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[H.A.S.C. No. 96-25]

GOVERNMENT

Storage

FULL COMMITTEE CONSIDERATION

OF

H.R. 5753, H.R. 5748, H.R. 5766, AND H.R. 5580

HEARING

BEFORE THE

COMMITTEE ON ARMED SERVICES

HOUSE OF REPRESENTATIVES

NINETY-SIXTH CONGRESS

FIRST SESSION

NOVEMBER 7, 1979

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NINETY-SIXTH CONGRESS, FIRST SESSION

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(II)

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
Washington, D.C., Wednesday, November 7, 1979.

The committee met, pursuant to notice, at 1:46 p.m., in room 2118, Rayburn House Office Building, Hon. Samuel S. Stratton (acting chairman of the committee) presiding.

Mr. STRATTON. The committee will be in order.

This afternoon we have reports on three pieces of legislation from the Military Personnel Subcommittee, and the Chair will recognize the chairman of that subcommittee, the gentleman from Texas, Mr. White.

**REPORT OF HON. RICHARD C. WHITE, A REPRESENTATIVE FROM
TEXAS, CHAIRMAN, MILITARY PERSONNEL SUBCOMMITTEE**

Mr. WHITE. Thank you, Mr. Chairman.

On behalf of the Military Personnel Subcommittee, I would like to report three bills and ask for their approval by the committee.

H.R. 5753 is a clean bill reported by the subcommittee that corrects some technical deficiencies in H.R. 1425, the bill as originally introduced by the gentleman from Mississippi, Mr. Montgomery, and establishes the date of enactment as the effective date.

H.R. 5753 will make National Guardsmen who are called to active duty for full-time training duty under section 502 of title 32, United States Code, eligible for the same benefits provided other National Guardsmen or reservists for similar studies.

Currently, National Guardsmen who are called to active duty for a period of time under section 502 of title 32, United States Code, are not entitled to dependent medical care for this period, or credit for purposes of retirement upon the completion of 20 years of active duty. This is an anomaly because National Guardsmen who are called to active duty under sections 503 through 505 of title 32, which relate to annual field training and attendance at military schools, are entitled to these benefits for such service, as are reservists in general who are called to active duty.

This committee approved identical legislation during the 90th Congress which passed the House, but was never acted upon by the Senate.

Partly at the urging of this committee, the Department of Defense is currently increasing the number of full-time support personnel for the National Guard and Reserve on a test basis. This is an important step that promises to substantially improve training and readiness in these components. To continue the program on other than the current test basis, section 502 of title 32 must be used as it is the proper authority for calling National Guardsmen to full-time duty. H.R. 5753 will eliminate an inequity in the treatment of National Guardsmen called to active duty for 2 years to support training.

The principal sponsors of this legislation are our colleagues, Mr. Montgomery and Mrs. Holt.

The Department of Defense has not formally submitted a position on this legislation. However, the Deputy Assistant Secretary of Defense for Reserve Affairs testified in support of the bill. The costs are estimated to be \$6.4 million in the first year and rise to \$19.3 million by the fifth year.

On behalf of the Military Personnel Subcommittee, I move approval of H.R. 5753, without amendment.

[H.R. 5753 is as follows:]

96TH CONGRESS
1ST SESSION

H. R. 5753

To amend title 10, United States Code, to provide that certain full-time training duty of members of the National Guard shall be considered as active duty for training in Federal service for the purpose of laws providing benefits for members of the National Guard and their dependents and beneficiaries.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 31, 1979

Mr. MONTGOMERY (for himself, Mr. WHITE, and Mrs. HOLT) introduced the following bill; which was referred to the Committee on Armed Services

A BILL

To amend title 10, United States Code, to provide that certain full-time training duty of members of the National Guard shall be considered as active duty for training in Federal service for the purpose of laws providing benefits for members of the National Guard and their dependents and beneficiaries.

- 1 *Be it enacted by the Senate and House of Representa-*
- 2 *tives of the United States of America in Congress assembled,*
- 3 That sections 3686(2) and 8686(2) of title 10, United States
- 4 Code, are amended by striking out "sections 503 through

1 505 of title 32" and inserting in lieu thereof "sections 502
2 through 505 of title 32".

3 SEC. 2. The amendments made by the first section of
4 this Act shall apply with respect to full-time training or other
5 full-time duty performed under section 502 of title 32, United
6 States Code, after the date of the enactment of this Act.

Mr. STRATTON. Thank you, Mr. White.

Could you advise the committee as to what the difference is in being called to duty under 502 in contrast to being called to duty under 503 through 505?

Mr. WHITE. I would like to ask counsel to differentiate that, if you will please, for the chairman.

Mr. WINCUP. Yes, sir.

Section 502 relates to full-time training duty. Sections 503 through 505 relate to exercises, attending service schools. They're limited just to those specific items: exercises and attendance at service schools. Section 502 is the only authority that permits you to call National Guardsmen for full-time training duty for an extended period.

Mr. STRATTON. In spite of the fact that that is full-time no benefits are permitted under existing law. Is that right?

Mr. WINCUP. That is correct, sir. Limited benefits.

Mr. STRATTON. Are there any questions with regard to the report?

Mr. MONTGOMERY. Mr. Chairman, I support the bill, and would like to submit additional remarks for the record.

Mr. STRATTON. Without objection, the gentleman from Mississippi's extended remarks will be included in the record at this point.

WRITTEN STATEMENT OF HON. G. V. (SONNY) MONTGOMERY, A REPRESENTATIVE FROM MISSISSIPPI

[H.R. 5753]

Mr. Chairman and members of the committee, I am happy to appear before you in support of H.R. 5753, which Mrs. Holt and I introduced.

In enacting section 714 of the Armed Forces Reserve Act of 1952, which is now codified in sections 3686 and 8686 of title 10, it is clear that the Congress intended to insure that members of the National Guard who performed inactive duty training or full-time training duty under title 32, United States Code, would receive the same military benefits for that duty as members of the Army Reserve and Air Force Reserve received for performing similar duty under title 10.

In equating full-time duty under sections 316 and 503-505 of title 32 with title 10 active duty for training, we overlooked the fact that section 502 also contained authority for full-time duty, which was later expanded in 1964 when subsection (f) was added to section 502.

As you are aware, the Congress has mandated a test program for conversion of technicians employed by the Army and Air Reserves and National Guard to

active military status. Without this amendment, there would appear to be no authority for providing medical care for dependents of Guard members on full-time duty under 502(f) for periods of more than 30 days, nor to credit that duty toward retirement for length of service.

Almost all other Federal statutes, pertaining to training of the Reserves, for example, section 1332(a)(2)(A)(ii) of title 10, include section 502 along with 503-505 as full-time training authority. The House acted to correct a similar defect in 38 U.S.C. 2024(f), relating to reemployment rights, in passing H.R. 5288, 96th Congress, on October 16, 1979, section 405(b) of which adds section 502 to the enumeration.

Enacting of H.R. 5753 will therefore complete the correction of the omission in all pertinent statutes.

Since the test program for the technician conversion program will be completed and a decision will likely be made during the current fiscal year, there is an urgent need for enactment of this legislation during this legislative year. I hope you will vote to report this bill out favorably.

Thank you.

Mr. STRATTON. Without objection, the report is approved and the bill will be reported favorably to the House.

Mr. STRATTON. The gentleman is recognized for the next item.

REPORT OF HON. RICHARD C. WHITE—Continued

Mr. WHITE. Mr. Chairman, H.R. 5748 is a clean bill which amends section 710 of title 32, United States Code, that applies to accountability and responsibility for U.S. property issued to the National Guard. The effect of H.R. 5748 is to make property accountability standards for the National Guard consistent with those of other Reserve components and the Active Forces, and permit the State to be relieved of liability when the loss occurs during performance of a Federal mission.

Currently, if U.S. property assigned to the National Guard is lost, damaged or destroyed through negligence, the Secretary of the service concerned has the option of either charging the State for the amount of the loss, or charging the individual National Guardsman. In the case of Active and Reserve personnel, however, liability can be cancelled in whole or in part as the Secretary deems appropriate. This is a more reasonable approach in light of the expense of current equipment. For example, the Army limits the liability of its active duty personnel to 1 month's pay.

Further, many of the missions of National Guard units in today's total force are Federal in character and are performed outside of State control, and often outside its boundaries. It is not appropriate to hold the State liable for equipment lost or damaged while the National Guard is performing a Federal mission. H.R. 5748 will only require a State to reimburse the Federal Government for lost or damaged property when the loss occurs while the National Guard is performing a State mission, such as during a natural disaster.

Mr. Chairman, the Department of Defense supports this legislation, the principal sponsor of which is Mr. Emery.

Mr. Chairman, I move approval of H.R. 5748, without amendment. [H.R. 5748 is as follows:]

96TH CONGRESS
1ST SESSION

H. R. 5748

To amend title 32, United States Code, to modify the system of accountability and responsibility for property of the United States issued to the National Guard.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 31, 1979

Mr. EMERY (for himself, Mr. WHITE, Mr. WHITEHURST, Mr. MONTGOMERY, Mr. ICHORD, Mr. JENRETTE, Mr. ROBINSON, Mr. NICHOLS, Mr. CORRADA, Mr. YOUNG of Alaska, Mr. BOWEN, Mr. LOTT, Mr. HINSON, Mr. WHITTEN, Mr. McDONALD, and Mr. EVANS of the Virgin Islands) introduced the following bill; which was referred to the Committee on Armed Services

A BILL

To amend title 32, United States Code, to modify the system of accountability and responsibility for property of the United States issued to the National Guard.

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

3 That (a) subsections (b) and (c) of section 710 of title 32,
4 United States Code, are amended to read as follows:

5 “(b) The Secretary of the Army shall prescribe regula-
6 tions for accounting for property issued by the United States
7 to the Army National Guard and for the fixing of responsibili-

1 is for that property. The Secretary of the Air Force shall
2 prescribe regulations for accounting for property issued by
3 the United States to the Air National Guard and for the
4 fixing of responsibility for that property. So far as practica-
5 ble, regulations prescribed under this section shall be uniform
6 among the components of each service.

7 “(c) Under regulations prescribed by the Secretary con-
8 cerned under subsection (b), liability for the value of property
9 issued by the United States to the National Guard that is
10 lost, damaged, or destroyed may be charged (1) to a member
11 of the Army National Guard or the Air National Guard when
12 in similar circumstances a member of the Army or Air Force
13 serving on active duty would be so charged, or (2) to a State
14 or territory; Puerto Rico, the Canal Zone, or the District of
15 Columbia when the property is lost, damaged, or destroyed
16 incident to duty directed pursuant to the laws of, and in sup-
17 port of the authorities of, such jurisdiction. Liability charged
18 to a member of the Army National Guard or the Air National
19 Guard shall be paid out of pay due to the member for duties
20 performed as a member of the National Guard, unless the
21 Secretary concerned shall for good cause remit or cancel that
22 liability. Liability charged to a State or territory, Puerto
23 Rico, the Canal Zone, or the District of Columbia shall be
24 paid from its funds or from any other non-Federal funds.”

1 (b)(1) The section heading for such section is amended
2 to read as follows:

3 "§710. Accountability for property issued to the National
4 Guard".

5 (2) The item relating to such section in the table of sec-
6 tions at the beginning of chapter 7 of title 32, United States
7 Code, is amended to read as follows:

"710. Accountability for property issued to the National Guard."

8 SEC. 2. The amendment made by subsection (a) of the
9 first section of this Act shall apply to liability for property
10 issued by the United States to the National Guard that is
11 lost, damaged, or destroyed on or after October 1, 1980. Lia-
12 bility for such property that is lost, damaged, or destroyed
13 before such date shall be governed by the provisions of sec-
14 tion 710 of title 32, United States Code, as in effect on the
15 day before the date of the enactment of this Act.

Mr. STRATTON. Is there any discussion on the motion of the gentleman?

[No response.]

Mr. STRATTON. Without objection, the report is approved and the bill will be reported favorably to the House.

Does the gentleman from Mississippi oppose the bill?

Mr. MONTGOMERY. No. I would like to offer to submit additional remarks for the record.

Mr. STRATTON. Without objection, the gentleman's extended remarks will be included in the record at this point.

WRITTEN STATEMENT OF HON. G. V. (SONNY) MONTGOMERY, A REPRESENTATIVE FROM MISSISSIPPI

[H.R. 5748]

Mr. Chairman, I am pleased to have this opportunity to lend my support to H.R. 5748. I believe this bill is long overdue, and I hope that we can report it from this Committee with favorable action.

As you know, H.R. 5748 would remove a gross inequity concerning pecuniary liability which presently exists between members of the National Guard and members of the Active Forces and the USAR. Under existing law, Guard members or their states must pay for lost or damaged military property if simple negligence is found while USAR and Army personnel must pay only when gross negligence is involved.

Section 3686 and 8686 of title 10, United States Code, equates title 32 National Guard training with active duty for training in federal service. Although title 32 is not technically federal service, the training adheres to Army and Air Force prescriptions and regulations. Likewise, the National Guard has control of some highly specialized federal property. Guard Members who have accidents with this equipment while in title 32 training are held legally liable for the total money value of the loss, whereas the same accident by a member of the Army and Air Force and Army and Air Force Reserves remains at the discretion of the Service Secretaries; that member may be absolved completely of the liability, or, at worst, held responsible for only specified amounts of the loss. This inequity places the National Guard member in a position of facing possible legal action. I hardly think this encourages recruitment and retention, especially for those skilled positions in which accidents are more likely.

I have had many letters from National Guardsmen across our nation proclaiming their strong desire to see this legislation adopted; they are very uncomfortable with the current law, and certainly do not feel they should be pecuniarily liable for damages to military property during title 32 training unless gross negligence is involved. I agree with these men and women that Guardsmen serving this duty should be brought under the Federal Torts Claim Act just as their counterparts in other military services.

This inequity has existed far too long, and I certainly hope that my colleagues on this Committee will join with me in supporting this measure to correct the problem.

Thank you.

Mr. STRATTON. The Chair recognizes the gentleman for the next item.

REPORT OF HON. RICHARD C. WHITE—Continued

Mr. WHITE. Mr. Chairman, H.R. 5766, also a clean bill, increases the number of scholarships authorized for the Army Reserve Officers' Training Corps [ROTC] program, provides an individual who accepts such a scholarship the option to serve in a Reserve component for 8 years in addition to the current requirement of serving on active duty for 4 or more years, and establishes a financial assistance program for certain cadets at military junior colleges.

Mr. Chairman, as all of the members know, the ROTC program is the single most importance source of officers in each of the services. In general, ROTC scholarships have been utilized only to provide Active Component officers. Today, however, the Army Reserve and Army National Guard are in excess of 4,000 below their requirements for officers in the junior grades. This legislation will provide authority for a total of 12,000 ROTC scholarships for the Army instead of the 6,500 now authorized and will permit individuals who receive these scholarships the option of joining the Reserve Components. The Army, unlike the Navy and Air Force, is being constrained by the ceiling on the number of ROTC scholarships because of the large Reserve Component requirements and now desires to make greater use of this program to assist the Reserve Components.

Another aspect of this bill relates to military junior colleges which, the members know, are six schools that meet specific criteria established by the Secretary of the Army and are essential military in nature. H.R. 5766 will establish in law a financial assistance program for specially selected students at these military junior colleges. Ten

scholarships per year will be provided for each of the six schools. The Secretary will select cadets for these schools and can provide additional scholarships if the level of participation in ROTC at the schools increases. The military junior colleges have been providing officers for the military for a number of years and earmarking these scholarships will strengthen the program at each of the schools.

Mr. Chairman, the Department of the Army testified in support of this legislation, although a formal position from the administration has not yet been received. The cost of the legislation will be about \$1.2 million in the first year and will rise to \$7.6 million by the fifth year.

Mr. Chairman, I move approval of H.R. 5766, without amendment.
[H.R. 5766 is as follows:]

96TH CONGRESS
1ST SESSION

H. R. 5766

To amend title 10, United States Code, to authorize additional Reserve Officers' Training Corps scholarships for the Army, to provide a certain number of such scholarships for cadets at military junior colleges, to authorize the Secretary of the Army to provide that cadets awarded such scholarships may serve their obligated period of service in the Army Reserve or Army National Guard of the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 31, 1979

Mr. SKELTON (for himself, Mr. EVANS of Georgia, Mr. SHELBY, Mr. GINN, Mr. LEDERER, Mr. DORNAN, Mr. WON PAT, Mr. RUNNELS, Mr. WEAVER, Mr. STUMP, Mr. ICHORD, Mr. BEILENSEN, Mr. ENGLISH, Mr. CORRADA, Mr. MONTGOMERY, Mr. NOLAN, Mr. DAN DANIEL, Mr. SCHULZE, Mr. ALBOSTA, Mr. LUJAN, Mr. CHARLES WILSON of Texas, Mr. ROSE, Mr. BLOUS, Mr. HYDE, Mr. PETRI, Mr. BEVILL, Mr. BURGNER, Mr. McDONALD, Mr. JENKINS, Mr. HUGHES, Mr. CARTER, Mr. BAILEY, Mr. STANGELAND, Mr. WATKINS, Mr. JONES of Oklahoma, Mr. BENJAMIN, Mr. V (IN. Mr. WHITE, Mr. KAZEN, Mrs. HOLT, Mr. HILLIS, and Mr. TREEN) introduced the following bill; which was referred to the Committee on Armed Services

A BILL

To amend title 10, United States Code, to authorize additional Reserve Officers' Training Corps scholarships for the Army, to provide a certain number of such scholarships for cadets at military junior colleges, to authorize the Secretary of the Army to provide that cadets awarded such scholarships may serve their obligated period of service in the Army Reserve

or Army National Guard of the United States, 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,*

3 That section 2107 of title 10, United States Code, is
4 amended—

5 (1) by inserting “and” at the end of clause (4) of
6 subsection (b);

7 (2) by striking out clauses (5) and (6) of subsec-
8 tion (b) and inserting in lieu thereof the following:

9 “(5) either—

10 “(A) agree in writing that he will—

11 “(i) accept an appointment, if offered, as
12 a commissioned officer in the Army, Navy,
13 Air Force, or Marine Corps, as the case may
14 be, and that, if he is commissioned as a reg-
15 ular officer and his regular commission is ter-
16 minated before the sixth anniversary of his
17 date of rank, he will accept an appointment,
18 if offered, in the reserve component of that
19 armed force and not resign before that anni-
20 versary; and

21 “(ii) serve on active duty for four or
22 more years; or

23 “(B) agree in writing that he will—

1 “(i) accept an appointment, if offered, as
2 a commissioned officer in the Army, Navy,
3 Air Force, or Marine Corps, as the case may
4 be; and

5 “(ii) serve in a reserve component of
6 that armed force until the eighth anniversary
7 of the receipt of such appointment, unless
8 otherwise extended by subsection (d) of sec-
9 tion 2108 of this title, under such terms and
10 conditions as shall be prescribed by the Sec-
11 retary of the military department concerned.

12 The performance of service under clause (5)(B) may in-
13 clude periods of active duty, active duty for training,
14 and other service in an active or inactive status in the
15 reserve component in which appointed.”; and

16 (3) by striking out “6,500” the first place it ap-
17 pears in subsection (h) and inserting in lieu thereof
18 “12,000”.

19 SEC. 2. (a) Title 10, United States Code, is amended by
20 inserting after section 2107 the following new section:

21 “§2107a. Financial assistance program for specially se-
22 lected members; military junior colleges

23 “(a)(1) The Secretary of the Army may appoint as a
24 cadet in the Army Reserve or Army National Guard of the
25 United States any eligible member of the program who is a

1 student at a military junior college and who will be under 25
2 years of age on June 30 of the calendar year in which he is
3 eligible under this section for appointment as a second lieu-
4 tenant in the Army.

5 “(2) To be considered a military junior college for the
6 purposes of this section, a school must be a civilian post-
7 secondary educational institution essentially military in
8 nature that does not confer baccalaureate degrees and that
9 meets such other requirements as the Secretary of the Army
10 may prescribe.

11 “(b) To be eligible for appointment as a cadet under this
12 section, a member of the program must—

13 “(1) be a citizen of the United States;

14 “(2) be specially selected for the financial assist-
15 ance program under this section under procedures pre-
16 scribed by the Secretary of the Army;

17 “(3) enlist in a reserve component of the Army
18 for the period prescribed by the Secretary of the Army;

19 “(4) contract, with the consent of his parent or
20 guardian if he is a minor, with the Secretary of the
21 Army to serve for the period required by the program;

22 “(5) agree in writing that he will accept an ap-
23 pointment; if offered, as a commissioned officer in the
24 Army Reserve or the Army National Guard of the
25 United States; and

1 “(6) agree in writing that he will serve in such
2 reserve component for not less than eight years.

3 Performance of duty under an agreement under this subsec-
4 tion shall be under such terms and conditions as the Secre-
5 tary of the Army may prescribe and may include periods of
6 active duty, active duty for training, and other service in an
7 active or inactive status in the reserve component in which
8 appointed.

9 “(c) The Secretary of the Army shall provide for the
10 payment of all expenses of the Department of the Army in
11 administering the financial assistance program under this sec-
12 tion, including the cost of tuition, fees, books, and laboratory
13 expenses which are incurred by members of the program ap-
14 pointed as cadets under this section while such members are
15 students at a military junior college.

16 “(d) Upon satisfactorily completing the academic and
17 military requirements of the program, a cadet may be ap-
18 pointed as a reserve officer in the Army in the grade of
19 second lieutenant, even though he is under 21 years of age.

20 “(e) The date of rank of officers appointed under this
21 section in May or June of any year is the date of graduation
22 of cadets from the United States Military Academy in that
23 year. The Secretary of the Army shall establish the date of
24 rank of all other officers appointed under this section.

1 “(f) A cadet who does not complete the course of in-
2 struction, or who completes the course but declines to accept
3 a commission when offered, may be ordered to active duty by
4 the Secretary of the Army to serve in his enlisted grade for
5 such period of time as the Secretary prescribes but not for
6 more than four years.

7 “(g) In computing length of service for any purpose, an
8 officer appointed under this section may not be credited with
9 service as a cadet or with concurrent enlisted service.

10 “(h)(1) The Secretary of the Army shall appoint not less
11 than 10 cadets under this section each year at each military
12 junior college at which there are not less than 10 members of
13 the program eligible under subsection (b) for such an appoint-
14 ment. At any military college at which in any year there are
15 fewer than 10 such members, the Secretary shall appoint
16 each such member as a cadet under this section.

17 “(2) If the level of participation in the program at any
18 military junior college meets criteria for such participation
19 established by the Secretary of the Army by regulation, the
20 Secretary shall appoint additional cadets under this section
21 from among members of the program at such military junior
22 college who are eligible under subsection (b) for such an
23 appointment.

24 “(i) Cadets appointed under this section are in addition
25 to the number appointed under section 2107 of this title.”.

1 (b) The table of sections at the beginning of chapter 103
2 of such title is amended by inserting after the item relating to
3 section 2107 the following new item:

"2107a. Financial assistance program for specially selected members: military junior colleges."

4 SEC. 3. Section 2108(d) of title 10, United States Code,
5 is amended by striking out the second sentence thereof and
6 inserting in lieu thereof the following: "If a member of the
7 program has been accepted for resident graduate or profes-
8 sional study, the Secretary of the military department con-
9 cerned may delay the commencement of that member's obli-
10 gated period of active duty, and any obligated period of
11 active duty for training or other service in an active or inac-
12 tive status in a reserve component, until the member has
13 completed that study. If a cadet appointed under section
14 2107a of this title has been accepted for a course of study at
15 an accredited civilian educational institution authorized to
16 grant baccalaureate degrees, the Secretary of the Army may
17 delay the beginning of that member's obligated period of
18 service in a reserve component until the member has com-
19 pleted such course of study."

20 SEC. 4. The amendments made by this Act shall take
21 effect on October 1, 1980.

Mr. STRATTON. Is there any discussion or comment on the motion of the gentleman?

Does the gentleman from Mississippi wish to include remarks at this point?

Mr. MONTGOMERY. No. But I support the legislation.

Mr. STRATTON. Without objection, the report is approved and the bill will be reported to the House, and the gentleman from Texas, Mr. White, will be designated to handle the bill.

Mr. WHITE. Mr. Chairman.

Mr. STRATTON. Mr. White.

Mr. WHITE. Is it necessary at this point to ask permission of the committee to place these bills on any particular docket or calendar? I would like to see if we could not place them either on suspension or the consent calendar.

Mr. STRATTON. The Chair couldn't hear the gentleman because of the beeper going on. Would you repeat that question?

Mr. WHITE. Yes. My question was is it necessary to obtain permission from the committee to seek the placement of these bills on either the consent calendar or the suspension calendar?

Mr. STRATTON. That will be done automatically, I am advised. The staff will check with the gentleman.

Mr. WHITE. Thank you, Mr. Chairman.

Mr. STRATTON. The next item of business is a report by the gentleman from Virginia, Mr. Dan Daniel, on H.R. 5580, as amended.

REPORT OF HON. DAN DANIEL, A REPRESENTATIVE FROM VIRGINIA, CHAIRMAN, SPECIAL SUBCOMMITTEE ON NATO STANDARDIZATION, INTEROPERABILITY AND READINESS

Mr. DAN DANIEL. Thank you, Mr. Chairman.

This bill, Mr. Chairman, is a very simple bill, but it's on a very complex subject. I don't know how much detail the committee desires, but we are prepared to present whatever they think is necessary.

[H.R. 5580 is as follows:]

96TH CONGRESS
1ST SESSION

H. R. 5580

To authorize the Secretary of Defense to enter into certain agreements to further the readiness of the military forces of the North Atlantic Treaty Organization.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 12, 1979

Mr. DAN DANIEL introduced the following bill; which was referred jointly to the Committees on Armed Services and Foreign Affairs

A BILL

To authorize the Secretary of Defense to enter into certain agreements to further the readiness of the military forces of the North Atlantic Treaty Organization.

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

3 SHORT TITLE

4 SECTION 1. This Act may be cited as the "North Atlan-
5 tic Treaty Organization Mutual Support Act of 1979".

1 AUTHORITY TO ACQUIRE LOGISTIC SUPPORT, SUPPLIES,
2 AND SERVICES FOR UNITED STATES ARMED FORCES
3 IN EUROPE

4 SEC. 2. (a) Subject to subsection (b), the Secretary of
5 Defense may acquire from the Governments of North Atlan-
6 tic Treaty Organization countries and from North Atlantic
7 Treaty Organization subsidiary bodies logistic support, sup-
8 plies, and services for elements of the Armed Forces of the
9 United States deployed in Europe and adjacent waters.

10 (b)(1) Acquisition of logistic support, supplies, and serv-
11 ices under subsection (a) shall be made in accordance with
12 chapter 137 of title 10, United States Code, and the provi-
13 sions of this Act.

14 (2) Sections 2207, 2306(b), 2306(e), 2306(f), and 2313
15 of title 10, United States Code, section 3741 of the Revised
16 Statutes (41 U.S.C. 22), and section 719 of the Defense Pro-
17 duction Act of 1950 (50 U.S.C. App. 2168) shall not apply to
18 acquisitions made under the authority of this section.

19 CROSS-SERVICING AGREEMENTS

20 SEC. 3. (a) The Secretary of Defense may enter into
21 agreements with the Government of any North Atlantic
22 Treaty Organization country and with any North Atlantic
23 Treaty Organization subsidiary body under which the United
24 States agrees to provide logistic support, supplies, and serv-
25 ices to military forces of such country or subsidiary body de-

- 1 played in Europe and adjacent waters in return for the recip-
- 2 rocal provision of logistic support, supplies, and services by
- 3 such country or subsidiary body to elements of the Armed
- 4 Forces of the United States deployed in Europe and adjacent
- 5 waters.

- 6 (b) The authority of subsection (a) may be used to pro-
- 7 vide for the furnishing of fuel, lubricants, and other supplies
- 8 for military aircraft of North Atlantic Treaty Organization
- 9 countries and North Atlantic Treaty Organization subsidiary
- 10 bodies, and for the furnishing of mechanical services for such
- 11 aircraft, when such aircraft are in the United States or
- 12 Canada in support of military forces of such countries or sub-
- 13 sidiary bodies deployed in Europe and adjacent waters.

14 METHODS OF PAYMENT FOR ACQUISITIONS AND

15 TRANSFERS

- 16 SEC. 4. Any acquisition or transfer by the United States
- 17 of logistic support, supplies, and services under the authority
- 18 of this Act shall be paid for by one of the following methods:

- 19 (1) Reimbursement in United States dollars in an
- 20 amount—

- 21 (A) in the case of supplies—

- 22 (i) of not less than the actual value of
- 23 such supplies, if such supplies are not
- 24 intended to be replaced at the time the

agreement for such acquisition or transfer
was entered into; or

(ii) of the estimated cost of the replacement of such supplies (including the contract or production costs less any depreciation in the value of such supplies), if such supplies are intended to be replaced at the time the agreement for such acquisition or transfer was entered into; and

(B) in the case of support or services, of the full cost of such support or services to the Government or subsidiary body furnishing such support or services.

(2) Replacement-in-kind or exchange of supplies or services of an identical or substantially identical nature.

LIQUIDATION OF ACCRUED CREDITS AND LIABILITIES

SEC. 5. Credits and liabilities of the United States ac-

rued as a result of acquisitions and transfers of logistic support, supplies, and services under the authority of this Act shall be liquidated not less often than once every three months by direct payment to the entity supplying such support, supplies, or services by the entity receiving such support, supplies, or services.

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CREDITING OF RECEIPTS

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SEC. 6. Any receipt of the United States as a result of a transfer or acquisition under this Act shall be credited to applicable appropriations, accounts, and funds of the Department of Defense.

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LIMITATION ON AMOUNTS THAT MAY BE OBLIGATED OR

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ACCRUED BY THE UNITED STATES

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SEC. 7. (a) The total amount of liabilities that the United States may accrue under this Act (before the computation of offsetting balances) may not exceed \$25,000,000 in any fiscal year.

12

(b) The total amount of credits that the United States may accrue under this Act (before the computation of offsetting balances) may not exceed \$25,000,000 in any fiscal year.

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INVENTORIES OF SUPPLIES NOT TO BE INCREASED

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SEC. 8. Inventories of supplies for elements of the Armed Forces of the United States may not be increased for the purpose of transferring supplies under the authority of this Act to military forces of any North Atlantic Treaty Organization country or any North Atlantic Treaty Organization subsidiary body.

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REGULATIONS

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SEC. 9. The Secretary of Defense shall prescribe regulations to implement this Act and shall, not later than sixty

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1 days before the effective date of such regulations, transmit
2 copies of such regulations to the Congress. No agreement to
3 make an acquisition or transfer under the authority provided
4 by this Act may be entered into until such regulations take
5 effect.

6 ANNUAL REPORTS

7 SEC. 10. The Secretary of Defense shall submit to the
8 Congress not later than February 1 of each year a report
9 containing—

10 (1) a description of each contract and agreement
11 entered into under the authority of this Act that was in
12 effect during the fiscal year preceding the fiscal year in
13 which such report is submitted;

14 (2) a report of the dollar value of each acquisition
15 or transfer of logistic support, supplies, or services by
16 the United States (by appropriation, account, or fund)
17 during such fiscal year under each such contract or
18 agreement; and

19 (3) a description of each contract and agreement
20 entered into (or expected to be entered into) under the
21 authority of this Act that is expected to be in effect
22 during the fiscal year in which such report is sub-
23 mitted, together with a report of the estimated total
24 dollar value of acquisitions and transfers by the United
25 States (by appropriation, account, or fund) expected to

1 be made during such fiscal year under each such con-
2 tract or agreement.

3 DEFINITIONS

4 SEC. 11. As used in this Act:

5 (1) The term "logistic support, supplies, and serv-
6 ices" means food services, billeting, transportation,
7 fuel, medical services, ammunition, base operations
8 support, construction services, storage facilities, train-
9 ing ranges, spare parts, repair services, and port
10 services.

11 (2) The term "North Atlantic Treaty Organization
12 subsidiary bodies" has the meaning given the term
13 "subsidiary bodies" in article I of the multilateral
14 treaty on the Status of the North Atlantic Treaty Or-
15 ganisation, National Representatives and International
16 Staff, signed at Ottawa on September 20, 1951 (TIAS
17 2992; 5 UST 1087).

Mr. Chairman, the NATO Subcommittee by a vote of 8 ayes and 1 present, recommends the adoption of H.R. 5580, as amended.

What is the purpose of the bill? It authorizes the Secretary of Defense to enter into certain agreements to further the readiness of the military forces of the North Atlantic Treaty Organization. It waives certain provisions of contract law in order that the Secretary may more expeditiously acquire logistical support, supplies and services for the U.S. Armed Forces in Europe.

What is the history of this proposal? First of all, Mr. Chairman, I think it might be well to note that the first notice that was taken of this matter came from a committee delegation to NATO, headed by Mr. White of Texas, back in 1977. In its subsequent report to the full committee, the delegation noted that requirements of the armed services procurement regulations which govern contracting actions by the military were causing unforeseen difficulties for the U.S. Forces operating in Europe. To underscore the seriousness of this situation, the report emphasized that the impact should not merely be measured in terms of inconvenience, but also from the standpoint that in an emergency a large portion of the U.S. Forces logistical support must come from host nations and the reduced ability to use these supply channels may affect the integrity of the entire NATO logistical structure.

Following that, the Department of Defense sent over, as most of you know, two bills which were unacceptable because the authority requested exceeded that which, in the judgment of the subcommittee, seemed necessary. We believe H.R. 5580 meets our objections to former proposals, and responds appropriately to the problems it addresses.

Is there a need? There is unquestionably a critical need, as pointed out by Mr. White and his delegation, for NATO to become a more closely integrated military force. Arms cooperation and weapons standardization—the high-ticket items—have captured the headlines. But it is a host of unglamorous issues and arrangements which will have the real impact on force readiness in the alliance. I am speaking of day-to-day, commonsense things such as feeding and billeting NATO allies attached to U.S. units during integrated training exercises, providing medical services to them, refueling allied vehicles and aircraft, and using host nation capabilities to maintain U.S. bases by providing such things as laundry services and routine nontactical transportation services. We can do some of these things today but the procedures are cumbersome, time consuming, and bound up in redtape which, in some cases, is offensive to our allies.

What solutions does the bill offer? The bill has two fundamental objectives:

1. To facilitate U.S. "agreements" with NATO countries for the acquisition of host nation support services and supplies without making those sovereign nations subject to provisions of U.S. domestic procurement law which they find offensive.

To enable the United States to provide similar services and supplies to NATO nations through cross-servicing agreements without having to treat each transaction as a foreign military sales case under the Arms Export Control Act.

Sections 2 and 3 provide the authority the Secretary of Defense needs to accomplish these objectives. The second objective is primarily under the jurisdiction of the Committee on Foreign Affairs, and this

is the reason for the joint referral of the bill. The underlying premise of sections 2 and 3 is that the traditional seller-customer concept is not appropriate to the relationship between sovereign nations of an alliance seeking to enhance military readiness through cooperative arrangements to provide reciprocal logistic support of a routine nature.

Mr. Chairman, we believe that this bill has adequate safeguards. It's supported by General Rogers. A letter just came to me this morning from General Rogers. His conclusion was that: "H.R. 5580 will allow needed support to be given to our forces in Europe in an appropriate, responsive and effective manner, and I urge passage of the important bill."

[A copy of General Rogers' letter follows:]

HEADQUARTERS U.S. EUROPEAN COMMAND,
OFFICE OF THE COMMANDER IN CHIEF,
APO New York, November 2, 1979.

Hon. DAN DANIEL,

Chairman, Special Subcommittee on NATO Standardization, Interoperability and Readiness, Armed Services Committee, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I welcome the opportunity to comment on HR 5580, the NATO Mutual Support Act of 1979, now being considered by your subcommittee, and to voice my full support for its passage during this session of the Congress. Failure to pass this important legislation could have far reaching adverse effects.

H.R. 5580 is important to U.S. European Command for it will allow prompt provision of necessary support to our forces deployed or deploying to Europe. It is also important to the United States in the conduct of its relations with our Allies. Current law requires that we use purchase contract and foreign military sales procedures to obtain logistic support from our Allies. These procedures are needlessly cumbersome for the levels of support we routinely coordinate, and they are wholly inappropriate for the conduct of business between sovereign nations. Germany, the Netherlands, Belgium, Italy, and Norway have repeatedly voiced pointed objection to present procedures, especially when we attempt to arrange host nation support for such important exercises as Reforger. The Netherlands, in particular, have indicated that they will not support Reforger 80, for which the planning is now considerably advanced, unless current procedures are changed as provided for in H.R. 5580.

This bill would also provide adequate protection to the interests of U.S. business concerns. The comparatively small outflow of goods and services, when viewed against the overall defense effort, would have minimum impact. Most of the support, moreover, would be in the form of services which can only be provided within the European theater. The relatively low dollar value of goods would generally be those of a specifically military nature, a number of which are of U.S. manufacture and are common to those which our Allies are using. Other transactions, such as those involving fuel, would be generally handled by exchanges in kind.

H.R. 5580 will allow needed support to be given to our forces in Europe in an appropriate, responsive and effective manner. I urge passage of this important bill.

Sincerely,

BERNARD W. ROGERS,
*General, U.S. Army,
Commander in Chief.*

Mr. Chairman, I would like to yield at this time to Mr. Dickinson from Alabama, who is the ranking member of the NATO Subcommittee.

Mr. DICKINSON. In the interest of saving time I would like to ask unanimous consent to submit for the record my extended remarks, giving the reasons for supporting this bill.

WRITTEN STATEMENT OF HON. WILLIAM L. DICKINSON, A REPRESENTATIVE
FROM ALABAMA

H.R. 5580 (as amended)

Mr. Chairman: I want to commend you for having put together a bill which will satisfy the Defense Department's real host nation support requirements without resort to the kind of blanket authority the Department originally requested.

The goals are reasonable and worthwhile. We want to be able to negotiate agreements with NATO host nations for support—which we need—without treating sovereign nations as though they were contractors subject to American law.

And on a limited basis—particularly during the course of integrated training exercises—we want to be able to support our allies with supplies and services without having to process an FMS case every time we feed a German battalion attached to a U.S. division for a couple of days training.

The bill recognizes that closer cooperation between the U.S. and its allies requires some exceptions to our customary way of doing business and—on the principle of reciprocity—it would permit cross servicing arrangements.

However, it contains important safeguards:

1. It very carefully limits the provisions of U.S. law which can be waived only to those provisions where a waiver is absolutely essential to accomplishing the purpose of the legislation.

2. It spells out pricing principles to insure reciprocity and specifies that the United States will use the pricing principles of the Arms Export Control Act in its sales where the receiving country will not agree to reciprocal pricing principles.

3. It very wisely limits the total liabilities and credits to \$100 million in any fiscal year of which not more than \$25 million could apply to reimbursable U.S. acquisitions of supplies. This provision will insure that the emphasis remains on the acquisition of host nation support services as opposed to hardware where emotions and dollars run high.

4. Finally the bill contains very detailed reporting requirements so the Congress will have an annual opportunity to review the ways in which DOD is using its authority and to exercise appropriate oversight.

In summary, Mr. Chairman, I think this bill represents a balanced effort to address the needs of the services, the sensitivities of our NATO allies and the concerns of the Congress and the American taxpayers. I support the bill and I urge my colleagues on both sides of the aisle to recommend it to the full committee.

Mr. DAN DANIEL. Mr. Chairman, without objection, I would ask that the prepared statement by Mr. Whitehurst in support of H.R. 5580, as amended, be inserted into the record at this point, along with a letter from the Electronic Industries Association commenting on the bill.

WRITTEN STATEMENT OF HON. G. WILLIAM WHITEHURST, A REPRESENTATIVE FROM
VIRGINIA

[H.R. 5580 As Amended]

Mr. Chairman, I strongly support H.R. 5580 as amended, and I want to commend Chairman Daniel for his role in bringing this bill before the committee.

It has been apparent for some time that our military commanders in Europe need the type of limited authority granted in this bill. Since we began our efforts to improve the tooth to tail ratio of our forces in Europe, our commanders have been forced—more and more—to rely upon host nation support for services we no longer have an organic capability to provide for ourselves.

The host nations have been willing to provide the necessary services but they object—and now flatly refuse to do this on the basis of contracts which contain U.S. law provisions offensive to their dignity.

We can debate the validity of their objections to no end. But we must recognize that our NATO partners are political equals and not subject to our will.

Therefore, our only recourse is to affect reasonable compromises which will meet the very real readiness needs of our military forces in Europe without significant disruptions to our established principles of procurement.

H.R. 5580 does this. I think the NATO Subcommittee has produced a balanced piece of legislation which will enable our commanders to secure and provide supplies and services essential to the efficient functioning of the alliance without wiping the books clean and selling the candy store in the process.

The bill is limited to a grant of minimum essential authority and it contains important safeguards to insure that it can only be used for the purposes intended.

This committee has spoken a great deal about NATO readiness in the past, often very critically. This bill is designed to enhance readiness and it meets the needs of our field commanders. I urge the committee to report it out favorably.

STATEMENT BY THE ELECTRONICS INDUSTRIES ASSOCIATION

WASHINGTON, D.C., November 5, 1979.

Hon. DAN DANIEL,
Chairman, Special Committee on NATO/RSI, U.S. House of Representatives,
Washington, D.C.

DEAR MR. DANIEL: Through its Government Division, the Electronic Industries Association represents the views of its member companies who provide goods and services to the Department of Defense, other U.S. Government agencies and to foreign governments.

In its capacity as a supplier of defense electronic products to U.S. and NATO nations, the Government Division has taken a strong interests in legislation relative to NATO readiness, and we have so testified at hearings of your subcommittee last year.

We have reviewed the subject bill, H.R. 5580—the NATO Mutual Support Act of 1979, and are pleased to present our endorsement of it. We commend you for introducing this legislation which provides a practical and direct mechanism for improving the readiness of NATO forces.

On behalf of the Government Division of the Association, we continue to welcome this and future opportunities to express the views of our members in proposed legislation coming before your subcommittee.

Yours very truly,

JEAN A. CAFFIAUX,
Vice President,
Government Division.

Mr. STRATTON. Is the committee prepared to vote at this point in time?

Mr. McDONALD. Just one point, Mr. Chairman.

Mr. STRATTON. We have a quorum. We have a vote on. We can come back after the vote. The gentleman from Georgia is recognized for 2 minutes.

Mr. McDONALD. No; I'll only take about 20 seconds.

I think it's a rather important issue, but in view of the overwhelmingly populated committee at this stage it might not be appropriate to take a lot of time, other than just to simply say I think we're dealing with a situation that's going to be hopeless until we ever come into the reality of it.

We had a 30-year-old NATO when we went over there in August, and it's simply not going to be able to do the job it's supposed to do because it's very apparent that it's a creature of the departments of state or the foreign offices and not of the military sectors of the various countries. So no wonder we are not prepared, and are not going to be prepared. And we can cosmetically do this and that for the next few years, but as long as it's basically a creature coming out of the state

departments or foreign offices, the military considerations are going to come second to political considerations, and we're not going to be prepared. We will not have the job done, and we're just throwing good men and good equipment into a disaster situation which we will then have to face after the fact.

The same thing has happened in Iran. Here the military is going to perhaps go in and pick up the ball that's been fumbled by the State Department. The same thing is going to be happening in Central America because of our disastrous foreign policies, and sooner or later the military sectors are going to have to become involved.

We're having the same thing in SALT, where it's our Foreign Affairs Committee that are carrying the ball, while on the Soviet side it's the military sectors that are carrying the ball—no wonder we always come up a loser in these negotiations.

But after our trip to Europe and looking at NATO, this 30-year-old creature is not prepared to do the job, and I don't think it's going to be prepared to do the job.

I support this legislation, but I have no illusions that it's going to be the great panacea to solve the problem created by the fact that the wrong people are carrying the ball.

Mr. DAN DANIEL. Mr. Chairman, I share the gentleman's concern, and I move the adoption of the report.

Mr. STRATTON. All right. As many as are in favor of the motion of the gentleman will say "Aye."

[Chorus of "Ayes."]

Mr. STRATTON. Opposed, "No."

[No response.]

Mr. STRATTON. The motion is carried, and the bill will be reported to the House, and the gentleman from Virginia will handle it on the floor.

Mr. DAN DANIEL. Thank you, Mr. Chairman.

Mr. STRATTON. There being no further business, the committee will stand adjourned, subject to the call of the Chair.

[Whereupon, at 2:13 p.m., the committee adjourned, to reconvene subject to the call of the Chair.]

