the end the following:

**''SEC. 213. CONTRACT DISPUTES.**

''The Defense Board shall have jurisdiction as provided by section 8(a) of the Contract Disputes Act of 1978 (41 U.S.C. 601–613). The Civilian Board shall have jurisdiction as provided by section 8(b) of such Act.''.

**SEC. 424. PROTESTS.**

The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), as amended by section 423, is further amended by adding at the end the following:

**''SEC. 214. PROTESTS.**

''(a) REVIEW REQUIRED UPON REQUEST.—Upon request of an interested party in connection with any procurement conducted by an executive agency, the Defense Board or the Civilian Board, as the case may be, shall review, as provided in this section, any decision by the head of the executive agency alleged to violate a statute or regulation. A decision or order of the Board concerned pursuant to this section shall not be subject to interlocutory appeal or review.

''(b) STANDARD OF REVIEW.—In deciding a protest, the Board concerned may consider all evidence that is relevant to the decision under protest. It shall accord a presumption of correctness to the decision under protest. The protester may rebut such presumption by showing, by a preponderance of the evidence, that the decision was arbitrary or capricious or violated a statute or regulation.

''(c) NOTIFICATION.—Within one day after the receipt of a protest, the Board concerned shall notify the executive agency involved of the protest.

''(d) SUSPENSION OF CONTRACT AWARD.—(1) Except as provided in paragraph (2) of this subsection, a contract may not be awarded in any procurement after the executive agency has received notice of a protest with respect to such procurement from the Board concerned and while the protest is pending.

''(2) The head of the procuring activity responsible for award of a contract may authorize the award of the contract (notwithstanding a protest of which the executive agency has notice under this section)—

''(A) upon a written finding that urgent and compelling circumstances which significantly affect interests of the United States will not permit waiting for the decision of the Board concerned under this section; and

''(B) after the Board concerned is advised of that finding.

''(3) A finding may not be made under paragraph (2)(A) of this subsection unless the award

*of the contract is otherwise likely to occur within 30 days after the making of such finding.*

*''(4) The suspension of the award under paragraph (1) shall not preclude the executive agency concerned from continuing the procurement process up to but not including the award of the contract.*

*''(e) SUSPENSION OF CONTRACT PERFORMANCE.—(1) A contractor awarded an executive agency contract may, during the period described in paragraph (4), begin performance of the contract and engage in any related activities that result in obligations being incurred by the United States under the contract unless the contracting officer responsible for the award of the contract withholds authorization to proceed with performance of the contract.*

*''(2) The contracting officer may withhold an authorization to proceed with performance of the contract during the period described in paragraph (4) if the contracting officer determines in writing that—*

*''(A) a protest is likely to be filed; and*

*''(B) the immediate performance of the contract is not in the best interests of the United States.*

*''(3)(A) If the executive agency awarding the contract receives notice of a protest in accordance with this section during the period described in paragraph (4)—*

*''(i) the contracting officer may not authorize performance of the contract to begin while the protest is pending; or*

*''(ii) if authorization for contract performance to proceed was not withheld in accordance with paragraph (2) before receipt of the notice, the contracting officer shall immediately direct the contractor to cease performance under the contract and to suspend any related activities that may result in additional obligations being incurred by the United States under that contract.*

*''(B) Performance and related activities suspended pursuant to subparagraph (A)(ii) by reason of a protest may not be resumed while the protest is pending.*

*''(C) The head of the procuring activity may authorize the performance of the contract (notwithstanding a protest of which the executive agency has notice under this section)—*

*''(i) upon a written finding that urgent and compelling circumstances that significantly affect interests of the United States will not permit waiting for the decision concerning the protest by the Board concerned; and*

*''(ii) after the Board concerned is notified of that finding.*

*''(4) The period referred to in paragraphs (2) and (3)(A), with respect to a contract, is the period beginning on the date of the contract award and ending on the later of—*

*''(A) the date that is 10 days after the date of the contract award; or*

*''(B) the date that is 5 days after the debriefing date offered to an unsuccessful offeror for any debriefing that is requested and, when requested, is required.*

*''(f) The authority of the head of the procuring activity to make findings and to authorize the award and performance of contracts under subsections (d) and (e) of this section may not be delegated.*

*''(g) PROCEDURES.—*

*''(1) PROCEEDINGS AND DISCOVERY.—The Board concerned shall conduct proceedings and allow such discovery to the minimum extent necessary for the expeditious, fair, and cost-effective resolution of the protest. The Board concerned shall limit discovery to material which is relevant to the grounds of protest or to such affirmative defenses as the executive agency involved, or any intervenor supporting the agency, may raise.*

*''(2) PRIORITY.—The Board concerned shall give priority to protests filed under this section over contract disputes and alternative dispute services. Except as provided in paragraph (3), the Board concerned shall issue its final decision within 65 days after the date of the filing of the protest, unless the Chairman determines that the specific and unique circumstances of the protest require a longer period, in which case the Board concerned shall issue such decision within the longer period determined by the Chairman. An amendment that adds a new ground of protest should be resolved, to the maximum extent practicable, within the time limits established for resolution of the initial protest.*

*''(3) THRESHOLD.—(A) Except as provided in subparagraph (B), any protest in which the anticipated value of the contract award that will result from the protested procurement, as estimated by the executive agency involved, is less than $20,000,000 shall be considered under simplified rules of procedure. Such simplified rules shall provide that discovery in such protests shall be in writing only. Such protests shall be decided by a single Board judge. The Board concerned shall issue its final decision in each such protest within 40 days after the date of the filing of the protest, unless the Chairman determines that the specific and unique circumstances of the protest require a longer period, in which case the Board concerned shall issue such decision within the longer period determined by the Chairman.*

*''(B) If the Chairman of the Board concerned determines that special and unique circumstances of a protest that would otherwise qualify for the simplified rules described in subparagraph (A), including the complexity of a protest, requires the use of full procedures as described in paragraphs (1) and (2), the Chairman shall use such procedures in lieu of the simplified rules described in subparagraph (A).*

*''(4) CALCULATION OF TIME FOR ADR.—In calculating time for purposes of paragraph (2) or (3) of this subsection, any days during which proceedings are suspended for the purpose of attempting to resolve the protest by alternative means of dispute resolution, up to a maximum of 20 days, shall not be counted.*

*''(5) DISMISSAL OF FRIVOLOUS PROTESTS.—The Board concerned may dismiss a protest that the Board concerned determines—*

*''(A) is frivolous,*

*''(B) has been brought or pursued in bad faith; or*

*''(C) does not state on its face a valid basis for protest.*

*''(6) PAYMENT OF COSTS FOR FRIVOLOUS PROTESTS.—(A) If the Board concerned expressly finds that a protest or a portion of a protest is frivolous or has been brought or pursued in bad faith, the Board concerned shall declare that the protester or other interested party who joins the protest is liable to the United States for payment of the costs described in subparagraph (B) unless—*

*''(i) special circumstances would make such payment unjust; or*

*''(ii) the protester obtains documents or other information after the protest is filed with the Board concerned that establishes that the protest or a portion of the protest is frivolous or has been brought or pursued in bad faith, and the protester then promptly withdraws the protest or portion of the protest.*

*''(B) The costs referred to in subparagraph (A) are all of the costs incurred by the United States of reviewing the protest, or of reviewing that portion of the protest for which the finding is made, including the fees and other expenses (as defined in section 2412(d)(2)(A) of title 28, United States Code) incurred by the United States in defending the protest.*

*''(h) DECISIONS AND CORRECTIVE ACTIONS ON PROTESTS.—(1) In making a decision on protests filed under this section, the Board concerned shall accord due weight to the goals of economic and efficient procurement, and shall take due account of the rule of prejudicial error.*

*''(2) If the Board concerned determines that a decision of the head of the executive agency violates a statute or regulation, the Board concerned may order the agency (or its head) to take such corrective action as the Board concerned considers appropriate. Corrective action includes requiring that the executive agency—*

*''(A) refrain from exercising any of its options under the contract;*

*''(B) recompete the contract immediately;*

*''(C) issue a new solicitation;*

*''(D) terminate the contract;*

*''(E) award a contract consistent with the requirements of such statute and regulation;*

*''(F) implement any combination of requirements under subparagraphs (A), (B), (C), (D), and (E); or*

*''(G) implement such other actions as the Board concerned determines necessary.*

*''(3) If the Board concerned orders corrective action after the contract award, the affected contract shall be presumed valid as to all goods or services delivered and accepted under the contract before the corrective action was ordered.*

*''(4) Any agreement that provides for the dismissal of a protest and involves a direct or indirect expenditure of appropriated funds shall be submitted to the Board concerned and shall be made a part of the public record (subject to any protective order considered appropriate by the Board concerned) before dismissal of the protest.*

*''(i) AUTHORITY TO DECLARE ENTITLEMENT TO COSTS.—(1)(A) Whenever the Board concerned determines that a decision of a contracting officer violates a statute or regulation, it may, in accordance with section 1304 of title 31, United States Code, further declare an appropriate prevailing party to be entitled to the costs of—*

*''(i) filing and pursuing the protest, including reasonable attorneys' fees and consultant and expert witness fees, and*

*''(ii) bid and proposal preparation.*

*''(B) No party (other than a small business concern (within the meaning of section 3(a) of the Small Business Act)) may be declared entitled under this paragraph to costs for—*

*''(i) consultant and expert witness fees that exceed the highest rate of compensation for expert witnesses paid by the Federal Government, or*

*''(ii) attorneys' fees that exceed $150 per hour unless the Board concerned, on a case by case basis, determines that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for the proceedings involved, justifies a higher fee.*

*''(2) Payment of amounts due from an agency under paragraph (1) or under the terms of a settlement agreement under subsection (h)(4) shall be made from the appropriation made by section 1304 of title 31, United States Code, for the payment of judgments. The executive agency concerned shall reimburse that appropriation account out of funds available for the procurement.*

*''(j) APPEALS.—A final decision of the Board concerned may be appealed as set forth in section 8(g)(1) of the Contract Disputes Act of 1978 by the head of the executive agency concerned and by any interested party, including interested parties who intervene in any protest filed under this section.*

*''(k) ADDITIONAL RELIEF.—Nothing contained in this section shall affect the power of the Board concerned to order any additional relief which it is authorized to provide under any statute or regulation.*

*''(l) NONEXCLUSIVITY OF REMEDIES.—Nothing contained in this section shall affect the right of any interested party to file a protest with the contracting agency or to file an action in the United States Court of Federal Claims or in a United States district court.''.*

***SEC. 425. APPLICABILITY TO CERTAIN CONTRACTS.***

*The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), as amended by section 424, is further amended by adding at the end the following:*

***"SEC. 215. APPLICABILITY TO CERTAIN CONTRACTS.***

*"(a) CONTRACTS AT OR BELOW THE SIMPLIFIED ACQUISITION THRESHOLD.—Notwithstanding section 33 of this Act, the authority conferred on the Defense Board and the Civilian Board by this title is applicable to contracts in amounts not greater than the simplified acquisition threshold.*

*"(b) CONTRACTS FOR COMMERCIAL ITEMS.—Notwithstanding section 34 of this Act, the authority conferred on the Defense Board and the Civilian Board by this title is applicable to contracts for the procurement of commercial items.".*

***Subtitle D—Repeal of Other Statutes Authorizing Administrative Protests***

***SEC. 431. REPEALS.***

*(a) GSBCA PROVISIONS.—Subsection (f) of the Brooks Automatic Data Processing Act (section 111 of the Federal Property and Administrative Services Act of 1949; 40 U.S.C. 759) is repealed.*

*(b) GAO PROVISIONS.—(1) Subchapter V of chapter 35 of title 31, United States Code (31 U.S.C. 3551–3556) is repealed.*

*(2) The analysis for chapter 35 of such title is amended by striking out the items relating to sections 3551 through 3556 and the heading for subchapter V.*

***Subtitle E—Transfers and Transitional, Savings, and Conforming Provisions***

***SEC. 441. TRANSFER AND ALLOCATION OF APPROPRIATIONS AND PERSONNEL.***

*(a) TRANSFERS.—*

*(1) ARMED SERVICES BOARD OF CONTRACT APPEALS.—The personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available in connection with the functions vested by law in the Armed Services Board of Contract Appeals established pursuant to section 8 of the Contract Disputes Act of 1978 (41 U.S.C. 607) (as in effect on the day before the effective date of this Act), shall be transferred to the Department of Defense Board of Contract Appeals for appropriate allocation by the Chairman of that Board.*

*(2) OTHER BOARDS OF CONTRACTS APPEALS.—The personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available in connection with the functions vested by law in the boards of contract appeals established pursuant to section 8 of the Contract Disputes Act of 1978 (41 U.S.C. 607) other than the Armed Services Board of Contract Appeals (as in effect on the day before the effective date of this Act), shall be transferred to the Civilian Board of Contract Appeals for appropriate allocation by the Chairman of that Board.*

*(3) COMPTROLLER GENERAL.—(A) One-third (as determined by the Comptroller General) of the personnel employed in connection with, and one-third (as determined by the Comptroller General) of the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available in connection with the functions vested by law in the Comptroller General pursuant to subchapter V of chapter 35 of title 31, United States Code (as in effect on the day before the effective date of this Act), shall be transferred to the Civilian Board of Contract Appeals for appropriate allocation by the Chairman of that Board.*

*(B) Two-thirds (as determined by the Comptroller General) of the personnel employed in connection with, and two-thirds (as determined by the Comptroller General) of the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available in connection with the functions vested by law in the Comptroller General pursuant to subchapter V of chapter 35 of title 31, United States Code (as in effect on the day before the effective date of this Act), shall be transferred to the Department of Defense Board of Contract Appeals for appropriate allocation by the Chairman of that Board.*

*(b) EFFECT ON PERSONNEL.—Personnel transferred pursuant to this title shall not be separated or reduced in compensation for one year after such transfer, except for cause.*

*(c) REGULATIONS.—(1) The Department of Defense Board of Contract Appeals and the Civilian Board of Contract Appeals shall each prescribe regulations for the release of competing employees in a reduction in force that gives due effect to—*

*(A) efficiency or performance ratings;*

*(B) military preference; and*

*(C) tenure of employment.*

*(2) In prescribing the regulations, the Board concerned shall provide for military preference in the same manner as set forth in subchapter I of chapter 35 of title 5, United States Code.*

***SEC. 442. TERMINATIONS AND SAVINGS PROVISIONS.***

*(a) TERMINATION OF BOARDS OF CONTRACT APPEALS.—On the effective date of this title, the boards of contract appeals established pursuant to section 8 of the Contract Disputes Act of 1978 (41 U.S.C. 607) (as in effect on the day before the effective date of this Act) shall terminate.*

*(b) SAVINGS PROVISION FOR CONTRACT DISPUTE MATTERS PENDING BEFORE BOARDS.—(1) The provisions of this title shall not affect any proceedings (other than bid protests pending before the board of contract appeals of the General Services Administration) pending on the effective date of this Act before any board of contract appeals described in subsection (a).*

*(2) In the case of any such proceedings pending before the Armed Services Board of Contract Appeals, the proceedings shall be continued by the Department of Defense Board of Contract Appeals, and orders which were issued in any such proceeding by the Armed Services Board of Contract Appeals shall continue in effect until modified, terminated, superseded, or revoked by the Department of Defense Board of Contract Appeals, by a court of competent jurisdiction, or by operation of law.*

*(3) In the case of any such proceedings pending before an agency board of contract appeals other than the Armed Services Board of Contract Appeals, the proceedings shall be continued by the Civilian Board of Contract Appeals, and orders which were issued in any such proceeding by the agency board shall continue in effect until modified, terminated, superseded, or revoked by the Civilian Board of Contract Appeals, by a court of competent jurisdiction, or by operation of law.*

*(c) BID PROTEST TRANSITION PROVISIONS.—(1) No protest may be submitted to the Comptroller General pursuant to section 3553(a) of title 31, United States Code, or to the board of contract appeals for the General Services Administration pursuant to the Brooks Automatic Data Processing Act (40 U.S.C. 759) on or after the effective date of this Act.*

*(2) In the case of bid protest proceedings pending before the board of contract appeals of the General Services Administration on the effective date of this Act, the proceedings shall be continued by the Civilian Board of Contract Appeals. The provisions repealed by section 431(a) shall continue to apply to such proceedings until the Civilian Board of Contract Appeals determines such proceedings have been completed.*

*(3) The provisions repealed by section 431(b) shall continue to apply to proceedings pending on the effective date of this title before the Comptroller General pursuant to those provisions, until the Comptroller General determines such proceedings have been completed.*

***SEC. 443. CONTRACT DISPUTES AUTHORITY OF BOARDS.***

*(a) Section 2 of the Contract Disputes Act of 1978 (41 U.S.C. 601) is amended—*

*(1) by amending paragraph (6) to read as follows:*

*"(6) the term 'Defense Board' means the Department of Defense Board of Contract Appeals established under section 8(a) of this Act;";*

*(2) by redesignating paragraph (7) as paragraph (8); and*

*(3) by inserting after paragraph (6) the following new paragraph (7):*

*"(7) the term 'Civilian Board' means the Civilian Board of Contract Appeals established under section 8(b) of this Act; and".*

*(b) Section 6(c)(6) of the Contract Disputes Act of 1978 (41 U.S.C. 605(c)(6)) is amended—*

*(1) by striking out "court or an agency board of contract appeals" and inserting in lieu thereof "court, the Defense Board, or the Civilian Board";*

*(2) by striking out "an agency board of contract appeals" in the third sentence and inserting in lieu thereof "the Defense Board or the Civilian Board"; and*

*(3) by striking out "agency board" and inserting in lieu thereof "the Board concerned".*

*(c) Section 7 of the Contract Disputes Act of 1978 (41 U.S.C. 606) is amended by striking out "an agency board of contract appeals" and inserting in lieu thereof "the Defense Board or the Civilian Board".*

*(d) Section 8 of the Contract Disputes Act of 1978 (41 U.S.C. 607), as amended by section 411, is further amended—*

*(1) by amending the heading to read as follows:*

*"DEFENSE AND CIVILIAN BOARDS OF CONTRACT APPEALS";*

*(2) by striking out subsection (c);*

*(3) in subsection (d)—*

*(A) by striking out the first sentence and inserting in lieu thereof the following:*

*"The Defense Board shall have jurisdiction to decide any appeal from a decision of a contracting officer of the Department of Defense, the Department of the Army, the Department of the Navy, or the Department of the Air Force relative to a contract made by that department. The Civilian Board shall have jurisdiction to decide any appeal from a decision of a contracting officer of any executive agency (other than the Department of Defense or the Department of the Army, the Navy, or the Air Force) relative to a contract made by that agency."; and*

*(B) in the second sentence, by striking out "the agency board" and inserting in lieu thereof "the Board concerned";*

*(4) in subsection (e), by striking out "An agency board shall provide" and inserting in lieu thereof "The Defense Board and the Civilian Board shall each provide,";*

*(5) in subsection (f), by striking out "each agency board" and inserting in lieu thereof "the Defense Board and the Civilian Board";*

*(6) in subsection (g)—*

*(A) in the first sentence of paragraph (1), by striking out "an agency board of contract appeals" and inserting in lieu thereof "the Defense Board or the Civilian Board, as the case may be,";*

*(B) by striking out paragraph (2); and*

*(C) by redesignating paragraph (3) as paragraph (2); and*

*(7) by striking out subsections (h) and (i).*

*(e) Section 9 of the Contract Disputes Act of 1978 (41 U.S.C. 608) is amended—*

*(1) in subsection (a), by striking out "each agency board" and inserting in lieu thereof "the Defense Board and the Civilian Board"; and*

*(2) in subsection (b), by striking out "the agency board" and inserting in lieu thereof "the Board concerned".*

*(f) Section 10 of the Contract Disputes Act of 1978 (41 U.S.C. 609) is amended—*

(1) in subsection (a)—

(A) in the first sentence of paragraph (1)—

(i) by striking out ''Except as provided in paragraph (2), and in'' and inserting in lieu thereof ''In''; and

(ii) by striking out ''an agency board'' and inserting in lieu thereof ''the Defense Board or the Civilian Board'';

(B) by striking out paragraph (2); and

(C) by redesignating paragraph (3) as paragraph (2), and in that paragraph by striking out ''or (2)'';

(2) in subsection (b)—

(A) by striking out ''any agency board'' and inserting in lieu thereof ''the Defense Board or the Civilian Board''; and

(B) by striking out ''the agency board'' and inserting in lieu thereof ''the Board concerned'';

(3) in subsection (c)—

(A) by striking out ''an agency board'' and inserting in lieu of each ''the Defense Board or the Civilian Board''; and

(B) by striking out ''the agency board'' and inserting in lieu thereof ''the Board concerned''; and

(4) in subsection (d)—

(A) by striking out ''one or more agency boards'' and inserting in lieu thereof ''the Defense Board or the Civilian Board (or both)''; and

(B) by striking out ''or among the agency boards involved'' and inserting in lieu thereof ''one or both of the Boards''.

(g) Section 11 of the Contract Disputes Act of 1978 (41 U.S.C. 610) is amended—

(1) in the first sentence, by striking out ''an agency board of contract appeals'' and inserting in lieu thereof ''the Defense Board or the Civilian Board''; and

(2) in the second sentence, by striking out ''the agency board through the Attorney General; or upon application by the board of contract appeals of the Tennessee Valley Authority'' and inserting in lieu thereof ''the Defense Board or the Civilian Board''.

(h) Section 13 of the Contract Disputes Act of 1978 (41 U.S.C. 612) is amended—

(1) in subsection (b), by striking out ''an agency board of contract appeals'' and inserting in lieu thereof ''the Defense Board or the Civilian Board''; and

(2) in subsection (d)(2), by striking out ''by the board of contract appeals for'' and inserting in lieu thereof ''by the Defense Board or the Civilian Board from''.

**SEC. 444. REFERENCES TO AGENCY BOARDS OF CONTRACT APPEALS.**

(a) DEFENSE BOARD.—Any reference to the Armed Services Board of Contract Appeals in any provision of law or in any rule, regulation, or other paper of the United States shall be treated as referring to the Department of Defense Board of Contract Appeals.

(b) CIVILIAN BOARD.—Any reference to an agency board of contract appeals other than the Armed Services Board of Contract Appeals in any provision of law or in any rule, regulation, or other paper of the United States shall be treated as referring to the Civilian Board of Contract Appeals.

**SEC. 445. CONFORMING AMENDMENTS.**

(a) TITLE 5.—Section 5372a of title 5, United States Code, is amended—

(1) in subsection (a)(1), by striking out ''an agency board of contract appeals appointed under section 8 of the Contract Disputes Act of 1978'' and inserting in lieu thereof ''the Department of Defense Board of Contract Appeals or the Civilian Board of Contract Appeals appointed under section 202 of the Office of Federal Procurement Policy Act''; and

(2) in subsection (a)(2), by striking out ''an agency board of contract appeals'' and inserting in lieu thereof ''the Department of Defense Board of Contract Appeals or the Civilian Board of Contract Appeals''.

(b) TITLE 10.—(1) Section 2305(e) of title 10, United States Code, is amended—

(A) in paragraph (1), by striking out ''subchapter V of chapter 35 of title 31'' and inserting in lieu thereof ''title II of the Office of Federal Procurement Policy Act''; and

(B) by striking out paragraph (3).

(2) Section 2305(f) of such title is amended—

(A) in paragraph (1), by striking out ''subparagraphs (A) through (F) of subsection (b)(1) of section 3554 of title 31'' and inserting in lieu thereof ''section 214(h)(2) of the Office of Federal Procurement Policy Act''; and

(B) in paragraph (2), by striking out ''paragraph (1) of section 3554(c) of title 31 within the limits referred to in paragraph (2)'' and inserting in lieu thereof ''subparagraph (A) of section 214(i)(1) of the Office of Federal Procurement Policy Act within the limits referred to in subparagraph (B)''.

(c) FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949.—(1) Section 303B(j) (as redesignated by section 104(b)(2)) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b(h)) is amended—

(A) in paragraph (1), by striking out ''subchapter V of chapter 35 of title 31, United States Code'' and inserting in lieu thereof ''title II of the Office of Federal Procurement Policy Act''; and

(B) by striking out paragraph (3).

(2) Section 303B(k) (as redesignated by section 104(b)(2)) of such Act (41 U.S.C. 253b(i)) is amended—

(A) in paragraph (1), by striking out ''in subparagraphs (A) through (F) of subsection (b)(1) of section 3554 of title 31, United States Code'' and inserting in lieu thereof ''section 214(h)(2) of the Office of Federal Procurement Policy Act''; and

(B) in paragraph (2), by striking out ''paragraph (1) of section 3554(c) of such title within the limits referred to in paragraph (2)'' and inserting in lieu thereof ''subparagraph (A) of section 214(i)(1) of the Office of Federal Procurement Policy Act within the limits referred to in subparagraph (B)''.

(d) OFFICE OF FEDERAL PROCUREMENT POLICY ACT.—The table of contents for the Office of Federal Procurement Policy Act (contained in section 1(b)) is amended—

(1) by inserting the following before the item relating to section 1:

''TITLE I—FEDERAL PROCUREMENT POLICY GENERALLY'';

and

(2) by adding at the end the following:

''TITLE II—DISPUTE RESOLUTION

''SUBTITLE A—GENERAL PROVISIONS

''Sec. 201. Definitions.
''Sec. 202. Membership.
''Sec. 203. Chairman.
''Sec. 204. Rulemaking authority.
''Sec. 205. Authorization of appropriations.

''SUBTITLE B—FUNCTIONS OF THE DEFENSE AND CIVILIAN BOARDS OF CONTRACT APPEALS

''Sec. 211. Alternative dispute resolution services.
''Sec. 212. Alternative dispute resolution of disputes and protests submitted to Boards.
''Sec. 213. Contract disputes.
''Sec. 214. Protests.
''Sec. 215. Applicability to certain contracts.''.

**Subtitle F—Effective Date; Interim Appointment and Rules**

**SEC. 451. EFFECTIVE DATE.**

This title and the amendments made by this title shall take effect on October 1, 1996.

**SEC. 452. INTERIM APPOINTMENT.**

(a) DEFENSE BOARD.—The judge serving as chairman of the Armed Services Board of Contract Appeals on the date of the enactment of this Act shall serve as Chairman of the Department of Defense Board of Contract Appeals during the two-year period beginning on the effective date of this title, unless such individual resigns such position or the position otherwise becomes vacant before the expiration of such period. The authority vested in the Secretary of Defense by section 203(a) of the Office of Federal Procurement Policy Act (as added by section 413) shall take effect upon the expiration of such two-year period or on the date such position is vacated, whichever occurs earlier.

(b) CIVILIAN BOARD.—The judge serving as chairman of the board of contract appeals of the General Services Administration on the date of the enactment of this Act shall serve as Chairman of the Civilian Board of Contract Appeals during the two-year period beginning on the effective date of this title, unless such individual resigns such position or the position otherwise becomes vacant before the expiration of such period. The authority vested in the Administrator of General Services by section 203(a) of the Office of Federal Procurement Policy Act (as added by section 413) shall take effect upon the expiration of such two-year period or on the date such position is vacated, whichever occurs earlier.

**SEC. 453. INTERIM RULES.**

(a) RULES OF PROCEDURE.—Until such date as rules of procedure are promulgated pursuant to section 204 of the Office of Federal Procurement Policy Act (as added by section 414)—

(1) for protests, the rules of procedure of the board of contract appeals of the General Services Administration, as in effect on the day before the effective date of this Act, shall be the rules of procedure for both the Department of Defense Board of Contract Appeals and the Civilian Board of Contract Appeals; and

(2) for contract disputes—

(A) the rules of procedure of the board of contract appeals of the General Services Administration, as in effect on the day before the effective date of this Act, shall be the rules of procedure for the Civilian Board of Contract Appeals; and

(B) the rules of procedure of the Armed Services Board of Contract Appeals, as in effect on the day before the effective date of this Act, shall be the rules of procedure for the Department of Defense Board of Contract Appeals.

(b) RULES REGARDING BOARD JUDGES.—(1) Until such date as the Department of Defense Board of Contract Appeals (in this paragraph referred to as the ''Defense Board'') promulgates rules governing the establishment and maintenance of a register of eligible applicants and the selection of Board judges, the rules of the Armed Services Board of Contract Appeals governing the establishment and maintenance of a register of eligible applicants and the selection of board members (as in effect on the day before the effective date of this Act) shall be the rules of the Defense Board governing the establishment and maintenance of a register of eligible applicants and the selection of Board judges, except that any provisions of the rules of the Armed Services Board of Contract Appeals that authorize any individual other than the chairman of such board to select a Defense Board judge shall have no effect.

(2) Until such date as the Civilian Board of Contract Appeals (in this paragraph referred to as the ''Civilian Board'') promulgates rules governing the establishment and maintenance of a register of eligible applicants and the selection of Board judges, the rules of the board of contract appeals of the General Services Administration governing the establishment and maintenance of a register of eligible applicants and the selection of board members (as in effect on the day before the effective date of this Act) shall be the rules of the Civilian Board governing the establishment and maintenance of a register of eligible applicants and the selection of Board judges, except that any provisions of the rules of the board of contract appeals of the General Services Administration that authorize any individual other than the chairman of such board to select a Civilian Board judge shall have no effect.

The CHAIRMAN. Are there amendments to title IV?

If not, the Clerk will designate title V.

The text of title V is as follows:

*TITLE V—EFFECTIVE DATES AND IMPLEMENTATION*

***SEC. 501. EFFECTIVE DATE AND APPLICABILITY.***

*(a) EFFECTIVE DATE.—Except as otherwise provided in this title, this title and the amendments made by this title shall take effect on the date of the enactment of this Act.*

*(b) APPLICABILITY OF AMENDMENTS.—(1) An amendment made by this title shall apply, in the manner prescribed in the final regulations promulgated pursuant to section 502 to implement such amendment, with respect to any solicitation that is issued, any unsolicited proposal that is received, and any contract entered into pursuant to such a solicitation or proposal, on or after the date described in paragraph (3).*

*(2) An amendment made by this title shall also apply, to the extent and in the manner prescribed in the final regulations promulgated pursuant to section 502 to implement such amendment, with respect to any matter related to—*

*(A) a contract that is in effect on the date described in paragraph (3);*

*(B) an offer under consideration on the date described in paragraph (3); or*

*(C) any other proceeding or action that is ongoing on the date described in paragraph (3).*

*(3) The date referred to in paragraphs (1) and (2) is the date specified in such final regulations. The date so specified shall be October 1, 1996, or any earlier date that is not within 30 days after the date on which such final regulations are published.*

***SEC. 502. IMPLEMENTING REGULATIONS.***

*(a) PROPOSED REVISIONS.—Proposed revisions to the Federal Acquisition Regulation and such other proposed regulations (or revisions to existing regulations) as may be necessary to implement this title shall be published in the Federal Register not later than 210 days after the date of the enactment of this Act.*

*(b) PUBLIC COMMENT.—The proposed regulations described in subsection (a) shall be made available for public comment for a period of not less than 60 days.*

*(c) FINAL REGULATIONS.—Final regulations shall be published in the Federal Register not later than 330 days after the date of enactment of this Act.*

*(d) MODIFICATIONS.—Final regulations promulgated pursuant to this section to implement an amendment made by this title may provide for modification of an existing contract without consideration upon the request of the contractor.*

*(e) SAVINGS PROVISIONS.—(1) Nothing in this title shall be construed to affect the validity of any action taken or any contract entered into before the date specified in the regulations pursuant to section 501(b)(3) except to the extent and in the manner prescribed in such regulations.*

*(2) Except as specifically provided in this title, nothing in this title shall be construed to require the renegotiation or modification of contracts in existence on the date of the enactment of this Act.*

*(3) Except as otherwise provided in this title, a law amended by this title shall continue to be applied according to the provisions thereof as such law was in effect on the day before the date of the enactment of this Act until—*

*(A) the date specified in final regulations implementing the amendment of that law (as promulgated pursuant to this section); or*

*(B) if no such date is specified in regulations, October 1, 1996.*

The CHAIRMAN. Are there amendments to title V?

If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

Mr. Chairman. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. DIAZ-BALART) having assumed the chair, Mr. WELLER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1670) to revise and streamline the acquisition laws of the Federal Government, to reorganize the mechanisms for resolving Federal procurement disputes, and for other purposes, pursuant to House Resolution 219, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. CLINGER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 423, noes 0, not voting 11, as follows:

[Roll No. 663]

AYES—423

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
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Laughlin
Lazio
Leach
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Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
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Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Menendez
Metcalf
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Minge
Mink
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Stokes
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton

| | | |
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| Thurman | Walker | Wicker |
| Tiahrt | Walsh | Williams |
| Torkildsen | Wamp | Wilson |
| Torres | Ward | Wise |
| Torricelli | Waters | Wolf |
| Towns | Watt (NC) | Woolsey |
| Traficant | Watts (OK) | Wyden |
| Upton | Waxman | Wynn |
| Vento | Weldon (FL) | Yates |
| Visclosky | Weldon (PA) | Young (AK) |
| Volkmer | Weller | Young (FL) |
| Vucanovich | White | Zeliff |
| Waldholtz | Whitfield | Zimmer |

NOT VOTING—11

| | | |
|---|---|---|
| Frost | Reynolds | Solomon |
| Meek | Royce | Tucker |
| Mineta | Scarborough | Velazquez |
| Moakley | Sisisky | |

□ 1534

So the bill was passed.

The result of the vote was announced as above recorded

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. CLINGER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material on the bill just passed.

The SPEAKER pro tempore (Mr. DIAZ-BALART). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

## AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 1670, FEDERAL ACQUISITION REFORM ACT OF 1995

Mr. CLINGER. Mr. Speaker, I ask unanimous consent in the engrossment of the bill, H.R. 1670, the Clerk be authorized to make technical corrections and conforming changes to the bill.

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

There was no objection.

## ANNOUNCEMENT BY COMMITTEE ON RULES REGARDING FILING OF AMENDMENTS ON H.R. 927, CUBAN LIBERTY AND DEMOCRATIC SOLIDARITY ACT OF 1995 AND H.R. 1720, THE CAREERS ACT

(Mr. DREIER asked and was given permission to address the House for 1 munute.)

Mr. DREIER. Mr. Speaker, next week the Rules Committee is expected to meet to grant rules for several bills scheduled for floor consideration. As has been the practice in recent times, the Rules Committee may include a provision in these rules giving priority in recognition to Members who have preprinted their amendments in the CONGRESSIONAL RECORD.

On Monday the Rules Committee will meet at 4 p.m. to consider rules on two bills—H.R. 927, the Cuban Liberty and Democratic Solidarity Act, and H.R. 1617, the CAREERS Act. A preprinting option will likely be included in both rules.

With respect to the Cuban Liberty bill (H.R. 927), Members should be advised that the rule will likely make in order a new amendment in the nature of a substitute, taking into account the concerns of committees of shared jurisdiction, as base text for amendment purposes. For the convenience of Members, the text of the amendment will be printed in today's CONGRESSIONAL RECORD.

With respect to the CAREERS Act, Members should be advised that the Rules Committee has been asked by the Economic and Educational Opportunities Committee to make in order as base text an amendment in the nature of a substitute consisting of the text H.R. 1617 combined with the text of H.R. 1720, the Privatization Act of 1995.

That amendment in the nature of a substitute will be placed in today's CONGRESSIONAL RECORD for Members' convenience. It will also be introduced as a new bill for reference in the rule as an amendment in the nature of a substitute for amendment purposes. It is especially important that Members' pre-print their amendments for this bill since it involves several formulas that are complex in nature.

Members are requested to use the Office of Legislative Counsel for drafting their amendments to the new base texts for both bills to ensure they are properly drafted. It is not necessary for Members to file their amendments with the Rules Committee or to testify.

On Tuesday, September 19, the Rules Committee is tentatively scheduled to meet to consider rules on two bills, H.R. 2274, to designate the National Highway System, and H.R. 1323, the Pipeline Safety Act of 1995.

While we have not received specific rule requests on these bills at this time, Members should expect at the least that the amendment preprinting option for priority in recognition may be included in these rules.

As always, the continued cooperation of Members in preprinting their amendments in the CONGRESSIONAL RECORD is appreciated both by the committees of jurisdiction and their colleagues.

## LEGISLATIVE PROGRAM

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

Mr. BONIOR. Mr. Speaker, I ask the gentleman from California [Mr. DREIER], my friend, what the schedule will be for the next week.

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

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

Mr. DREIER. Mr. Speaker, I thank my very dear friend, the gentleman from Mount Clemens, MI [Mr. BONIOR], for yielding.

Mr. Speaker, on Monday, September 18, the House will meet at 10:30 a.m. for morning hour and 12 noon for legislative business. We plan to take up the following 11 bills under suspension of the rules: S. 464, extension of district court demonstration projects; S. 532, clarifying rules governing venue; House Resolution 181, encouraging the peace process in Sri Lanka; House Resolution 158, congratulating the people of Mongolia; House Concurrent Resolution 42, supporting dispute resolution in Cyprus; H.R. 1091, the Shenandoah Valley National Battlefields Partnership Act of 1995; H.R. 260, National Park System Reform Act of 1995; H.R. 402, the Alaska Native claims settlement amendments; H.R. 1872, The Ryan White Care Act Amendments of 1995; H.R. 558, The Texas Low-Level Radioactive Waste Disposal Compact Consent Act; and H.R. 1296, providing for the administration of certain Presidio properties.

After consideration of the suspensions, we plan to take up H.R. 39, the Fisheries Conservation and Management Act, subject to a unanimous-consent agreement.

Members should be advised that there will be no recorded votes on Monday; any votes will be postponed until Tuesday. Members should not expect any votes on Tuesday before 11 a.m.

On Tuesday, the House will meet at 9 a.m. for morning hour and 10 a.m. for legislative business. On Wednesday and Thursday the House will meet at 10 a.m. for legislative business. Members should be advised that there will be no votes on Friday, September 22.

The House will consider the following bills next week, all of which will be subject to rules: H.R. 1617, the Careers Act; H.R. 927, the Cuban Liberty and Democratic Solidarity Act of 1995; H.R. 2274, the National Highway System Designation Act of 1995; and H.R. 1323, the Pipeline Safety Act of 1995.

Members should be advised that conference reports may be brought up at any time.

On Monday and Tuesday, we expect the House to conclude its business between 7 and 8 p.m. On Wednesday, we plan on working later, but we hope to adjourn between 10 p.m. and 12 midnight. It is our hope to have Members on their way home to their families and their districts by no later than 6 p.m. on Thursday.

Mr. Speaker, does my friend, the gentleman from Michigan, have any questions?

Mr. BONIOR. I certainly do, Mr. Speaker, I thank the gentleman from California [Mr. DREIER] for reading the schedule to us this afternoon.

Mr. DREIER. My pleasure.

Mr. BONIOR. Mr. Speaker, it would appear from the gentleman's reading of the schedule that it seems like a light week next week. I note that we are not having any recorded votes on Monday or Friday next week, and I was wondering if the leadership on the other side would not entertain a resolution that has been sponsored by over 200 Members of this body that would require