

TECHNICAL CORRECTIONS TO SECTION 10 OF TITLE 9,
UNITED STATES CODE

NOVEMBER 5, 1997.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. HYDE, from the Committee on the Judiciary,
submitted the following

R E P O R T

[To accompany H.R. 2440]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill
(H.R. 2440) to make technical amendments to section 10 of title 9,
United States Code, having considered the same, reports favorably
thereon without amendment and recommends that the bill do pass.

TABLE OF CONTENTS

	<i>Page</i>
Purpose and Summary	2
Background and Need for Legislation	2
Hearings	2
Committee Consideration	2
Vote of the Committee	2
Committee Oversight Findings	2
Committee on Government Reform and Oversight Findings	2
New Budget Authority and Tax Expenditures	2
Congressional Budget Office Estimate	2
Constitutional Authority Statement	3
Section-by-Section Analysis	3
Agency Views	4
Changes in Existing Law Made by the Bill, as Reported	4

PURPOSE AND SUMMARY

H.R. 2440 makes a technical correction to an obvious punctuation error in Section 10, Title 9, United States Code.

BACKGROUND AND NEED FOR THE LEGISLATION

Section 10, Title 9, United States Code provides the grounds under which a federal district judge can vacate an arbitrator's award. Section 10(a) (1) through (5) enumerates these grounds. The error, which has existed from the original enactment in 1925, apparently evaded detection because each enumerated ground begins with the word "where." However, paragraph (5), rather than stating a ground for vacating an award, is obviously meant to begin the first sentence of the next subsection.

HEARINGS

No hearings were held on H.R. 2440.

COMMITTEE CONSIDERATION

On September 11, 1997, the Subcommittee on Commercial and Administrative Law met in open session and ordered reported the bill H.R. 2440, without amendment by a voice vote, a quorum being present. On September 17, 1997, the Committee met in open session and ordered reported favorably the bill H.R. 2440 without amendment by voice vote, a quorum being present.

VOTE OF THE COMMITTEE

There were no recorded votes in full Committee.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT FINDINGS

No findings or recommendations of the Committee on Government Reform and Oversight were received as referred to in clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 2(l)(3)(B) of House Rule XI is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 2440, the following estimate and comparison prepared

by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 23, 1997.

Hon. HENRY J. HYDE, *Chairman,*
Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2440, a bill to make technical amendments to section 10 of Title 9, United States Code.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Susanne S. Mehlman, who can be reached at 226–2860.

Sincerely,

JUNE E. O'NEILL, *Director.*

Enclosure.

cc: Hon. John Conyers, Jr.,
Ranking Minority Member.

H.R. 2440—A bill to make technical amendments to section 10 of Title 9, United States Code

CBO estimates that enacting H.R. 2440 would not have any impact on the federal budget. Because enactment of H.R. 2440 would not affect direct spending or receipts, pay-as-you-go procedures would not apply. The bill does not contain any intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act of 1995 and would impose no costs on state, local, or tribal governments.

H.R. 2440 would correct punctuation errors and make other minor wording changes to section 10 of Title 9, United States Code, which specifies the grounds under which a federal judge can vacate an arbitrator's award. Because these changes are technical and would make no substantive changes to the laws affecting arbitration, CBO estimates that enacting H.R. 2440 would not have any budgetary impact.

The CBO staff contact for this estimate is Susanne S. Mehlman, who can be reached at 226–2860. This estimate was approved by Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to Rule XI, clause 2(1)(4) of the Rules of the House of Representatives, the Committee finds the authority for this legislation in Article I, section 8 of the Constitution.

SECTION-BY-SECTION ANALYSIS

Section one corrects a technical error in Section 10 of title 9, United States Code: by indenting the margin of paragraphs (1) through (4) of subsection (a) 2 ems; by striking "Where" in such paragraphs and inserting "where"; by striking the period at the end

of paragraphs (1), (2), and (3) of subsection (a) and inserting a semicolon; by adding “or” at the end of paragraph (3); by redesignating subsection (b) as subsection (c); by striking “Where an award” in paragraph (5) and inserting in lieu thereof “If an award”; by inserting a comma after “expired” in paragraph (5); and by redesignating the paragraph as subsection (b).

AGENCY VIEWS

No agency views were received on H.R. 2440.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

SECITON 10 OF TITLE 9, UNITED STATES CODE

§ 10. Same; vacation; grounds; rehearing

(a) In any of the following cases the United States court in and for the district wherein the award was made may make an order vacating the award upon the application of any party to the arbitration—

(1) **【Where】** *where* the award was procured by corruption, fraud, or undue means~~【.】~~;

(2) **【Where】** *where* there was evident partiality or corruption in the arbitrators, or either of them~~【.】~~;

(3) **【Where】** *where* the arbitrators were guilty of misconduct in refusing to postpone the hearing, upon sufficient cause shown, or in refusing to hear evidence pertinent and material to the controversy; or of any other misbehavior by which the rights of any party have been prejudiced~~【.】~~; or

(4) **【Where】** *where* the arbitrators exceeded their powers, or so imperfectly executed them that a mutual, final, and definite award upon the subject matter submitted was not made.

【(5) Where an award】 *(b) If an award* is vacated and the time within which the agreement required the award to be made has not expired, the court may, in its discretion, direct a rehearing by the arbitrators.

【(b)】 *(c)* The United States district court for the district wherein an award was made that was issued pursuant to section 580 of title 5 may make an order vacating the award upon the application of a person, other than a party to the arbitration, who is adversely affected or aggrieved by the award, if the use of arbitration or the award is clearly inconsistent with the factors set forth in section 572 of title 5.