

# Union Calendar No. 553

98TH CONGRESS  
2D SESSION

# H. R. 5645

[Report No. 98-985]

To permit courts of the United States to establish the order of hearing for certain civil matters, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 10, 1984

Mr. KASTENMEIER (for himself, Mr. BROOKS, Mr. MAZZOLI, Mr. SYNAR, Mrs. SCHROEDER, Mr. GLICKMAN, Mr. FRANK, Mr. MORRISON of Connecticut, Mr. BEERMAN, Mr. MOORHEAD, Mr. HYDE, Mr. DEWINE, and Mr. SAWYER) introduced the following bill; which was referred to the Committee on the Judiciary

AUGUST 31, 1984

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on May 10, 1984]

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## A BILL

To permit courts of the United States to establish the order of hearing for certain civil matters, and for other purposes.

1        *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

## SHORT TITLE

1

2       SECTION 1. *This Act may be cited as the "Federal*  
3 *Courts Civil Priorities Act"*.

4

## ESTABLISHMENT OF PRIORITY OF CIVIL ACTIONS

5

6       SEC. 2. (a) *Chapter 111 of title 28, United States*  
7 *Code, is amended by adding at the end thereof the following*  
8 *new section:*

8

***“§ 1657. Priority of civil actions***

9

10       “(a) *Notwithstanding any other provision of law, each*  
11 *court of the United States shall determine the order in which*  
12 *civil actions are heard and determined, except that the court*  
13 *shall expedite the consideration of any action brought under*  
14 *chapter 153 or section 1826 of this title, any action for tem-*  
15 *porary or preliminary injunctive relief, or any other action if*  
16 *good cause therefor is shown. For purposes of this subsection,*  
17 *‘good cause’ is shown if a right under the Constitution of the*  
18 *United States or a Federal statute (including rights under*  
19 *section 552 of title 5) would be maintained in a factual con-*  
20 *text that indicates that a request for expedited consideration*

21

22       “(b) *The Judicial Conference of the United States may*  
23 *modify the rules adopted by the courts to determine the order*  
24 *in which civil actions are heard and determined, in order to*  
*establish consistency among the judicial circuits.”*

1       (b) *The section analysis of chapter 111 of title 28,*  
2 *United States Code, is amended by adding at the end thereof*  
3 *the following new item:*

*"1657. Priority of civil actions."*

4                                    *AMENDMENTS TO OTHER LAWS*

5       *SEC. 3. The following provisions of law are amended:*

6               (1)(A) *Section 309(a)(10) of the Federal Election*  
7 *Campaign Act of 1971 (2 U.S.C. 437g(a)(11)) is re-*  
8 *pealed.*

9               (B) *Section 310(c) of the Federal Election Cam-*  
10 *paign Act of 1971 (2 U.S.C. 437h(c)), is repealed.*

11              (2) *Section 552(a)(4)(D) of title 5, United States*  
12 *Code, is repealed.*

13              (3) *Section 6(a) of the Commodity Exchange Act*  
14 *(7 U.S.C. 8) is amended by striking out "The proceed-*  
15 *ings in such cases in the court of appeals shall be*  
16 *made a preferred cause and shall be expedited in every*  
17 *way."*

18              (4)(A) *Section 6(c)(4) of the Federal Insecticide,*  
19 *Fungicide, and Rodenticide Act (7 U.S.C. 136d(c)(4))*  
20 *is amended by striking out the second sentence.*

21              (B) *Section 10(d)(3) of the Federal Insecticide,*  
22 *Fungicide, and Rodenticide Act (7 U.S.C. 136h(d)(3))*  
23 *is amended by striking out "The court shall give expe-*  
24 *ditated consideration to any such action."*

1           (C) Section 16(b) of the Federal Insecticide,  
2           Fungicide, and Rodenticide Act (7 U.S.C. 136n(b)) is  
3           amended by striking out the last sentence.

4           (D) Section 25(a)(4)(E)(iii) of the Federal Insec-  
5           ticide, Fungicide, and Rodenticide Act (7 U.S.C.  
6           136w(a)(4)(E)(iii)) is repealed.

7           (5) Section 204(d) of the Packers and Stockyards  
8           Act, 1921 (7 U.S.C. 194(d)), is amended by striking  
9           out the second sentence.

10          (6) Section 366 of the Agricultural Adjustment  
11          Act of 1938 (7 U.S.C. 1366) is amended in the fourth  
12          sentence by striking out "At the earliest convenient  
13          time, the court, in term time or vacation," and insert-  
14          ing in lieu thereof "The court".

15          (7)(A) Section 410 of the Federal Seed Act (7  
16          U.S.C. 1600) is amended by striking out "The pro-  
17          ceedings in such cases in the court of appeals shall be  
18          made a preferred cause and shall be expedited in every  
19          way."

20          (B) Section 411 of the Federal Seed Act (7  
21          U.S.C. 1601) is amended by striking out "The pro-  
22          ceedings in such cases shall be made a preferred cause  
23          and shall be expedited in every way."

24          (8) Section 816(c)(4) of the Department of De-  
25          fense Appropriation Authorization Act, 1976 (10

1       *U.S.C. 2304 note) is amended by striking out the last*  
2       *sentence.*

3               *(9) Section 5(d)(6)(A) of the Home Owners' Loan*  
4       *Act of 1933 (12 U.S.C. 1464(d)(6)(A)) is amended by*  
5       *striking out "Such proceedings shall be given prece-*  
6       *dence over other cases pending in such courts, and*  
7       *shall be in every way expedited."*

8               *(10)(A) Section 7A(f)(2) of the Clayton Act (15*  
9       *U.S.C. 18a(f)(2)) is amended to read as follows: "(2)*  
10       *certifies to the United States district court for the judi-*  
11       *cial district within which the respondent resides or car-*  
12       *ries on business, or in which the action is brought, that*  
13       *it or he believes that the public interest requires relief*  
14       *pendente lite pursuant to this subsection, then upon the*  
15       *filing of such motion and certification, the chief judge*  
16       *of such district court shall immediately notify the chief*  
17       *judge of the United States court of appeals for the cir-*  
18       *cuit in which such district court is located, who shall*  
19       *designate a United States district judge to whom such*  
20       *action shall be assigned for all purposes."*

21               *(B) Section 11(e) of the Clayton Act (15 U.S.C.*  
22       *21(e)) is amended by striking out the first sentence.*

23               *(11) Section 1 of the Act of February 11, 1903,*  
24       *commonly known as the Expediting Act (15 U.S.C.*  
25       *28) is repealed.*

1           (12) Section 5(e) of the Federal Trade Commis-  
2           sion Act (15 U.S.C. 45(e)) is amended by striking out  
3           the first sentence.

4           (13) Section 21(f)(3) of the Federal Trade Com-  
5           mission Improvements Act of 1980 (15 U.S.C. 57a-  
6           1(f)(3)) is repealed.

7           (14) Section 11A(c)(4) of the Securities Ex-  
8           change Act of 1934 (15 U.S.C. 78k-1(c)(4)) is  
9           amended—

10                   (A) by striking out “(A)” after “(4)”; and

11                   (B) by striking out subparagraph (B).

12           (15)(A) Section 309(e) of the Small Business In-  
13           vestment Act of 1958 (15 U.S.C. 687a(e)) is amended  
14           by striking out the sixth sentence.

15                   (B) Section 309(f) of the Small Business Invest-  
16           ment Act of 1958 (15 U.S.C. 687a(f)) is amended by  
17           striking out the last sentence.

18                   (C) Section 311(a) of the Small Business Invest-  
19           ment Act of 1958 (15 U.S.C. 687c(a)) is amended by  
20           striking out the last sentence.

21           (16) Section 10(c)(2) of the Alaska Natural Gas  
22           Transportation Act (15 U.S.C. 719h(c)(2)) is re-  
23           pealed.

24           (17) Section 155(a) of the National Traffic and  
25           Motor Vehicle Safety Act of 1966 (15 U.S.C.

1     1415(a)) is amended by striking out “(1)” and by  
2     striking out paragraph (2).

3             (18) Section 503(b)(3)(E) of the Motor Vehicle  
4     Information and Cost Savings Act (15 U.S.C.  
5     2003(b)(3)(E)) is amended by striking out clause (i)  
6     and redesignating clauses (iii) and (iv) as clauses (ii)  
7     and (iii), respectively.

8             (19) Section 23(d) of the Toxic Substances Con-  
9     trol Act (15 U.S.C. 2622(d)) is amended by striking  
10    out the last sentence.

11            (20) Section 12(e)(3) of the Coastal Zone Man-  
12    agement Improvement Act of 1980 (16 U.S.C.  
13    1463a(e)(3)) is repealed.

14            (21) Section 11 of the Act of September 28, 1976  
15    (16 U.S.C. 1910), is amended by striking out the last  
16    sentence.

17            (22)(A) Section 807(b) of the Alaska National  
18    Interest Lands Conservation Act (16 U.S.C. 3117(b))  
19    is repealed.

20            (B) Section 1108 of the Alaska National Interest  
21    Lands Conservation Act (16 U.S.C. 3168) is amended  
22    to read as follows:

23                            “INJUNCTIVE RELIEF

24            “SEC. 1108. No court shall have jurisdiction to grant  
25    any injunctive relief lasting longer than ninety days against  
26    any action pursuant to this title except in conjunction with a

1 *final judgment entered in a case involving an action pursu-*  
2 *ant to this title.”.*

3           (23)(A) *Section 10(b)(3) of the Central Idaho*  
4 *Wilderness Act of 1980 (Public Law 96–312; 94 Stat.*  
5 *948) is repealed.*

6           (B) *Section 10(c) of the Central Idaho Wilder-*  
7 *ness Act of 1980 is amended to read as follows:*

8           “(c) *Any review of any decision of the United States*  
9 *District Court for the District of Idaho shall be made by the*  
10 *Ninth Circuit Court of Appeals of the United States.”.*

11           (24)(A) *Section 1964(b) of title 18, United States*  
12 *Code, is amended by striking out the second sentence.*

13           (B) *Section 1966 of title 18, United States Code,*  
14 *is amended by striking out the last sentence.*

15           (25)(A) *Section 408(i)(5) of the Federal Food,*  
16 *Drug, and Cosmetic Act (21 U.S.C. 346a(i)(5)) is*  
17 *amended by striking out the last sentence.*

18           (B) *Section 409(g)(2) of the Federal Food, Drug,*  
19 *and Cosmetic Act (21 U.S.C. 348(g)(2)) is amended*  
20 *by striking out the last sentence.*

21           (26) *Section 8(f) of the Foreign Agents Registra-*  
22 *tion Act of 1938 (22 U.S.C. 618(f)) is amended by*  
23 *striking out the last sentence.*

1           (27) Section 4 of the Act of December 22, 1974  
2           (25 U.S.C. 640d-3), is amended by striking out “(a)”  
3           and by striking out subsection (b).

4           (28)(A) Section 3310(e) of the Internal Revenue  
5           Code of 1954 is repealed.

6           (B) Section 6110(f)(5) of the Internal Revenue  
7           Code of 1954 is amended by striking out “and the  
8           Court of Appeals shall expedite any review of such de-  
9           cision in every way possible”.

10          (C) Section 6363(d)(4) of the Internal Revenue  
11          Code of 1954 is repealed.

12          (D) Section 7609(h)(3) of the Internal Revenue  
13          Code of 1954 is repealed.

14          (E) Section 9010(c) of the Internal Revenue  
15          Code of 1954 is amended by striking out the last sen-  
16          tence.

17          (F) Section 9011(b)(2) of the Internal Revenue  
18          Code of 1954 is amended by striking out the last sen-  
19          tence.

20          (29)(A) Section 596(a)(3) of title 28, United  
21          States Code, is amended by striking out the last sen-  
22          tence.

23          (B) Section 636(c)(4) of title 28, United States  
24          Code, is amended in the second sentence by striking  
25          out “expeditious and”.

1           (C) Section 1296 of title 28, United States Code,  
2           and the item relating to that section in the section  
3           analysis of chapter 83 of that title, are repealed.

4           (D) Subsection (c) of section 1364 of title 28,  
5           United States Code, the section heading of which reads  
6           “**Senate actions**”, is repealed.

7           (E) Section 2284(b)(2) of title 28, United States  
8           Code, is amended by striking out the last sentence.

9           (F) Section 2349(b) of title 28, United States  
10          Code, is amended by striking out the last two sen-  
11          tences.

12          (G) Section 2647 of title 28, United States Code,  
13          and the item relating to that section in the section  
14          analysis of chapter 169 of that title, are repealed.

15          (30) Section 10 of the Act of March 23, 1932,  
16          commonly known as the Norris-LaGuardia Act (29  
17          U.S.C. 110) is amended by striking out “with the  
18          greatest possible expedition” and all that follows  
19          through the end of the sentence and inserting in lieu  
20          thereof “expeditiously”.

21          (31) Section 10(i) of the National Labor Rela-  
22          tions Act (29 U.S.C. 160(i)) is repealed.

23          (32) Section 11(a) of the Occupational Safety  
24          and Health Act of 1970 (29 U.S.C. 660(a)) is amend-  
25          ed by striking out the last sentence.

1           (33) *Section 4003(e)(4) of the Employee Retirement*  
2 *Income Security Act of 1974 (29 U.S.C.*  
3 *1303(e)(4)) is repealed.*

4           (34) *Section 106(a)(1) of the Federal Coal Mine*  
5 *Health and Safety Act of 1969 (30 U.S.C. 816(a)(1))*  
6 *is amended by striking out the last sentence.*

7           (35) *Section 1016 of the Impoundment Control*  
8 *Act of 1974 is amended by striking out the second sen-*  
9 *tence.*

10          (36) *Section 2022 of title 38, United States*  
11 *Code, is amended by striking out “The court shall*  
12 *order speedy hearing in any such case and shall ad-*  
13 *vance it on the calendar.”.*

14          (37) *Section 3628 of title 39, United States*  
15 *Code, is amended by striking out the fourth sentence.*

16          (38) *Section 1450(i)(4) of the Public Health*  
17 *Service Act (42 U.S.C. 300j-9(i)(4)) is amended by*  
18 *striking out the last sentence.*

19          (39) *Section 304(e) of the Social Security Act*  
20 *(42 U.S.C. 504(e)) is repealed.*

21          (40)(A) *Section 2004(e) of the Revised Statutes*  
22 *of the United States (42 U.S.C. 1971(e)) is amend-*  
23 *ed—*

24                 *(i) in the third paragraph, by striking out*  
25                 *“An application for an order pursuant to this sub-*

1           *section shall be heard within ten days, and the*  
2           *execution of any order disposing of such applica-*  
3           *tion” and inserting in lieu thereof “The execution*  
4           *of an order disposing of an application pursuant*  
5           *to this subsection”;* and

6                     *(ii) in the eighth paragraph, by striking out*  
7           *the first sentence.*

8           *(B) Section 2004(g) of the Revised Statutes of*  
9           *the United States (42 U.S.C. 1971(g)) is amended—*

10                    *(i) in the first paragraph, by striking out “to*  
11           *assign the case for hearing at the earliest practica-*  
12           *ble date,” and by striking out “, and to cause the*  
13           *case to be in every way expedited”;* and

14                    *(ii) by striking out the third paragraph.*

15           *(41)(A) Section 10(c) of the Voting Rights Act of*  
16           *1965 (42 U.S.C. 1973h(c)) is amended by striking*  
17           *out “to assign the case for hearing at the earliest prac-*  
18           *ticable date,” and by striking out “, and to cause the*  
19           *case to be in every way expedited”.*

20                    *(B) Section 301(a)(2) of the Voting Rights Act of*  
21           *1965 (42 U.S.C. 1973bb(a)(2)) is amended by strik-*  
22           *ing out “, and to cause the case to be in every way*  
23           *expedited”.*

24           *(42)(A) Section 206(b) of the Civil Rights Act of*  
25           *1964 (42 U.S.C. 2000a-5(b)) is amended—*

1           (i) in the first paragraph, by striking out “to  
2           assign the case for hearing at the earliest practica-  
3           ble date,” and by striking out “, and to cause the  
4           case to be in every way expedited”; and

5           (ii) by striking out the last paragraph.

6           (B) Section 706(f)(2) of the Civil Rights Act of  
7           1964 (42 U.S.C. 2000e-5(f)(2)) is amended by strik-  
8           ing out the last sentence.

9           (C) Section 706(f)(5) of the Civil Rights Act of  
10          1964 (42 U.S.C. 2000e-5(f)(5)) is amended to read as  
11          follows:

12          “(5) The judge designated to hear the case may appoint  
13          a master pursuant to rule 53 of the Federal Rules of Civil  
14          Procedure.”.

15          (D) Section 707(b) of the Civil Rights Act of  
16          1964 (42 U.S.C. 2000e-6(b)) is amended—

17               (i) in the first paragraph, by striking out “to  
18               assign the case for hearing at the earliest practica-  
19               ble date,” and by striking out “, and to cause the  
20               case to be in every way expedited”; and

21               (ii) by striking out the last paragraph.

22          (43) Section 814 of the Act of April 11, 1968 (42  
23          U.S.C. 3614), is repealed.

24          (44) The matter under the subheading “EXPLO-  
25          RATION OF NATIONAL PETROLEUM RESERVE IN

1        *ALASKA*” under the headings “*ENERGY AND MIN-*  
2        *ERALS*” and “*GEOLOGICAL SURVEY*” in title I of  
3        the Act of December 12, 1980 (94 Stat. 2964; 42  
4        U.S.C. 6508), is amended in the third paragraph by  
5        striking out the last sentence.

6                (45) Section 214(b) of *The Emergency Energy*  
7        *Conservation Act of 1979* (42 U.S.C. 8514(b)) is re-  
8        *pealed.*

9                (46) Section 2 of the Act of February 25, 1885  
10        (43 U.S.C. 1062), is amended by striking out “; and  
11        any suit brought under the provisions of this section  
12        shall have precedence for hearing and trial over other  
13        cases on the civil docket of the court, and shall be tried  
14        and determined at the earliest practicable day”.

15                (47) Section 23(d) of the *Outer Continental Shelf*  
16        *Lands Act* (43 U.S.C. 1349(d)) is repealed.

17                (48) Section 511(c) of the *Public Utilities Regu-*  
18        *latory Policies Act of 1978* (43 U.S.C. 2011(c)) is  
19        amended by striking out “Any such proceeding shall be  
20        assigned for hearing at the earliest possible date and  
21        shall be expedited by such court.”.

22                (49) Section 203(d) of the *Trans-Alaska Pipeline*  
23        *Authorization Act* (43 U.S.C. 1652(d)) is amended by  
24        striking out the fourth sentence.

1           (50) Section 5(f) of the Railroad Unemployment  
2           Insurance Act (45 U.S.C. 355(f)) is amended by  
3           striking out “, and shall be given precedence in the ad-  
4           judication thereof over all other civil cases not other-  
5           wise entitled by a law to precedence”.

6           (51) Section 305(d)(2) of the Regional Rail Reor-  
7           ganization Act of 1973 (45 U.S.C. 745(d)(2)) is  
8           amended—

9                   (A) in the first sentence by striking out  
10                  “Within 180 days after” and inserting in lieu  
11                  thereof “After”; and

12                   (B) in the last sentence by striking out  
13                  “Within 90 days after” and inserting in lieu  
14                  thereof “After”.

15           (52) Section 124(b) of the Rock Island Transi-  
16           tion and Employee Assistance Act (45 U.S.C.  
17           1018(b)) is amended by striking out “, and shall  
18           render a final decision no later than sixty days after  
19           the date the last such appeal is filed”.

20           (53) Section 402(g) of the Communications Act  
21           of 1934 (47 U.S.C. 402(g)) is amended—

22                   (A) by striking out “At the earliest conven-  
23                  ient time the” and inserting in lieu thereof  
24                  “The”; and



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**A BILL**

To permit courts of the United States to establish the order of hearing for certain civil matters, and for other purposes.

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AUGUST 31, 1984

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed