Springberg, Peter D., xxx-xx-xxxx
Staten, James R., xxx-xx-xxxx
Sterner, Paul E., xxx-xx-xxxx
Stoller, Richard H., xxx-xx-xxxx
Stratton, Richard M., xxx-xx-xxxx
Suchoski, John P., xxx-xx-xxxx
Swiney, Merrill F., xxx-xx-xxxx
Teears, Robert J., xxx-xx-xxxx
Tengco, Gregory S., xxx-xx-xxxx
Trujillo, Joel, xxx-xx-xxxx
Uhl, Gregory S., xxx-xx-xxxx
Ursano, Robert J., xxx-xx-xxxx
Vanmeter, Francis M., Jr., xxx-xx-xxxx
Vieras, Frank, xxx-xx-xxxx
Villarin, Alfredo C., Jr., xxx-xx-xxxx
Villasis, Felipe C., xxx-xx-xxxx
Wade, Billy K., xxx-xx-xxxx
Washington, James A., xxx-xx-xxxx
Wetzler, Harry P., xxx-xx-xxxx
Whitehurst, Fred O., xxx-xx-xxxx
Whiteley, Andre B., xxx-xx-xxxx
Wiedeman, Geoffrey P., Jr. xxx-xx-xxxx
Williams, Josie R., xxx-xx-xxxx
Williams, Michael H., xxx-xx-xxxx
Wisdom, Randall T., xxx-xx-xxxx
Yerger, David H., xxx-xx-xxxx
Yoder, James E., xxx-xx-xxxx
Zajac, John J., xxx-xx-xxxx
Zimmerman, Robert G., xxx-xx-xxxx
Zimmermann, Gloria B., xxx-x...

The following officers for appointment in the Regular Air Force, in the grades indicated, under the provisions of section 8284, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code, to perform the duties indicated, and with dates of rank to be determined by the Secretary of the Air Force:

MEDICAL CORPS

To be captain

Borthwick, Thomas R., xxx-xx-...
Burch, Francis X., xxx-xx-xxxx
Crawford, George E., xxx-xx-...
Gens, John P., Jr. xxx-xx-xxxx
Gross, Leroy P. xxx-xx-xxxx
Hanes, Verna E., xxx-xx-xxxx
Landry, Roger F., xxx-xx-xxxx
Paul, David F., xxx-xx-xxxx
Peterson, Charles D., xxx-xx-xxxx
Policastro, Anthony M., xxx-xx-...
Rayfield, Morton M., xxx-xx-xxxx
Smith, Frank L., xxx-xx-xxxx
Washington, James A., xxx-xx-xxxx

DENTAL CORPS

To be first lieutenant

Booker, Brooks W., III, xxx-xx-xxxx

HOUSE OF REPRESENTATIVES—*Tuesday, December 11, 1979*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Let us pray in the words of St. Francis:

"Lord, make us instruments of Thy peace,
Where there is hatred, let us sow love;
Where there is injury, pardon;
Where there is doubt, faith;
Where there is despair, hope;
Where there is darkness, light; and
Where there is sadness, joy.

"O Divine Master, grant that we may not so much seek to be consoled as to console;
To be understood as to understand;
To be loved as to love,
For it is in giving that we receive;
It is in pardoning that we are pardoned.
And it is in dying that we are born to eternal life. Amen."

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Chirdon, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills and a joint resolution of the House of the following titles:

On November 28, 1979:

H.R. 2282. An act to amend title 38, United States Code, to provide a cost-of-living increase in the rates of compensation paid to veterans with service-connected disabilities and in the rates of dependence and indemnity compensation paid to survivors of veterans, to modify certain veterans' life insurance programs, and to exempt Veterans' Administration home loans from State anti-usury laws; to provide for certain assistance in locating individuals who were exposed to occupational hazards during military service; and for other purposes; and

H.R. 4167. An act to amend section 201 of the Agriculture Act of 1949, as amended, to extend until September 30, 1981, the requirement that the price of milk be supported at not less than 80 per centum of the parity price therefor.

On November 30, 1979:

H.R. 4391. An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1980, and for other purposes; and

H.R. 4440. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1980, and for other purposes.

On December 5, 1979:

H.R. 1885. An act to amend Civil Service retirement provisions as they apply to certain employees of the Bureau of Indian Affairs and of the Indian Health Service who are not entitled to Indian employment preference and to modify the application of the Indian employment preference laws as it applies to those agencies; and

H.R. 4483. An act for the relief of Jung-Sook Mun.

On December 7, 1979:

H.J. Res. 448. Joint resolution proclaiming the week of December 3 through December 9, 1979 as "Scouting Recognition Week."

AMERICAN HOSTAGES CANNOT BE CONSIDERED WELL TREATED UNTIL THEY ARE RELEASED

Mr. WRIGHT. Mr. Speaker, one of the saddest and most cynical things involved in the capture of U.S. hostages in Iran was the attempted use last evening of an unfortunate and well-meaning American boy, illegally seized and held hostage by his captors, to characterize the relative degree of mistreatment of those American hostages.

I believe that I speak the undivided sentiment of this Congress and of the American people in saying that any time any innocent American citizen is captured and held against his or her will by any foreign power, and tied, even loosely, and held incommunicado, prevented from communication with his fellow Americans, then that American citizen is being mistreated.

Those American hostages will not be, nor can they be, characterized as being well treated until they are released and given the freedom to which they were born and to which they are entitled.

Mr. BRADEMAS. Mr. Speaker, will the gentleman yield?

Mr. WRIGHT. I am glad to yield.

Mr. BRADEMAS. Mr. Speaker, I want to compliment the distinguished majority leader for what he has had to say on this matter and to associate myself with his remarks.

GENERAL LEAVE

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the matter addressed by the majority leader.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

PERMISSION TO HAVE UNTIL TOMORROW, DECEMBER 12, 1979, TO FILE CONFERENCE REPORT ON H.R. 5359, DEPARTMENT OF DEFENSE APPROPRIATIONS, 1980

Mr. ADDABBO. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tomorrow, December 12, 1979, to file a conference report on the bill (H.R. 5359), making appropriations for the Department of Defense for the fiscal year ending December 30, 1980, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

MAKING IN ORDER CONSIDERATION OF CONFERENCE REPORT ON H.R. 5359, DEPARTMENT OF DEFENSE APPROPRIATIONS, 1980, ON ANY DATE AFTER FILING

Mr. ADDABBO. Mr. Speaker, I ask unanimous consent that it be in order on any date after the conference report is filed to take up the conference report on the bill (H.R. 5359) making appropriations for the Department of Defense for the fiscal year ending September 30, 1980.

The SPEAKER. Is there objection to

the request of the gentleman from New York?

There was no objection.

HOUSE SHOULD SUPPORT BILL TO REFORM SECOND CAREER TRAINING PROGRAM FOR AIR TRAFFIC CONTROLLERS

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, in a few minutes, we will be voting on H.R. 5870, a bill to reform the second career training program for air traffic controllers. I want to clear up some misunderstandings which may have resulted from yesterday's debate.

First, the Federal Aviation Administration (FAA) opposes this program because there are other benefit programs, like worker's compensation and disability retirement, to support an air traffic controller who is no longer able to control aircraft. This is true, but I would rather train these burnt-out controllers to become productive members of society, rather than forcing them to live off the public for the rest of their lives. Besides, if we push these controllers into disability or OWCP, rather than second career training, we will not be saving the Government any money.

Second, opponents claim that this bill does not go far enough to prevent controllers from using second career training as a bridge to OWCP benefits. I agree; the jurisdiction of the Committee on Post Office and Civil Service does not extend to reform the OWCP program. We went as far as we could. Nevertheless, controllers who have served their country in this highly stressful and debilitating job should not be denied retraining because the Department of Labor cannot run OWCP efficiently.

Third, FAA claims that no second career training can work. I do not believe them. I do not believe that we ought to put healthy, intelligent, and willing employees out to pasture because they are no longer capable of performing one of the hardest jobs society has to offer.

Rather, I think the problem with the program in the past was that FAA did not try to run it effectively. I think their opposition now is because they do not want to make the program work in the future.

FAA does not want to take responsibility for the lives of air traffic controllers after they cease to be useful to FAA. Well, I believe we are responsible for these men and women. That is why I support H.R. 5870 and urge my colleagues to do the same.

HOUSE SHOULD SUPPORT BILL TO REFORM SECOND CAREER TRAINING PROGRAM FOR AIR TRAFFIC CONTROLLERS

(Mr. JOHN L. BURTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JOHN L. BURTON. Mr. Speaker, I would like to associate myself with the remarks of the gentlewoman from Colorado. An air traffic controller is one of the most difficult jobs that one can imagine. Every minute that they are on the jobs their decisions are life and death decisions. They have a job where, if they have a headache or a cold and take an aspirin or a Contact they are not even able to go to work because the medication could affect their judgment, whereas the rest of us could be able to go to work.

To show the type of pressure they are under, minute after minute, day after day, in their job, an air traffic controller in Hawaii told me once that he would become a millionaire if he could open up any type of business, whether it be an ice cream fountain, a beer place, a grocery store, or a department store and just name it "Some Place Else," because everyday, when they would get off work and someone would say where do you want to go, why don't we go here, the other controller would say let us go some place else. They make so many life and death decisions that when they are through their day's work they just do not have enough energy in them to make anymore decisions.

This second job program is a necessity and a savings to the taxpayers. Let us not punish these controllers because the FAA happens to be the most incompetent agency in the Federal Government.

HOUSE CONCURRENT RESOLUTION 224

(Mr. STENHOLM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STENHOLM. Mr. Speaker, as the days of the imprisonment of American hostages has lengthened, we are witnessing a growing sense of frustration in the American people. A frustration borne by the lack of positive recourse to show concern for the hostages themselves and support for the actions of the U.S. Government attempting to secure their release. This frustration has been met to some degree by ringing of church bells, turning on auto lights, and letter writing campaigns to the Iranian Embassy here in D.C.

As the Christmas season nears and we all begin to think of home and families, I urge all of us to think of those illegally held so far from their homes and families. I urge you to support and speedily pass House Concurrent Resolution 224 to encourage your constituents back home to send a Christmas card to the Iranian hostages being held in Iran.

We would hope that the Iranian Government would show compassion and deliver the cards to the prisoners to brighten their holiday. However, if not, the cards themselves will serve as a strong indication to the Iranian Government of the support and unity of spirit of the American people.

□ 1210

NBC USED FOR PROPAGANDA PURPOSES BY IRAN

(Mr. BAUMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BAUMAN. Mr. Speaker, I want to endorse the statement made by the majority leader a few moments ago regarding the broadcast last night on the NBC television network of the statement of the young marine being held hostage in Tehran. Lord only knows the pressure he is under. Perhaps NBC should be nominated for the "Benedict Arnold Award for Broadcast Journalism" for allowing themselves to be used for propaganda purposes by the Ayatollah Khomeini. CBS and ABC are to be commended for their outright rejection of this blatant proposal.

Mr. Speaker, since the takeover of our Tehran Embassy I have been concerned about the role of the news media as an instrument of foreign policy, but I also believe in the first amendment and the right of the people of the United States to know the truth. I do not think the right to broadcast includes the right to allow oneself to be a propaganda front for the lies of a foreign government doing everything it can to destroy the United States.

Mr. Speaker, I urge every one of our colleagues to communicate their views to NBC.

TRAVEL EXPENSES FOR MEMBERS OF ARMED SERVICES STATIONED OVERSEAS

(Mr. HILLIS asked and was given permission to addres the House for 1 minute and to revise and extend his remarks.)

Mr. HILLIS. Mr. Speaker, today I am introducing legislation which will provide a tax deduction for travel expenses on a trip to and from the United States for members of the Armed Forces who are stationed overseas without their families.

As a member of the Armed Services Committee, I have been disturbed for the past several years about the many problems our military personnel must endure to provide for the defense of this Nation, particularly those personnel assigned overseas.

I think all of the Members of the House have heard and read a great deal about the economic difficulties many of our military personnel are encountering when stationed overseas. Less visible, but also of concern, are the family hardships which result from assignments overseas without the family accompanying the military member. It is my hope that providing a tax deduction to an individual who is stationed overseas to permit him or her to deduct the expenses for traveling to and from the United States to see his or her family once during an assignment will alleviate a part of the burden of these assignments.

Mr. Speaker, I wish I could say this legislation was fully my idea, but, in fact, it was a suggestion of one, a fellow Hoosier, Mrs. Betty J. Packard of Speedway, Ind., who is a military dependent as well as a journalist. Mrs. Packard met with me recently and made the suggestion. I think it is an excellent one.

I hope the House will recognize the difficulties military personnel endure in our behalf when assigned overseas and provide this assistance.

LIGHTING CEREMONY FOR NATIONAL CAPITOL CHRISTMAS TREE

(Mr. ROTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROTH. Mr. Speaker, the lighting ceremony for the National Capitol Christmas tree will take place tomorrow on the Capitol Grounds. I am pleased that the tree this year comes from Nicolet National Forest which is located in my district in Wisconsin. Last week I had the honor of presenting the tree to the U.S. Capitol Architect when it arrived here from Wisconsin.

The National Capitol Christmas tree symbolizes good will, peace, and unity throughout the Nation. It is particularly appropriate to reflect on such thoughts at this time when our Nation is experiencing a very difficult international crisis in the Middle East. We can only hope that the hostages being held in Iran are aware that our Nation has not forgotten them and have a unified resolve to free them safely.

The National Capitol Christmas tree also symbolizes the community effort put forth by the people of Wisconsin in presenting this gift to the Nation for all our citizens to enjoy. The tree was planted by the Civilian Conservation Corps in the 1930's and then in 1979 shipped to Washington free of charge to the taxpayers through contributions by various civic groups and private businesses in Wisconsin.

I look forward tomorrow in participating in the lighting ceremony.

SEND HOLIDAY GREETING CARDS TO AMERICAN HOSTAGES

(Mr. WYLIE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WYLIE. Mr. Speaker, I would like to take this time to commend one of my hometown newspapers, the Columbus Citizen-Journal, for its suggestion that the people of America send holiday greeting cards to the American hostages in Tehran. It is important that the hostages know that we miss them and that we are deeply concerned for their welfare at this otherwise joyous time of the year. If the public feels as I do, then they will certainly want to participate in this public affirmation of solidarity with our countrymen in Iran.

I am certainly pleased to thank the Columbus Citizen-Journal and its editor, Dick Campbell, for spearheading this effort in central Ohio. Maybe, with God's help, these cards will reach the hostages so that they may be encouraged to have some holiday spirit.

GASOLINE DECONTROL FAVORED 3 TO 1

(Mr. COLLINS of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLLINS of Texas. Mr. Speaker, having just finished tabulating my fall district questionnaire, I wanted to share an interesting result I got to a major question. The question was: "Would you favor decontrol of the price of gasoline?" The result: 78.2 percent of my constituents answered "yes," 21.8 percent answered "no." This is living proof of the commonsense of the residents of the Third Congressional District of Texas. Last year, my city had the longest gasoline waiting lines in the country. Concerned people anywhere should be 3 to 1 for deregulation.

Price controls have never worked during peacetime. They only create shortages. As long as controls remain on domestic oil and gas, America will experience a shortage of these commodities. Because of price controls, domestic crude oil production since 1973 has declined from 9.2 million barrels per day to 7.6 million barrels per day.

The decline in domestic energy production has left the United States increasingly dependent on foreign oil. Six years ago we were importing $3 billion of foreign oil, last year we imported $45 billion of oil, this year it will be $60 billion, and next year we will import $70 billion. As long as we continue to send billions of dollars abroad to purchase foreign oil, we are undermining the security of our country and its economic stability.

My home district understands the need for the United States to become energy self-sufficient. They also know that the way to this independence is through deregulation of energy, from crude oil to gasoline.

"NO" VOTE URGED ON CAREER TRAINING PROGRAM FOR AIR TRAFFIC CONTROLLERS

(Mr. EDWARDS of Alabama asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EDWARDS of Alabama. Mr. Speaker, shortly we will be voting on the second career training program for air traffic controllers. I think that we need to do all we can for these folks who have a real problem, but the bill that is before us is not the answer to the problem. We tried to resolve this; we tried to find an answer in training these folks back in the early 1970's. We spent about $100 million in 4 years in this program, and we found that only about 7 percent of the eligible controllers used the program to enter into a new career.

There are other programs that are available to them. We are looking at the possible cost of some $26 million a year for this program, which is an estimated $325,000 per successful trainee in the program. We believe, on the Appropriations Subcommittee on Transportation, that there is a better way to go. We quit funding this program because of these problems. The House Appropriations Committee's investigative staff has recommended that it be terminated; the General Accounting Office has recommended that it be discontinued, and I would urge a "no" vote on the bill today.

APPOINTMENT OF ADDITIONAL CONFEREES ON S. 914, NATIONAL PUBLIC WORKS AND ECONOMIC DEVELOPMENT ACT OF 1979

Mr. JOHNSON of California. Mr. Speaker, I ask unanimous consent that the Speaker be authorized to appoint three additional conferees on the Senate bill (S. 914) to extend the Appalachian Regional Development Act and title V of the Public Works and Economic Development Act of 1965 and to provide for multistate regional development commissions to promote balanced development in the regions of the Nation.

The SPEAKER. Is there objection to the request of the gentleman from California? The Chair hears none, and appoints the following additional conferees: Messrs. LEATH, BONIOR, and CLEVELAND.

DON'T BUY JAPANESE

(Mr. LATTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LATTA. Mr. Speaker, it has been reliably reported that during this period of crisis which the United States is having with Iran over the holding of U.S. citizens as hostages, one of our friends and allies, Japan, is continuing to conduct business as usual with Iran, including the purchasing of all available oil. The administration has taken note of this fact, and I am certain has noted its objections to Japan.

Unless Japan halts its present practice forthwith, the American people can show their disapproval by ceasing to buy Japanese products during this period. Japan should be aware of this alternative and I would suggest that our friend take note of this possibility before it becomes evident in the marketplace. The Americans want to bring these hostages home and will not look too kindly toward making purchases from countries delaying their return in anyway whatsoever. If the American people just stop buying Christmas presents made in Japan, our friend would soon see the folly of its present policy toward purchases of oil from Iran.

REQUEST FOR COMMITTEE ON JUDICIARY TO SIT TOMORROW DURING 5-MINUTE RULE

Mr. MAZZOLI. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be permitted to sit tomorrow, December 12, 1979, while the House is reading four amendments under the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

Mr. ASHBROOK. Mr. Speaker, reserving the right to object, it is my understanding that we have some very important business tomorrow. I think I would be constrained to object. I hope my friend would not ask for this.

Mr. MAZZOLI. Mr. Speaker, would the gentleman yield?

Mr. ASHBROOK. Yes.

Mr. MAZZOLI. I would like to mention that these are antitrust improvement bills, a series of bills to improve the antitrust law.

Mr. ASHBROOK. I am well aware of that. That is the reason I am objecting.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

Mr. ASHBROOK. Mr. Speaker, I object, and pending that I make the point of order that a quorum is not present.

PARLIAMENTARY INQUIRY

Mr. ASHBROOK. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. ASHBROOK. Mr. Speaker, I assume the rules which require 10 Members to object would not require that with only 15 Members present?

The SPEAKER. Objection is heard.

(Mr. ASHBROOK, Mr. BAUMAN, Mrs. HOLT, Messrs. WYLIE, DEVINE, DORNAN, CLAUSEN, ROTH, CHENEY, and QUILLEN objected.)

The SPEAKER. A sufficient number has objected.

Objection is heard.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to clause 3, rule XXVII, the Chair will now put the question de novo on the motion on which further proceedings were postponed.

□ 1220

AIR TRAFFIC CONTROLLERS TRAINING AMENDMENTS

The SPEAKER. The unfinished business is the question of suspending the rules and passing the bill, H.R. 5870, as amended.

The Clerk read the title of the bill.

The SPEAKER. The question is on the motion offered by the gentleman from Arizona (Mr. UDALL) that the House suspend the rules and pass the bill, H.R. 5870, as amended.

The question was taken.

Mr. BENJAMIN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 200, nays 180, not voting 53, as follows:

[Roll No. 711]

YEAS—200

Abdnor	Boner	Carr
Addabbo	Bonior	Cavanaugh
Alexander	Bonker	Clausen
Ambro	Bouquard	Clay
Anderson, Calif.	Brademas	Coleman
	Breaux	Collins, Ill.
Annunzio	Brinkley	Conyers
Bailey	Brodhead	Corman
Bellenson	Brooks	Courter
Bereuter	Brown, Calif.	D'Amours
Bingham	Burton, John	Danielson
Blanchard	Burton, Phillip	Dannemeyer
Boggs	Byron	Daschle
Bolling	Carney	Davis, S.C.
Derwinski	Lagomarsino	Quillen
Dickinson	Leach, La.	Railsback
Diggs	Lederer	Rangel
Dixon	Lee	Reuss
Dodd	Lehman	Rinaldo
Donnelly	Leland	Roe
Downey	Lent	Rose
Eckhardt	Levitas	Rostenkowski
English	Loeffler	Rousselot
Erdahl	Long, La.	Roybal
Ertel	Lowry	Royer
Evans, Del.	Lujan	Scheuer
Evans, Ga.	Luken	Schroeder
Evans, Ind.	Lundine	Sebelius
Fary	McCloskey	Seiberling
Fascell	McCormack	Simon
Fazio	McDade	Smith, Iowa
Ferraro	McHugh	Snowe
Fish	McKay	Snyder
Fisher	McKinney	Solarz
Florio	Madigan	Spellman
Foley	Maguire	Stack
Ford, Mich.	Marks	Staggers
Ford, Tenn.	Marlenee	Stark
Frost	Mathis	Steed
Fuqua	Matsui	Stenholm
Garcia	Michel	Studds
Gilman	Mikulski	Swift
Gonzalez	Mineta	Synar
Goodling	Mitchell, Md.	Taylor
Gramm	Moore	Thompson
Gray	Moorhead, Calif.	Traxler
Hagedorn		Udall
Hall, Ohio	Moorhead, Pa.	Van Deerlin
Hall, Tex.	Mottl	Volkmer
Harris	Murphy, N.Y.	Walgren
Harsha	Murphy, Pa.	Wampler
Hawkins	Myers, Ind.	Waxman
Heckler	Nedzi	Weaver
Heftel	Nolan	Weiss
Holland	Nowak	Whitehurst
Hollenbeck	O'Brien	Williams, Mont.
Holt	Oakar	Wilson, Tex.
Horton	Oberstar	Wirth
Howard	Obey	Wolff
Huckaby	Pashayan	Wolpe
Hughes	Patten	Wright
Jeffords	Patterson	Wyatt
Johnson, Calif.	Pease	Wydler
Jones, Okla.	Pepper	Yatron
Jones, Tenn.	Peyser	Young, Mo.
Kildee	Pickle	Zablocki
Kogovsek	Price	
Kramer	Pursell	

NAYS—180

Andrews, N.C.	Drinan	Latta
Anthony	Duncan, Tenn.	Leath, Tex.
Applegate	Early	Lewis
Archer	Edgar	Livingston
Ashbrook	Edwards, Ala.	Lloyd
Aspin	Emery	Long, Md.
AuCoin	Erlenborn	Lott
Badham	Fenwick	Lungren
Bafalis	Findley	McClory
Baldus	Fithian	McDonald
Barnard	Forsythe	McEwen
Barnes	Fountain	Markey
Bauman	Fowler	Martin
Beard, R.I.	Frenzel	Mavroules
Beard, Tenn.	Giaimo	Mazzoli
Benjamin	Gibbons	Mica
Bennett	Ginn	Miller, Calif.
Bethune	Goldwater	Miller, Ohio
Bevill	Gore	Minish
Boland	Gradison	Mitchell, N.Y.
Bowen	Green	Moakley
Broomfield	Grisham	Moffett
Brown, Ohio	Guarini	Mollohan
Broyhill	Gudger	Montgomery
Buchanan	Hamilton	Natcher
Burgener	Hansen	Neal
Burlison	Hefner	Nelson
Butler	Hightower	Nichols
Campbell	Hillis	Ottinger
Carter	Hinson	Panetta
Cheney	Holtzman	Paul
Cleveland	Hopkins	Petri
Clinger	Hubbard	Preyer
Coelho	Hutto	Quayle
Collins, Tex.	Hyde	Ratchford
Conte	Ichord	Regula
Cotter	Ireland	Rhodes
Coughlin	Jacobs	Richmond
Crane, Daniel	Jeffries	Ritter
Crane, Philip	Jenkins	Robinson
Daniel, Dan	Johnson, Colo.	Roth
Daniel, R. W.	Jones, N.C.	Rudd
Davis, Mich.	Kastenmeier	Runnels
de la Garza	Kazen	Sabo
Deckard	Kelly	Satterfield
Derrick	Kemp	Sawyer
Devine	Kindness	Schulze
Dingell	Kostmayer	Sensenbrenner
Dornan	LaFalce	Shannon
Sharp	Stanton	Vento
Shelby	Stewart	Walker
Shumway	Stockman	Watkins
Shuster	Stratton	White
Skelton	Stump	Whitley
Slack	Symms	Whittaker
Smith, Nebr.	Tauke	Whitten
Solomon	Trible	Wylie
Spence	Ullman	Yates
St Germain	Vander Jagt	Young, Fla.
Stangeland	Vanik	Zeferetti

NOT VOTING—53

Akaka	Flippo	Myers, Pa.
Albosta	Flood	Perkins
Anderson, Ill.	Gaydos	Pritchard
Andrews, N. Dak.	Gephardt	Rahall
	Gingrich	Roberts
Ashley	Glickman	Rodino
Atkinson	Grassley	Rosenthal
Bedell	Guyer	Russo
Biaggi	Hammer-schmidt	Santini
Chappell		Stokes
Chisholm	Hance	Thomas
Conable	Hanley	Treen
Corcoran	Harkin	Williams, Ohio
Dellums	Jenrette	Wilson, Bob
Dicks	Leach, Iowa	Wilson, C. H.
Dougherty	Marriott	Winn
Duncan, Oreg.	Mattox	Young, Alaska
Edwards, Calif.	Murphy, Ill.	
Edwards, Okla.	Murtha	

□ 1230

The Clerk announced the following pairs:

On this vote:

Mr. Dougherty and Mr. Gingrich for, with Mr. Williams of Ohio against.

Mr. Pritchard and Mr. Young of Alaska for, with Mr. Guyer against.

Until further notice:

Mr. Akaka with Mr. Grassley.

Mr. Chappell with Mr. Thomas.

Mr. Russo with Mr. Leach of Iowa.

Mr. Atkinson with Mr. Andrews of North Dakota.

Mr. Hanley with Mr. Conable.

Mr. Murphy of Illinois with Mr. Edwards of Oklahoma.

Mr. Murtha with Mr. Winn.

Mr. Santini with Mr. Hammerschmidt.

Mr. Rodino with Mr. Anderson of Illinois.

Mr. Myers of Pennsylvania with Mr. Mattox.

Mr. Flippo with Mr. Bob Wilson.

Mr. Biaggi with Mr. Albosta.

Mr. Edwards of California with Mr. Bedell.

Mrs. Chisholm with Mr. Corcoran.

Mr. Gaydos with Mr. Duncan of Oregon.

Mr. Glickman with Mr. Marriott.

Mr. Ashley with Mr. Gephardt.

Mr. Jenrette with Mr. Hance.

Mr. Dellums with Mr. Harkin.

Mr. Stokes with Mr. Perkins.

Mr. Roberts with Mr. Dicks.

Mr. Rahall with Mr. Charles H. Wilson of California.

Mr. Rosenthal with Mr. Flood.

Mr. ERDAHL and Mr. LEHMAN changed their votes from "nay" to "yea."

Messrs. AUCOIN, STOCKMAN, GUDGER, MARKEY, BAFALIS, and RITTER changed their votes from "yea" to "nay."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

□ 1240

PERMISSION FOR AD HOC SELECT SUBCOMMITTEE ON MARITIME EDUCATION AND TRAINING OF THE COMMITTEE ON MERCHANT MARINE AND FISHERIES TO SIT DURING 5-MINUTE RULE

Mr. AUCOIN. Mr. Speaker, I ask unanimous consent that the Ad Hoc Se-

lect Subcommittee on Maritime Education and Training of the Committee on Merchant Marine and Fisheries be allowed to sit when the House is in the Committee of the Whole under the 5-minute rule today.

The SPEAKER pro tempore (Mr. BOLLING). Is there objection to the request of the gentleman from Oregon?

There was no objection.

THIRD NATIONWIDE OUTDOOR RECREATION PLAN—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and together with the accompanying papers, without objection, referred to the Committee on the Interior and Insular Affairs:

To the Congress of the United States:

It is with pleasure that I transmit the third Nationwide Outdoor Recreation Plan to the Congress of the United States, as required by P.L. 88–29 (16 U.S.C. 4601–1(c). This Plan has been prepared by the Department of the Interior to address a number of current recreation issues, and assess the existing supply, demand, and opportunities associated with outdoor recreation in America.

The Plan was derived from a new planning process which maximizes public involvement and leads to specific actions. The rivers and trails directives issued in my 1979 Environmental Message are among the major decisions which originated with this Plan. Also included in the Plan are specific actions related to Federal land acquisition policy, environmental education, recreation access for the handicapped, and energy conservation. The Urban Parks and Recreation Recovery Program, which I proposed as one of my urban initiatives, is already helping to enhance close-to-home recreation opportunities, conserving energy while meeting basic recreation needs.

The challenge of enhancing recreation opportunity cannot be met by government action alone. New partnerships among all levels of government and the private sector will be required. New ways of combining resources from a variety of existing programs must be tested to meet our Nation's recreation needs.

JIMMY CARTER.

THE WHITE HOUSE, *December 11, 1979.*

CHILD HEALTH ASSURANCE ACT OF 1979

Mr. WAXMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4962) to amend title XIX of the Social Security Act to strengthen and improve medicaid services to low-income children and pregnant women, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. WAXMAN).

The motion was agreed to.

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. 4962, with Mr. VENTO in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole House rose on Thursday, December 6, 1979, section 4 had been considered as having been read and open to amendment at any point.

Are there any further amendments to section 4?

Mr. WAXMAN. Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

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

There was no objection.

The remainder of the bill reads as follows:

CHILD HEALTH ASSURANCE PROGRAM

SEC. 5. (a) Title XIX is amended by adding at the end thereof the following new section:

"CHILD HEALTH ASSURANCE PROGRAM

"SEC. 1913. (a) A child health assurance program under this section must assure the availability to each individual who is under the age of 21 and who is eligible under the State plan to receive medical assistance—

"(1) child health assessments in accordance with subsection (b),

"(2) the services prescribed by section 1902(a)(13)(iii), and

"(3) to the extent practicable, continuing care in accordance with subsection (c).

"(b)(1) Child health assessment under a child health assurance program shall include such services and procedures at such periods as the Secretary determines appropriate to determine the health status and identify the health problems of the individual being assessed. A child health assessment may be considered as provided under this section only if the assessment was provided by (A) a physician or other health care provider who enters into a written agreement (described in paragraph (2)) with the single State agency responsible for administering or supervising the administration of the State plan under this title (hereinafter in this section referred to as the 'State agency'), (B) a physician who does not enter into such an agreement but who certifies, in a claim made for the assessment, that the assessment was provided in accordance with the applicable requirements of paragraph (2) and that reasonable provisions have been made to meet the other requirements of such paragraph, or (C) a continuing care provider.

"(2) The written agreement referred to in paragraph (1) must provide, in accordance with standards established by the Secretary, that the provider agrees as follows:

"(A) To provide timely and appropriate child health assessments to individuals under the age of 21 and eligible under the State plan to receive medical assistance (such individuals hereinafter in this section referred to as 'eligible individuals').

"(B)(i) To provide directly to eligible individuals whom it has assessed such basic diagnostic and treatment services (including immunization against childhood diseases) as the Secretary shall specify in regulations, or

"(ii) to provide to eligible individuals whom it has assessed timely referral to other health care providers for the provision of the basic diagnostic and treatment services referred to in clause (i), and to (I) provide to such individuals followup services which (except with respect to followup services provided by physicians) insure the timely and appropriate provision of the services for which such a referral has been made, (II) enter into agreements with appropriate public agencies and nonprofit community-based agencies for the provision of such followup services, or (III) furnish to the State agency such information as that agency determines to be necessary to allow followup on the provision of needed services.

"(C)(i) To provide directly to eligible individuals routine dental care (as defined in section 1905(a)(4)(B)(v)), or

"(ii) To provide to eligible individuals whom it has assessed referral to a dentist, from a list provided by the State agency of dentists participating in the child health assurance program.

"(D)(i) To refer eligible individuals to appropriate providers for any corrective treatment the need for which is disclosed by an assessment but which is not available directly from the provider, and (ii) to (I) provide to such individuals followup services which (except with respect to followup services provided by physicians) insure the timely and appropriate provision of the treatment for which such a referral has been made, (II) enter into agreements with appropriate public agencies and nonprofit community-based agencies for the provision of such followup services, or (III) furnish to the single State agency that administers, or supervises the administration of, the State plan such information as that agency determines to be necessary to allow followup on the provision of needed corrective treatment.

"(E) To take responsibility for the management of the medical care of each eligible individual whom it has assessed and to assure that child health assessments are performed on a timely and periodic basis.

"(F) To be reasonably accessible on an ongoing basis to eligible individuals whom it has assessed in order to provide continuing medical care or to assure the continuing availability of medical care and services.

"(G) To make such reports (i) to the State agency as the agency determines to be necessary to assure compliance with the requirements of the agreement, and (ii) to the Secretary as he determines to be necessary to assure compliance with the requirements of the agreement.

"(3) As used in this subsection and section 1902(a)(42), the term 'health care provider' includes a physician, public health department, community health clinic or center, primary care center, migrant health center, facilities delivering ambulatory health services and operated by the Indian Health Service, health maintenance organization, day care or headstart program, rural health clinic, maternal and child health center, school system, and such other providers as may be specified by the Secretary by regulation.

"(4) Payment may be made under a State plan to a health care provider for the provision of child health assessments, and other medical care and services to children, under an agreement described in paragraph (2) notwithstanding the fact that the provider does not ordinarily bill other third-party payers for the provision of such assessments, care, and services.

"(c)(1) Continuing care services are the services described in subparagraphs (A), (B)(i), (C), (D), (E), (F), and (G) of paragraph (2) and primary and preventive care (including such care and services as the Secretary may specify by regulation). For purposes of this section a 'continuing care provider' is a health care provider who enters into an agreement with the State agency to provide, in accordance with regulations of the Secretary, continuing care services to a specific individual on a continuing basis.

"(2) States shall make payments for continuing care services in accordance with methods and standards meeting such requirements as the Secretary may by regula-

tion prescribe. The Secretary may establish minimum reimbursement levels (which may be uniform nationally or may vary by State or region), may permit payment based on a prospectively determined capitation rate, and payment on a periodic basis, and may permit or require other payment incentives.

"(d) In carrying out a child health assurance program under this section, the State agency (1) shall enter into arrangements with health maintenance organizations to provide services to individuals under that program who choose to have such services provided by such organizations, and (2) shall make payments to such organizations for such services at a rate not less than an amount determined by the Secretary to be 95 percent of the average expenditure for medical assistance to individuals under the age of 21 in such State.

"(e) The State agency shall prepare and keep current a list of dentists who agree to receive payment for services under the State plan approved under this title and shall provide to each health care provider who has entered into an agreement under subsection (b) or (c) the names of such dentists practicing in the area in which the provider is practicing.

"(f) The State agency shall assure the compliance of health care providers who have entered into agreements under subsection (b) or (c) or who have made a certification under subsection (b) with the terms of such agreements or certification.

"(g) The Secretary may by regulation require that all providers of child health assessments and other ambulatory health care services under this title to individuals under the age of 21 (or all providers within reasonable classifications of such providers) submit uniform reports and use uniform claim forms.".

(b) Section 1902(a) (as amended by section 3(e)(2)) is amended—

(1) by striking out "and" at the end of paragraph (40);

(2) by striking out the period at the end of paragraph (41) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(42) provide that the State will develop, with substantial public input, a plan for the implementation of a child health assurance program described in section 1913 which will meet the minimum level of acceptable performance established under section 1903 (r) and which will (A) identify and make provision for agreements with all qualified health care providers willing to enter into agreements described in subsection (b) or (c) of section 1913, (B) make provision for such terms (including terms of prompt payment and adequate reimbursement) as may reasonably be expected to elicit the involvement of health care providers in the child health assurance program, (C) assure coordination between State and local agencies participating in such program and other federally funded programs in the State providing health care services to children, (D) assure (through the allocation of a reasonable percentage of program funds and through the use, whenever possible and in accordance with regulations of the Secretary, of nonprofit community-based organizations) the provision of outreach to individuals and the provision of followup on the provision of needed care and services and scheduling for and provision of subsequent periodic child health assessments, unless the child health assessment provider or continuing care provider has assumed such responsibility, and (E) describe measures to be taken to reduce duplication of the well-child services provided by other than a health care provider with an agreement under subsection (b) or (c) of section 1913 with those services provided under such program.".

TREATMENT OF COPAYMENTS FOR CHILD HEALTH ASSURANCE PROGRAM CHILDREN AND MOTHERS

SEC. 6. Section 1902(a)(14)(A) is amended by inserting ", individuals described in clause (ii) or (iii) of paragraph (10)(A)," before "and individuals with respect to whom there is being paid".

CONTINUATION OF ELIGIBILITY

SEC. 7. Section 1902(e) is amended—

(1) by striking out "because of increased hours of, or increased income from, employment, shall, while a member of such family is employed, remain eligible" and inserting in lieu thereof "because of increased income or resources or increased hours of employment shall remain eligible",

(2) by inserting "(1)" after "(e)", and

(3) by adding at the end thereof the following new paragraphs:

"(2) Notwithstanding any other provision of this title, each State plan approved under this title must provide (A) that any individual under the age of 18 (or, at State option, any individual under the age of 19, 20, or 21) who becomes ineligible because of increased resources or income for medical assistance under the State plan shall, nonetheless, remain eligible for all medical assistance provided under the State plan to individuals under such age who are otherwise eligible for such assistance until the end of the 4-calendar-month period beginning with the month following the month in which the individual became ineligible or, in the case of any such individual with a condition which cannot be corrected through treatment but which can be controlled or stabilized through treatment, until the end of the 12-calendar-month period begining with the month in which the individual became ineligible, and (B) in the case of such an individual—

"(i) who, as certified by a physician or other qualified provider and additionally certified by another physician or other qualified provider, has a medical condition which existed on the date the child would but for this paragraph be ineligible for medical assistance and which can be corrected through treatment, and

"(ii) for whom a plan of treatment, including an estimate of its duration, has been submitted by the provider making the initial certification to the single State agency which administers or supervises the administration of the State plan,

for continuation of eligibility for medical assistance until such condition is corrected.

"(3) Notwithstanding any other provision of this title, each State plan approved under this title must provide that any pregnant woman who is eligible, has applied for, and has received medical assistance under this title and who becomes ineligible for such assistance because of increased income or resources shall, nonetheless, remain eligible for all such medical assistance provided under the State plan until the end of her pregnancy or if the pregnancy terminated as a result of a birth, miscarriage, or an abortion performed to save the life of the mother or to terminate a pregnancy resulting from rape or incest until the end of the 60-day period beginning on the date of the termination of her pregnancy and that any child born as the result of such pregnancy shall remain eligible for such assistance until the end of such period.".

FEDERAL MATCHING FOR CHAP PROGRAM

SEC. 8. (a) Section 1903(a) is amended—

(1) by inserting "subject to subsection (r)," in paragraph (2) after "(2)";

(2) by inserting "subject to subsection (r)," in paragraph (3) after "(3)";

(3) by inserting "subject to subsection (r)," in paragraph (6) after "(6)";

(4) by inserting "subject to subsection (r)," in paragraph (7) after "(7)";

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

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

"(7) an amount equal to 75 per centum of sums expended during such quarter which are attributable to outreach and followup services provided in accordance with paragraphs (41) and (42) of section 1902(a); plus".

(b) Section 1905(b) is amended—

(1) by striking out "(b) The term" and inserting in lieu thereof "(b)(1) Except as provided in paragraph (2), the term";

(2) by redesignating clauses (1) and (2) as clauses (A) and (B), respectively, and

(3) by adding at the end the following:

"(2) The Federal medical assistance percentage for child health assessments and for ambulatory services provided to an individual under the age of 21 with a current health assessment under a child health assurance program under section 1913—

"(A) in the case of child health assessments and such services provided to such an individual who is covered under an agreement described in section 1913(c)(1), is the lower of—

"(i) the Federal medical assistance percentage determined under paragraph (1) increased by 30 percentage points, or

"(ii) 95 percent; and

"(B) in the case of child health assessments and such services provided to such an individual who is not covered by such an agreement, is the lower of—

"(i) the Federal medical assistance percentage determined under paragraph (1) increased by 25 percentage points, or

"(ii) 90 percent."

(c) Section 1903 is amended by adding after subsection(q) the following new subsections:

"(r)(1) The amount required to be paid to the State pursuant to paragraphs (2), (3), (6), (7), and (8) of subsection (a) for administration of the State plan shall be adjusted as follows: For each two percentage points by which the level of performance of the State in implementing its child health assurance program under section 1913 exceeds the reasonable level of performance established under subsection (s)(1)(C) such amount shall be increased by 1 percent, except that such amount may not be increased by more than 25 percent. The Secretary shall by regulation provide for a procedure whereby a State agency may demonstrate to the satisfaction of the Secretary, with respect to any period, that it has achieved a performance level which entitles it to a higher amount than the amount determined by the Secretary.

"(2)(A) If the Secretary determines that a State has failed to have a child health assurance program which meets the minimum level of performance established under subsection (s)(1)(B), the Secretary shall notify the State of such failure and of the fact that the amount required to be paid to the State, with respect to each fiscal quarter beginning after the date of the notification, pursuant to paragraphs (2), (3), (6), and (8) of subsection (a) for administration of the State plan shall, except as provided in subparagraphs (B) and (C), be reduced by 20 percent of that amount until the State shows to the satisfaction of the Secretary that the failure with respect to which the reduction applies has been corrected.

"(B) If a State demonstrates to the satisfaction of the Secretary that the State intends to correct a failure established under subparagraph (A), he may withhold the imposition of a reduction under such subparagraph for a period of time (not exceeding six months) to allow the State to fully achieve the minimum level of performance. If, at the end of the period, the Secretary determines that the failure has been corrected, he may waive the imposition of the

reduction in whole or in part with respect to the period.

"(C) Any State dissatisfied with a determination of the Secretary under subparagraph (A) may, not later than 60 days after the date it was notified of the determination, file a petition with the Secretary for a review of the determination in accordance with procedures established by the Secretary. Such procedures shall provide that such review shall be conducted by an impartial party and shall be completed, and findings and a final determination made, not later than 180 days after the date the State filed its petition for such review.

"(s)(1)(A) The level of performance of a State in implementing a child health assurance program under section 1913 is measured by the ratio of—

"(i) the individuals under the age of 18 in the State who were covered under an agreement under section 1913(c) for the provision of continuing care services and who received, during the period under review, all necessary care and services covered under such agreement, and

"(ii) the individuals under the age of 18 in the State who were not covered under such agreement but who—

"(I) received, during the period under review, a timely child health assessment in accordance with section 1913(b) and received in a timely manner after such an assessment (as specified by the Secretary by regulation) any necessary medical care or treatment for conditions found during such assessment, or

"(II) were not due for an assessment and did not neet treatment for conditions found during an assessment,

to the total number of individuals under the age of 18 in the State during such period who were enrolled to receive medical assistance under the State plan approved under this title. In determining such ratio, a value of 1.2 shall be given to each individual in the State described in clause (i) and a value of 1.0 shall be given to each individual in the State described in clause (ii).

"(B) The minimum level of performance of a State in implementing a child health assurance program under section 1913 is a ratio (as determined under the last sentence of subparagraph (A)) of individuals in the State described in clauses (i) and (ii) of subparagraph (A) to the total number of individuals under the age of 18 in the State who were enrolled to receive medical assistance under the State plan approved under this title which is not less than 25 percent.

"(C) The reasonable level of performance of a State in implementing a child health assurance program under section 1913 is a ratio (as determined under the last sentence of subparagraph (A)) of individuals in the State described in clauses (i) and (ii) of subparagraph (A) to the total number of individuals under the age of 18 in the State who were enrolled to receive medical assistance under the State plan approved under this title which is at least 50 percent.

"(2) A determination of the level of a State's performance in implementing a child health assurance program under section 1913 shall be (A) conducted at least twice a year, and (B) determined on a random, statistically valid sample. The first sample shall be taken from data from the first 6 months of a State's implementation of section 1913. Each State will cooperate with the Secretary to provide access to documentation needed to make the sample.

"(3) The Secretary will annually report to Congress the actual level of performance (as measured under paragraph (1)(A)) of each State in implementing a child health assurance program under section 1913.".

(d)(1) The Secretary of Health, Education, and Welfare shall, on a continuing basis, make a study, on a State-by-State basis, of the ratio of individuals under the age of 21 enrolled to receive medical assistance under a State plan approved under title XIX of the Social Security Act to the number of individuals under the age of 21 in families whose income is not above the applicable nonfarm income official poverty line, as defined by the Office of Management and Budget and in effect under section 624 of the Economic Opportunity Act of 1964.

(2) Not later than eighteen months after the effective date prescribed by section 16(a)(1) of this Act, the Secretary shall report to the Congress (A) the results of the study under paragraph (1) of the first twelve months after such date, and (B) as determined by such results, the effectiveness of the performance standards prescribed by section 1903(s) of the Social Security Act as an appropriate measure of the performance of a State in providing necessary health care to individuals under the age of 21.

(3) If on the basis of the study under paragraph (1), the Secretary determines that the ratio of the number of individuals under the age of 21 enrolled in a State to receive medical assistance under a State plan approved under title XIX of the Social Security Act to the number of individuals under the age of 21 in families in that State whose income is not above the applicable nonfarm income official poverty line referred to in paragraph (1) is signficantly less than the average ratio of such individuals in all the States, the Secretary shall—

(A) require the State to submit a plan for outreach (as defined in section 1905(n)(1) of the Social Security Act), and

(B) if the State does not submit and implement a plan for outreach satisfactory to the Secretary, provide outreach (as so defined) in the State and deduct from payments to be made to the State pursuant to paragraphs (2), (3), (4), and (8) of section 1903(a) of the Social Security Act for administration of the State plan under title XIX of such Act 50 percent of the cost of providing the outreach.

(e) Any individual under the age of 21 who has been screened pursuant to section 1905(b)(4)(B) of the Social Security Act (as in effect on the date of the enactment of this Act) on a date before the effective date of the amendments made by this section shall, for purposes of section 1905(b)(2) of the Social Security Act (as amended by this Act), be deemed, in accordance with regulations established by the Secretary, to have had a child health assessment (as defined in section 1913 of the Social Security Act, as amended by this Act) on that date.

STATE MAINTENANCE OF EFFORT REQUIREMENT

SEC. 9. Section 1903 is amended—

(1) by striking out "(1) an amount" in subsection (a) and inserting in lieu thereof "(1) except as provided in subsection (t), an amount", and

(2) by adding after subsection (s), as added by section 8(c), the following new subsection:

"(t) If the Secretary determines that a State has taken an action, during a quarter beginning during the four-year period beginning on the date of enactment of the Child Health Assurance Act of 1979, which—

"(1) reduces the standard of income or resources for eligibility for medical assistance for individuals under the age of 21 below the applicable standards in existence on the date of the enactment of such Act, or

"(2) reduces the amount, duration, or scope of medical assistance (other than inpatient care and services) made available to individuals under the age of 21 below the applicable medical assistance available on such date of enactment,

the Federal medical assistance percentage for such State for child health assessments and for ambulatory services provided to an individual under the age of 21 with a current health assessment under a child health assessment program under section 1913 shall for such quarter be determined under section 1905(b)(1).".

CHANGE IN EFFECTIVE DATE OF AID TO FAMILIES WITH DEPENDENT CHILDREN PENALTY

SEC. 10. (a) No reduction in the amount payable to States pursuant to section 403(g) of the Social Security Act shall be made with respect to any quarter beginning before the effective date of final regulations pursuant to such section 403(g) published after January 1, 1979.

(b) Effective the first day of the first calendar quarter beginning at least six months after the date of the enactment of this Act, such section 403(g) is repealed.

(c) Section 402(a) is amended by adding after paragraph (16) the following new paragraph:

"(17) provide that the State agency shall inform all families in the State receiving aid to families with dependent children of the availability of child health assurance services under the plan of such State approved under title XIX;".

CLARIFICATION OF MEDICAID RESIDENCY REQUIREMENT

SEC. 11. (a) Section 1902(a)(16) is amended by striking out "who are residents of the State" and inserting in lieu thereof "who are determined to be living in the State".

(b) Section 1902(b)(2) (as amended by section 3(b)(2) of this Act) is amended by striking out "resides in the State" and inserting in lieu thereof "lives in the State (in accordance with standards established by the Secretary)".

(c) Section 1902(b)(3) (as amended by section 3(b)(2) of this Act) is amended to read as follows:

"(4) any citizenship requirement which excludes—

"(A) a citizen of the United States, or

"(B) an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law (including any alien who is lawfully present in the United States as a result of the application of the provisions of section 203(a)(7) or 212(d)(5) of the Immigration and Nationality Act)."

STUDY OF DUPLICATION OF SERVICES UNDER CHILD HEALTH PROGRAMS

SEC. 12. The Secretary of Health, Education, and Welfare (hereinafter in this Act referred to as the "Secretary") shall make a study to determine the extent to which Federal programs directly provide, or assist in meeting the cost of providing, to children and pregnant women the health services provided under title XIX of the Social Security Act. The Secretary is to complete the study and make a report to Congress not later than two years after the date of enactment. In the report the Secretary shall—

(1) specify the extent of the duplication between the programs under title V and XIX of the Social Security Act, make recommendations respecting the coordination and integration of services to children and pregnant women under such titles, and make recommendations for legislation to eliminate unnecessary duplication; and

(2) specify the extent of duplication between the program under title XIX of the Social Security Act and programs under other Federal laws, make recommendations for actions that should be undertaken by the States and the Federal Government to improve the coordination and integration of health services for children and pregnant women provided under such programs, and make recommendations for legislation to eliminate unnecessary duplication.

This section does not authorize the enactment of new budget authority.

STUDY AND DEMONSTRATION PROJECTS ON PROVIDER PARTICIPATION IN CHILD HEALTH ASSURANCE PROGRAM

SEC. 13. (a) The Secretary, directly or through grants to or contracts with public or private agencies or organizations, shall study and, to the extent he determines to be necessary, conduct demonstration projects in order to evaluate (1) the participation of health care providers in the child health assurance programs established pursuant to section 1913 of the Social Security Act, and (2) methods of improving their level of participation in such programs, especially programs in areas where there is a shortage of health care providers.

(b) The Secretary, directly or through grants to or contracts with public or private agencies and organizations, shall develop and carry out experiments and demonstration projects designed to determine the effect of payment on a capitation basis for child health assessments and other services provided under child health assurance programs established pursuant to section 1913 of the Social Security Act upon the level of participation and performance of such providers in these programs.

(c) In the case of projects under this section, the Secretary may waive compliance with the requirements of title XIX of the Social Security Act, including those requirements which relate to methods of payment for services provided, to the extent and for the period he finds necessary to enable States, agencies, or organizations to carry out such projects. Costs incurred in such projects in excess of those which would otherwise be reimbursed or paid under such title may be reimbursed or paid to the extent that such waiver applies to them (with such excess being borne by the Secretary, under such terms and conditions as he may establish). Grants and payments under contracts made for such projects may be made in advance or by way of reimbursement, and in such installments and on such conditions as the Secretary finds necessary to carry out the purpose of this section.

(d) The Secretary shall submit to Congress, not later than October 1, 1983, a report on the studies and projects conducted under this section, including such findings, conclusions, and recommendations as he deems appropriate.

(e)(1) The authority by the Secretary to enter into contracts for studies, demonstration projects, and experiments under this section shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

(2) This section shall take effect on October 1, 1980.

STUDY AND REPORT ON EFFECTIVENESS OF HEALTH ASSURANCE PROGRAM

SEC. 14. (a)(1) The Secretary shall conduct or arrange (through grants or contracts) for the conduct of an ongoing study of the effectiveness of the child health assurance program under section 1913 of the Social Security Act. Not later than two years after the effective date prescribed by section 16(a)(1) and each two years thereafter, the Secretary shall report to Congress the results of the study and include in the report (1) the effect of preventive and primary care services on the health status of individuals under the age of 21 assessed under such program, (2) the incidence of the various disorders identified in assessments conducted under the program, and (3) the costs of identifying, in such program, such disorders.

(2) The authority of the Secretary to enter into contracts under paragraph (1) shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriations Acts.

(b) For the fiscal year ending September 30, 1981, and for each fiscal year thereafter there are authorized to be appropriated for purposes of carrying out subsection (a) an amount equal to one-eighth of 1 percent of the amount appropriated in the preceding fiscal year for payments to States under title XIX of the Social Security Act for the provision of ambulatory services for individuals under the age of 21.

CONTINUING MEDICAID ELIGIBILTY FOR CERTAIN CHILDREN PLACED IN CERTAIN JUVENILE INSTITUTIONS

SEC. 15. (a) Section 1905(a) is amended by inserting "and in subsection (o)" after "except as otherwise provided in paragraph (16)" in the matter before subdivision (A).

(b) Section 1905, as amended by section 3(e)(1) of this Act, is further amended by adding after subsection (n) the following new subsection:

"(o)(1) Notwithstanding subdivision (A) of subsection (a), a State may include, in its plan for medical assistance under this title, payments with respect to care and services for an individual under 21 years of age while the individual is an inmate of a public institution for juveniles if—

"(A) the individual, on the day before he became an inmate of the institution, was eligible for medical assistance under the State's plan, or

"(B) the family which the individual resided (on the day before he became an inmate of the institution) was eligible for medical assistance under the State's plan or would be eligible for medical assistance under the State's plan if the individual was still residing with the family.

"(2) Notwithstanding paragraphs (10) and (14) of section 1902(a), an individual for whom payment for care and services is provided under paragraph (1) shall be treated under the plan, with respect to the amount, duration, and scope of medical assistance and to fees, premiums, deductions, cost sharing, and other charges—

"(A) in the case described in paragraph (1)(A), in the same manner as the individual was treated on the day before he became an inmate of the public institution, or, in the case of such an individual who was eligible for but not provided medical assistance on that day, would have been treated if provided medical assistance on that day, and

"(B) In the case described in paragraph (1)(B), in the same manner as the individual would otherwise be treated if still residing with his family.".

EFFECTIVE DATES

SEC. 16. (a)(1) Except as otherwise provided in this section, the amendments made by this Act shall apply to medical assistance provided, under a State plan approved under title XIX of the Social Security Act, on and after the first day of the first calendar quarter beginning at least six months after the date of the enactment of this Act or July 1, 1980, whichever comes later.

(2) In the case of any State plan, for medical assistance under title XIX of the Social Security Act, which the Secretary determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by this Act, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

(b) The amendment made by section 3(b)(1)(E) (relating to establishing eligibility for hard-to-adopt children) shall only apply to individuals placed for adoption on or after the date of enactment of this Act.

(c)(1) Subsection (r)(1) of section 1903 of the Social Security Act (as added by section 8(c) of this Act) shall take effect with respect to the first calendar quarter beginning at least fifteen months after the date of the enactment of this Act.

(2) Subsection (r)(2) of section 1903 of the Social Security Act (as added by section 8(c) of this Act) shall take effect with respect to the first calendar quarter beginning at least twenty-seven months after the date of the enactment of this Act.

(d) The amendments made by sections 11 (relating to clarification of medical residency requirement) shall take effect on the date of the enactment of this Act.

(e) The amendments made by section 15 shall apply to medical assistance provided, under a State plan approved under title XIX of the Social Security Act, on and after the first day of the first calendar quarter beginning at least six months after the date of the enactment of this Act.

(f) The Secretary shall first establish final regulations to carry out the amendments made by this Act not later than six months after the date of the enactment of this Act.

AMENDMENT OFFERED BY MR. BAUMAN

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

The Clerk read as follows:

Amendment offered by Mr. BAUMAN: On page 40, after line 16, insert the following new section and renumber the remaining section accordingly:

"SEC. 16. Title XIX of the Social Security Act is amended by adding at the end thereof the following new section:

" 'PROHIBITION

" 'SEC. 1914. None of the funds authorized to be appropriated under this title shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term: *Provided however*, That nothing in this title shall be construed to require any State funds to be used to pay for any abortion.' "

Mr. BAUMAN. Mr. Chairman, the amendment now pending before us simply extends to the whole of title XIX the so-called Hyde amendment language which was earlier adopted in the committee considering this bill as it pertained to the provisions of the CHAP program. It also very importantly negates certain lower Federal court decisions which have taken the position that the Hyde amendment language attached to HEW appropriation bills somehow should serve as a prohibition against the various States of the Union enacting more restrictive language regarding abortions. In a number of these cases, the courts have simply said that the Hyde amendment serves as a Federal restriction only and, in effect, the States must provide more liberal funding because of other requirements in title XIX.

I would call attention, for instance, to the case of Planned Parenthood against Rhodes handed down in September of this year ruling on that title of the Social Security Act in which the court said about the Hyde amendment language on the HEW appropriation bill:

The amendment states that "none of the funds provided for in this paragraph shall be used—

Meaning Federal funds—

to perform certain abortions; nothing more or less is done than to forbid the Secretary of HEW to use the Federal funds so appropriated for those abortions."

Then the court presented the problem:

There is no hint in this language that the obligations of the states under title XIX has been changed.

I can attest as one of those supporting the Hyde amendment language throughout its deliberations and adoption in recent years that the intention has been from the beginning to restrict Federal funding and not in any way to place burdens upon the rights of the States; so the amendment that I am presenting today to title XIX of the medicaid statute simply is a States' rights amendment. It does not in any way say that the States may not permit abortions. If I had my own way, I would present such language and would hope that it would be passed, but I doubt seriously that it would but what the amendment does say that any State that wishes to curtail the funding of abortions with their own funds may have the right to do so under the title, notwithstanding the decisions of these courts.

I would hope that the gentleman from California (Mr. WAXMAN) and other members of the committee could support this, because only last week when the gentleman from California (Mr. DANNEMEYER) offered an amendment that dealt with parental consent, the gentleman from California pointed out that he was opposed to that amendment and the gentleman gave this reasoning:

This is a matter that is now left to state government decision in decision-making. Different states have decided to emancipate minors at different levels and under different circumstances. I think it is presumptuous of us here in Washington to tell each state what they ought to have as the age of emancipation.

Well, that is the same argument that I am making. I think it is presumptuous of the lower Federal courts to misinterpret the intent of Congress in such a way as to prevent State legislatures from enacting restrictive language against abortions.

I would point out that there are numerous cases now covering various States of the Union, in California, Georgia, Illinois, Massachusetts, Minnesota, New Jersey, Ohio, Virginia, and West Virginia, that have already been passed upon and then have misinterpreted the law.

This amendment will offer a clear chance for the House to both reaffirm its support for the principle that no Federal funding of abortions should occur, as well as for the support of the principle that each State may make its own decision and if they decide not to fund abortions, that is their absolute right.

I urge support for the amendment.

Mr. WAXMAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, contrary to the expectations of the gentleman from Maryland, I do oppose this amendment and I do not find that position inconsistent with my views on the rights of the States to act where it is appropriate for them to act.

I, however, do believe that there are some areas where government, State or Federal, ought not to interfere and one of those areas is the medical decision that is the province of the physician and the physician's patient. For that reason alone I would oppose the amendment; however, I also have some questions about why we need this amendment in light of the amendment sponsored by Mr. VOLKMER that we adopted when the bill was last in the Committee of the Whole. If I might I would like to address some questions to the gentleman from Maryland, so I might have a clarification of what the gentleman's amendment does.

If the gentleman would respond to me, I would like to know what the language means that says:

Provided, however, That nothing in this title shall be construed to require any State funds to be used to pay for any abortion.

□ 1250

I would like to have an explanation of what that means. Does that mean, for example, that a State could not be required to pay for an abortion where the life of the mother is endangered?

Mr. BAUMAN. Mr. Chairman, if the gentleman will yield, it means that each State of the Union would have the independent power through its legislature to determine what rules would in fact apply to abortions within that State. That, as I indicated in my remarks in support of the amendment, is the concern I addressed since several Federal courts have called this right into question.

If the State legislature wished to pass a ban against all abortions, including even the life-of-the-mother language, it would be the right of that State to do so. I am not aware of any State when an absolute ban has so far been adopted.

Mr. WAXMAN. In other words, then, this goes beyond even what the Hyde amendment would have had us require?

Mr. BAUMAN. Mr. Chairman, if the gentleman will yield, it does not necessarily go beyond the Hyde amendment. It allows the States to enact more restrictive language if they wish. It does not mandate it.

Mr. WAXMAN. Mr. Chairman, if I may reclaim my time, the amendment offered by the gentleman from Missouri (Mr. VOLKMER) that we adopted provided that Federal funds could not be used under the medicaid program for abortions except abortions to save the life of the mother. Now the gentleman is saying that even though the medicaid program might provide Federal matching funds to pay for an abortion under those very limited circumstances, a State still may not go along with that policy, and could pay for no abortions under their medicaid program at all.

That is what the gentleman's amendment language would add to that amendment, is it not?

Mr. BAUMAN. Mr. Chairman, if the gentleman will yield, I am not saying the States should not have to go along with the Federal requirement. I am saying they would have a right to enact the Federal requirement as their State rule or a more restrictive requirement—or they might also pass a much more liberal law for abortion funding.

Mr. WAXMAN. Mr. Chairman, reclaiming my time, let me say to the members of the committee that I think this amendment is superfluous, unnecessary, and potentially harmful.

We have already adopted an amendment which I vigorously opposed—it was adopted nevertheless by the House—to restrict Federal payment for medicaid abortions only to save the life of the mother, and for no other reason. As I understand it, that is what we have done in our action in the last meeting when we met in the Committee of the Whole.

I think for us now to go beyond that is unnecessary and contrary to the basic purpose of the medicaid law, which is to take care of the medical problems of poor people. The medically necessary problems may under certain circumstances be such as to require an abortion to save the life of the mother, and a State could prohibit what would otherwise be funded under the law.

So, Mr. Chairman, I urge the Members to oppose this amendment.

Mr. CARTER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I strongly oppose this amendment. The first part appears to be redundant because the Volkmer amendment was adopted, and I see no use in our going down this road again.

Further, it seems to me that the gentleman intends that the States should not pay for necessary medical abortions to save the life of the mother. That seems to be the intention, not to save the life of the mother if it would be endangered if she carried the fetus to term.

I cannot go along with that, and I do not believe many Members of this House can either.

Furthermore, the language of the bill regarding abortion has been made too restrictive already, and this would make it even more so.

Mr. Chairman, I ask the House to use its own good judgment and to vote down this amendment.

Mr. HYDE. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I would point out to my brother, the gentleman from Kentucky, that this amendment does not impose an obligation on the States to fund abortions or not to fund abortions. It frees up the States.

This amendment says that what we do here now does not mandate that the States do anything. If the States want to fund abortions on demand, they may do so insofar as this amendment is concerned.

This is a States' rights amendment. This is an amendment that says to the States, "You are free to legislate in this area and not be bound by what the Federal Government has done."

I should think that anyone who believes in our Federal system would resent what the Federal courts have been doing in imposing duties on States to fund abortions because of something we have done here. This eliminates that ambiguity. This eliminates the imposition of a Federal standard on States.

I am for States' rights, and I think this is a necessary amendment because it reverses what I preceive to be a misinterpretation of legislative intent.

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

Mr. HYDE. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, I have asked the gentleman to yield only so I can get his comment as the author of the original Hyde amendment language.

As the gentleman knows, I refer to a number of Federal court cases that have been handed down in the last year, particularly one in Ohio, in which the courts interpreted the Hyde language to restrict the right of the States to pass antiabortion language that is stricter in content than the Federal law.

I will ask the gentleman, was that in fact ever the intention of that language?

Mr. HYDE. Certainly not.

Mr. BAUMAN. In other words, it was, as I understood it, the intention of the language to permit States to enact legislation consistent with their own wishes, whether more or less restrictive, to govern the funding of abortions?

Mr. HYDE. Absolutely. It seems to me the Federal legislative process ought to control the Federal purse strings, and the State funds ought to be controlled by the State legislatures.

For the courts to say that, when the Social Security Act was passed or this title was passed, in 1963 or 1965, and since in the preamble the words, "medically necessary," are found at a time when abortions were a crime in most of the States of this country at the time that this basic statute was passed, somehow or other that mandates the States to fund abortions, even though we in the Federal Government have said we will fund no abortions except to save the life of the mother, is ridiculous.

So, Mr. Chairman, this amendment offered by the gentleman from Maryland (Mr. BAUMAN) clarifies this issue and says we are not imposing on the States any mandate on the issue of abortion.

Mr. BAUMAN. Mr. Chairman, if the gentleman will yield further, I just want to answer one point made by my colleague, the gentleman from Kentucky (Mr. CARTER).

This amendment in no way negates the exception for abortion in a case where the life of the mother is endangered. That is not the intention.

I have supported the life-of-the-mother concept since the Hyde amendment was first adopted.

Mr. Chairman, that is a misinterpretation of my intent in offering the language. It simply allows the States to use their own judgment.

Mr. HYDE. Mr. Chairman, I think if the Members will read the language of the amendment, they will find that is eminently clear.

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

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

Mr MARKS. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Chairman, I thank the distinguished gentleman for yielding.

If I misinterpreted the remarks of the gentleman from Maryland (Mr. BAUMAN), it certainly was unintentional. However, I believe that it should be plainly understood that this amendment would permit States not to pay for medically necessary abortions to save the life of the mother.

I am strongly opposed to abortion on demand, and I would call attention to the recent Supreme Court decision. I do not agree with it, and as a physician I never engaged in abortions.

But in many cases abortion becomes necessary. I would present this circumstance to the gentlemen in this area—and I would direct this to the gentlewomen of the House—and I would say this: "If you had a daughter who was a victim of rape, I know exactly what you would do." And I do not exclude my congenial brother, the gentleman from Illinois.

I say this: "I believe you would take her right to a doctor and have a saline solution injected to stop the possibility of pregnancy."

Mr. HYDE. Mr. Chairman, will the gentleman yield to me on that point?

Mr. CARTER. Mr. Chairman, it is not my time, but if the distinguished gentleman would answer the question, I would ask my good friend, the gentleman from Pennsylvania (Mr. MARKS), to yield.

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

Mr. MARKS. I am pleased to yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I appreciate the gentleman's yielding.

Mr. Chairman, I would say to my dear friend, the gentleman from Kentucky, that I would hope to Heaven that I am never in that situation, but if my daughter were to be raped and were not to report it promptly, as I would wish she would, and were to consult me, I would hope to be supportive and not kill her unborn child, no matter how tragically the circumstances of its being placed there were. I say that because I do not believe two wrongs make a right.

I would hope that that would be my attitude, and I would just suggest that the gentleman is on unsure ground when he predicts how I would act under the circumstances.

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

Mr. MARKS. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Chairman, I would say in answer to that that I certainly do not condone killing in any manner.

I do believe that it is necessary at times to permit abortion in the case of saving the life of the mother or in the case of incest or rape. I make no excuse for saying that, not at all.

Mr. Chairman, I strongly oppose the present amendment.

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

Mr. MARKS. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I thank the gentleman for yielding, and I wish to make just one final comment on this very difficult subject.

Ethel Waters, a great lady of the theater, recently died when she was in her eighties. In her autobiography, "His Eye Is on the Sparrow," she points out that she was conceived by an act of rape when her mother was 12 years old. "And," she said, "they are naming a park in Pennsylvania after me today."

So, Mr. Chairman, I simply suggest to the gentleman that even out of that great tragedy some good did result.

□ 1300

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

Mr. MARKS. I yield to the gentleman from Kentucky.

Mr. CARTER. I say that that might occur one out of a million times. But I want to say distinctly that it is my strong belief that the vast majority of the Members in this House, if they were confronted with such a situation, in which one of their daughters was raped, then they would immediately take that child to a physician and have her treated so that she would not bear an unwanted child.

Mr. WAXMAN. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. Without objection, the gentleman from California (Mr. WAXMAN) is recognized for 5 minutes.

There was no objection.

Mr. WAXMAN. Mr. Chairman, the only thing this amendment adds to what we have already adopted in the Committee of the Whole is to provide for the possibility of States to not even provide for abortions to save the life of the mother.

The last time we met, the proponent of the Hyde amendment, the gentleman from Illinois, suggested that there is a justification in his mind for abortion for the very narrow purpose of saving the life of the mother, because then it is a question of one life as opposed to another life.

But now what we are being told is that we are going to leave open the possibility that a State will not pay for the abortion to save the life of the mother, even. I think we ought to realize that that is how far we are going in adopting this extra amendment over and above the Hyde amendment.

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

Mr. WAXMAN. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I assert in the strongest possible terms that that is not the intention of the amendment offered by the gentleman from Maryland. If you read the amendment carefully, it just says what we do here does not mandate the States to pay for abortion.

Mr. WAXMAN. Mr. Chairman, if I may reclaim my time, there is language that says that nothing in this title shall be construed to require any State funds to pay for any abortion.

If the gentleman from Maryland were willing to say that States would not be required to pay for any abortion except where the life of the mother is endangered, then we would be in a situation where the States would be paying for at least those necessary abortions, and that would be a way of putting us to where we were when the Hyde amendment was adopted on this bill.

But I think when we say "shall not require the States to use funds to pay for

any abortion," we are saying that the State may choose not to even pay for an abortion to save the life of the mother.

Mr. HYDE. If the gentleman will yield further, I would suggest that if a sovereign State, one of the 50 sovereign States of this country, wants to so legislate, we should give them the freedom to do so and let the courts handle questions of constitutionality. We should not impose standards on the States.

Mr. WAXMAN. Reclaiming my time, I think that this is a harmful amendment, it ought to be defeated, and I urge my colleagues to vote against it, even my colleagues who feel that we ought to have the Hyde amendment in the law, which is a belief contrary to my own feelings. For those colleagues who want this right-to-life amendment in the law, you have it in the law now by virtue of the action already taken last week. Let us not take away this additional protection for saving the life of the mother and have the State take away the opportunity for a woman to have an abortion even under those narrow circumstances.

Mr. BAUMAN. Mr. Chairman, I ask unanimous consent to speak again on the amendment.

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

There was no objection.

The CHAIRMAN. The gentleman from Maryland is recognized for 5 minutes.

Mr. BAUMAN. Mr. Chairman, I do not want to prolong this debate, but I will not permit a misinterpretation of my amendment under the guise of trying to defeat it.

The amendment is very clear. It restates the Hyde amendment language including the life-of-the-mother exception, as it governs Federal funding of abortions. It then says that each State has the right to act for itself and impose any restrictions that it may wish, whether it wants to pay for all abortions or to pay for no abortions. That should be the right of the State.

This amendment grows out of a whole series of recent Federal lower court decisions that have misinterpreted the Hyde amendment to say that the States have no right to determine how they shall spend money for abortions, that they must in fact fund all medically necessary abortions, many more than the Hyde amendment permits.

So this is in no way more restrictive. It prevents wholesale abortions now occurring under lower court Federal edicts, and that is the only issue.

Mr. Chairman, I would hope that the amendment would be adopted.

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

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

Mr. WAXMAN. Mr. Chairman, I in no way want to misinterpret the gentleman's amendment. I think his statement about what his amendment does is correct. I think that is why we ought to defeat it. I think it takes away the right of a woman whose life may be saved by an abortion from requiring the State to have that procedure go forward under the medicaid program. The gentleman wants that. I do not. I would think that we have already spoken to the question of the right to life.

Mr. BAUMAN. Mr. Chairman, the gentleman from Maryland will state, and I do not know how many times I have to state this to the gentleman, that I do not wish to impose on any State a law that says the life of the mother shall not be an exception when abortion money is available. I think that is a situation in which a life versus a life. That is perfectly correct in order to save the mother's life. I am not arguing that. The gentleman keeps repeating his version of my intent in the amendment. My only intent is to reverse the court decisions that are misinterpreting Federal law and are permitting wholesale abortions because they wiped out all restrictions the States placed on abortion funding with their own funds, and that simply is what my amendment does.

The gentleman from California has been proabortion from the beginning, and frank about that, and that is his position. I have been for the right to life from the beginning, as the majority of this House has.

Mr. WAXMAN. If the gentleman will yield, the gentleman is prochoice, not proabortion.

Mr. BAUMAN. When an unborn child is being killed, abortion is not much of a choice for the child, I will say.

Mr. WAXMAN. If the life of the mother is being sacrificed, then it is no choice either.

Mr. BAUMAN. The gentleman from Maryland has made his position clear on that exception as well.

The issue is clear: proabortion or prolife. Those who support the right to life should vote for this amendment so that the same right-to-life protection will be provided at the State level as we have at the Federal level.

Mr. Chairman, I urge a vote for the amendment.

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

Mr. Chairman, the thing that I find hard to understand in the debate that is going on here now is that I guess what is being suggested is that the States would basically have the right of denying something that the Federal law that we have enacted in this House, the Hyde amendment—which I also oppose but which nevertheless has been approved by the House—the State shall have the right of reversing the Hyde amendment. It seems to me, if we are going to apply this to the abortion issue, then perhaps all of the legislation that we pass that gives States or directs that certain programs take place should then be put up to one more vote in each State to say, "Then the State would have the right of either doing what the Federal Government has suggested or what the Congress has enacted, or not doing it."

I would suggest that if we follow this procedure in all of the legislation, we are going to end up with no laws at all that are workable, and we are going to end up in a perfectly horrible situation.

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

Mr. PEYSER. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, the gentleman from New York makes a good point, but it does not apply to this situation because the amendment that I am offering only goes to the expenditure by the States of their own funds for abortions. It would not in any way change the Hyde amendment restrictions for Federal funding of abortions. That is the distinction that has to be made.

Mr. PEYSER. Mr. Chairman, I appreciate the gentleman's statement. It sets in motion and sets in being in this House a whole new method of looking at legislation, and I would think that this would be, no matter how you stand on abortion, if you support the Hyde amendment, then I would vote against this amendment, because I think this amendment runs counter to what the House has expressed before in supporting the Hyde amendment. It is an amendment that sets a precedent in giving States additional rights dealing with Federal legislation, which I think is a total mistake, and let us defeat the amendment.

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

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

Mr. GREEN. I yield to the gentleman from Kentucky.

Mr. CARTER. I thank the gentleman for yielding.

Mr. Chairman, in response to my friend, the gentleman from the great State of Maryland, I want to say that I am prolife. I am prolife of the mother. In cases where the mother's life is threatened, then we have no choice. All my life we have been faced with propositions such as this. It was brought up as a religious matter years and years ago, as to whether the mother's life should be saved or whether the fetus would be sacrificed. That is a regrettable choice. I certainly do not like the language which says that you are killing someone, or something of this nature. It is regrettable. It is awful that abortion is necessary sometimes. But sometimes, to save the life of the mother, it is absolutely necessary. I think that this should be followed in every State in our Union.

□ 1310

Really I go further than some of them. I believe strongly, as I said before, that in case of incest or rape I would not require a young child to carry her child to term. In the case of incest, this is a secret kept tightly in the closet. These young women go around bowing closely, as I have often seen and as my good friend over here has seen them, keeping this a secret, that they have been violated by someone within their own family. When it comes time that this situation is found out—something must be done.

I stick by my position. I strongly oppose the amendment of the distinguished gentleman from Maryland. I believe that these cases should be certainly reported to authorities as quickly as possible, and really, this is not viable from conception to 3 months. I strongly oppose the amendment.

Mr. GREEN. I want to thank the distinguished ranking minority member for

his contribution to the debate. I believe that the House should listen to the experience of the ranking minority member, because he has had to face these kinds of issues professionally; and I think there is a great deal of learning to be gained from his experience.

I believe it is most regrettable that those who seek to impose their wills upon the poor women of this nation have used CHAP as a vehicle to restrict further the availability of medicaid-funded abortions.

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

Mr. GREEN. I yield to the gentleman from Illinois.

Mr. HYDE. I thank the gentleman for yielding.

I agree. There is a great deal to be learned from the experience of the gentleman from Kentucky (Mr. CARTER), or the experience of the gentleman from Texas (Mr. PAUL), who takes an opposite position from the gentleman from Kentucky (Mr. CARTER.)

But I simply say that under the amendment of the gentleman from Maryland, a State is free to pay for abortions on demand. A State would be free to pay for abortions on request, and so the amendment is being totally misread. I hope not intentionally.

Mr. GREEN. I reclaim my time, and yield to the gentleman from Kentucky (Mr. CARTER.)

Mr. CARTER. I would say this is simply a facade that has been placed up by some of our good friends, who for some reasons oppose abortion even to save the life of the mother.

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

Mr. Chairman, I think there is a lot of confusion concerning the debate of this particular amendment. The fact of the matter is that the reason we have this amendment is that the courts have done for a long period of time what they ought not to do. They have tortured the language of the legislation passed in this House to say that it does something that we never intended it to do. That is the precise reason for this amendment. It is because the courts have previously taken it upon themselves to interpret the Hyde amendment to suggest that somehow that amendment put restrictions on States in making the decisions as to how they should spend their funds. That is the sole purpose of this amendment.

Look at the amendment. Read the language. It does nothing whatsoever to restrict the expenditure of Federal funds which are covered by the language that we have already placed in the bill.

Someone suggested at the beginning of this debate that this amendment was redundant. It would be redundant if we did not have the track record, the experience of Federal courts going in and saying because the Federal Government has spoken with respect to the way Federal funds should be spent, that therefore means that the States are precluded from speaking as to how State funds should be spent. It is a complete distortion of the Federal process. It is a complete distortion of federalism. It totally ignores any semblance of States' rights, and that is all this amendment responds to.

To suggest that this amendment precludes the expenditure of Federal funds for the performance of an abortion to save the life of the mother is to misread the amendment totally and is to unconsciously misinterpret the effect of this amendment.

If we truly believe that States have any right to say how their funds ought to be spent, then this amendment is not extreme. This amendemnt is necessary only to undo what the Federal courts have been doing, in what amounts to an unconstitutional fashion. The previous court actions have truly interfered with the right of legislators to represent the people who have elected them and to spend the funds that the legislatures receive as a result of their own taxation. That is it simply.

Let us not have the confusion of the issue to say that this somehow undoes what we have already done by accepting the Volkmer amendment. It goes to a different point, a point required because of the action of the Federal courts in recent years.

Mr. PAUL. Mr. Chairman, I rise in support of the Bauman amendment.

Mr. Chairman, I would like to address a few of the comments from my doctor colleague from Kentucky.

It has been mentioned many times on the floor about the need for doing abortions in order to save the life of the mother.

I believe I am even more qualified than the gentleman from Kentucky (Mr. CARTER), having been an obstetrician and gynecologist in private practice for more than 12 years and having delivered thousands and thousands of babies. I had a large practiced and am quite familiar with this problem.

During this time in private practice, I never had a patient come to me who required an abortion for the purpose of saving the life of the mother. This does not mean that theoretically and under some rare circumstances, for instance a woman with cancer that needs to be treated, that such would not be the case. But this amendment does not preclude that kind of treatment. I think that using the argument that the life of the mother has to be preserved to defeat this amendment does not make any sense at all.

During this same 12 years in practice, I never had a patient who was pregnant by incest or by rape. This does not mean, of course, that it does not happen, but it is very, very rare; to establish law based on this infinitesimally small number and to use this to give an endorsement to wholesale abortion, I think, is very wrong.

The other thing is that those individuals who do come for abortion for rape and incest, and if these are legitimate cases, they will arrive in the doctor's office shortly after the episode. Usually they can come, or there is no reason in the world why they cannot come, within hours or days, and medications or a D and C can be used to prevent the pregnancy from occurring.

Therefore, I do not see the justification for wholesale abortions based on these few rare examples. They are nothing but concocted reasons to justify wholesale abortions.

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

Mr. PAUL. I yield to the gentleman from Kentucky.

Mr. CARTER. I thank the gentleman for yielding.

The gentleman stated that he would condone dilatation and curettage of the womb. The gentleman mentioned that, I believe. That in itself in an abortion when there is a fertilized ovum in the womb.

Mr. PAUL. No. If I may reclaim my time, because I do not think that——

Mr. CARTER. Did the gentleman say it?

Mr. PAUL. If the gentleman is going to get into why there are delays in seeing an M.D. only, that is a different story. Immediately after intercourse, with given medication such as estrogens, prevention of implantation can be accomplished. There is no way there can be an implanted pregnancy at this time.

Therefore, one is not doing an abortion.

I think the gentleman is picking on wild little details that just are not true. I see no reason in the world why we cannot endorse and pass the Bauman amendment.

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

Mr. PAUL. I yield to the gentleman from Maryland.

Mr. BAUMAN. I want to make one additional point that apparently perhaps has been neglected.

The Federal courts in these recent rulings have not just said their interpretation of the Hyde amendment is the standard to be applied to the States. They have gone further. They have looked to other language in title XIX that says the State must supply medically necessary services and interpreted that together with the Hyde amendment as saying the State must in fact provide funding for all abortions, even if the Federal Government does not.

They have misinterpreted the law in the proabortion direction. So this amendment is an attempt to prevent what is obviously a complete distortion of congressional intent.

Mr. PAUL. I think our main problem when we examine this problem of abortion is that we always look at it and deal with it as if we were considering only the day after conception. It should always be looked at and considered as the day before birth. None of us here in the Congress condones infanticide. We do not condone the killing of a new infant, yet abortion the day before birth is the same principle as early abortion, because all the time, every day of our lives, as doctors we are learning new and better techniques for keeping the premature babies alive; so whether or not we deal with it, that day before birth, is permanent. This is what we should really be concerned about; whether or

not we believe in protecting the life of an infant the day before birth.

□ 1320

The CHAIRMAN. The time of the gentleman from Texas has expired.

(At the request of Mr. PEYSER and by unanimous consent, Mr. PAUL was allowed to proceed for 2 additional minutes.)

Mr. PEYSER. Will the gentleman yield to me further?

Mr. PAUL. I yield to the gentleman.

Mr. PEYSER. One thing the gentleman said I find hard to really believe he means; he said there is so little rape and incest that we are making all of these changes just to satisfy an infinitesimal percentage, I think that is the language the gentleman used. I would hope that is not the basis of the gentleman's thinking though, because for those very few that may be involved, and whether nationally it runs into thousands a year, I have no idea, but there is nothing that could be more important to the survival of those young people, if there are children that are involved, than having that right at least of the choice and not having it denied by the States or the Federal Government.

Mr. PAUL. My point is that I think there is less sincere concern for the victims of rape and incest than there is a desire to have wholesale abortion.

Mr. DANIELSON. Mr. Chairman, I move to strike the last word.

I wonder if the distinguished gentleman from Kentucky, Dr. CARTER, would be willing to respond to some inquiries?

Mr. CARTER. I am happy to do so.

Mr. DANIELSON. A little bit ago when the last gentleman was in the well. I heard the gentleman say, in substance and effect, that if a young lady were to come to a doctor within a few hours or few days that there could be some treatment by medication or by a DNC. I am a layman. I do not know what that means. The gentleman is a distinguished medical doctor. Would he be kind enough to explain to me and perhaps to some of my colleagues what this procedure of medication would be, and what in the world is a DNC. It is not the Democratic National Committee, I know that.

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

Mr. DANIELSON. I yield to the distinguished gentleman.

Mr. CARTER. The latter is a D. & C., which is a dilation and curettage, which is nothing more than abortion when a women has been impregnated. That is exactly what it is.

Mr. DANIELSON. It is sort of a soft way of saying abortion?

Mr. CARTER. It is nothing but an abortion. I would say to my good friend that I certainly am not for wholesale abortion.

Mr. DANIELSON. What would be the purpose of giving a young lady a medication a few hours or few days after the impregnation?

Mr. CARTER. This would be to cause her to expel the fertilized ovum from the uterus.

Mr. DANIELSON. Some people would call that a miscarriage, I assume. Is that right?

Mr. CARTER. Yes, sir.

Mr. DANIELSON. If induced externally, could that be characterized as an abortion?

Mr. CARTER. That is exactly right. I would answer my good friend and say that he is correct.

Mr. DANIELSON. If the gentleman would be kind enough to respond again, I believe I heard the last gentleman in the well make frequent references to wholesale abortions. Again. I am a layman. I know the difference between retail and wholesale when it comes to buying things like shoes and ice skates and the like. But what in the world was the gentleman talking about when he referred to wholesale abortions in his recent argument?

Mr. CARTER. I was not referring to myself. I have never supported abortions except to save the life of the mother, or in cases of incest or rape.

Mr. DANIELSON. Wholesale is sort of cheaper by the dozen; is that the idea?

Mr. CARTER. I should think they would be.

Mr. DANIELSON. I am glad the gentleman has explained it, and I will take back my time.

Mr. CARTER. If the gentleman will yield further——

Mr. DANIELSON. I will yield further.

Mr. CARTER. I would say by the dozen they are much cheaper if they are performed by certain gentlemen.

Mr. DANIELSON. I see. Did the gentleman have anything further he wished to say at the time his time ran out a moment ago, or has he covered the subject pretty well?

Mr. CARTER. I think we have covered it fairly well.

Mr. DANIELSON. I thank the gentleman for his response and yield back the balance of my time.

Mr. WAXMAN. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 5 minutes.

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

There was no objection.

The CHAIRMAN. Members standing at the time the unanimous-consent request was agreed to will be recognized for 20 seconds each.

The Chair recognizes the gentleman from New York (Mr. PEYSER).

Mr. PEYSER. Mr. Chairman, I think the final thing for the Members to keep in mind is that we are setting a precedent here, we are saying to State legislators you can take your own choice of what you want to do with Federal laws and Federal regulations and then act accordingly.

(By unanimous consent, Messrs. DOUGHERTY, DORNAN, TAUKE, PETRI, DANNEMEYER, ROUSSELOT, and HOPKINS yielded their time to Mr. HYDE.)

The CHAIRMAN. The Chair recognizes the gentleman from Missouri (Mr. VOLKMER).

Mr. VOLKMER. Mr. Chairman, I rise in support of the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Mr. Chairman, I think the gentleman from California has somewhat unintentionally trivialized this issue, which is a very serious one. If we want to get into semantics, wholesale refers to 300,000 abortions a year paid for by the taxpayers of this country out of the HEW appropriations. Wholesale means over a million abortions a year performed in this country. That is what we are talking about.

A D. & C. performed on a woman before implantation has occurred, I suggest, is not an abortion. You cannot abort until a pregnancy exists. It takes some time after the act of rape or intercourse has occurred for conception, fertilization, and still later, implantation. So the gentleman did not speak accurately when he said that every D. & C. is an abortion.

To the gentleman from Texas (Mr. LELAND) I would suggest nobody is in favor of wholesale abortions in this House that I am aware of.

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

Mr. HYDE. I yield to the gentleman from Texas.

Mr. LELAND. The gentleman from Texas clearly stated that the gentleman from Kentucky was in favor of wholesale abortion.

Mr. HYDE. I did not hear the gentleman say that, but anybody that supports language that permits wholesale abortions ought to know what he is supporting.

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

Mr. HYDE. I yield to the gentleman.

Mr. CARTER. Mr. Chairman, I just want to say that I never did abortions; I do not approve of them except to save the life of the mother or in case of incest and rape. I do not deny that. I think anyone who denies it has not had it happen in his own home.

Mr. HYDE. I thank the gentleman. No one ever accused Dr. CARTER, who has voted for my amendment, without rape and incest exceptions, many times, but I would think someone from Kentucky would want States rights to have some new life in this Congress, and that is all this amendment does. It says to the State legislatures to legislate the way they want, we are not telling them what to do.

□ 1330

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

Mr. HYDE. I yield to my friend from New Jersey.

Mrs. FENWICK. Mr. Chairman, I think any definition of rape must be left to the only doctor in this House.

Mr. HYDE. We have a gynecologist here, Dr. PAUL.

Mrs. FENWICK. He has not pronounced himself, so I am referring to the doctor who has.

Mr. Chairman, I determined never to speak again on this subject, but I cannot stay silent.

You do not stop abortions by laws. You merely drive it somewhere else, and this has been proved in country after country. You are not going to stop it.

Mr. HYDE. If I may reclaim my time, another lady——

The CHAIRMAN. The time of the gentleman from Illinois has expired.

The Chair recognizes the gentleman from Ohio (Mr. LUKEN).

Mr. LUKEN. Mr. Chairman, in response to the gentlewoman's suggestion, you may not stop abortions by laws, but you certainly can encourage them. I think this Government has encouraged them by Federal laws.

Mr. Chairman, I am in strong support of the Bauman amendment which is necessitated by court decisions which have misinterpreted the congressional intent, and required States to fund abortions of various types.

I quote the second proviso of this amendment which is most important:

Provided however, That nothing in this section shall be construed to require any State funds to be used to pay for any abortion.

This would restore the right of the State to liberalize or restrict with the use of State funds. It was not the congressional intent of medicaid abortion legislation to govern State policies.

The principal effect of the amendment therefore is to prevent the courts from forcing States to fund abortions, in the name of Federal legislation. The Federal legislation was intended to limit abortions, not to extend them.

As to the first part of the amendment, it is simply a restatement of congressional policy.

First and foremost, it is essential to focus on just what an abortion is: The killing of human life. If I believed that the unborn was less than human, that the fetus was some sort of tumor, a collection of randomly multiplying cells, then all the reasons for killing it would make some sense. But medical science tells us indeed the unborn is human life.

The argument is often made that the Hyde amendment denies to poor women the ability to obtain an abortion readily available to the middle-class and wealthy women. The ability of wealthy women to pay for their abortions does not make the killing of their preborn children any more proper. The real question is, shall the taxpayers pay for the killing?

There are many operations wealthy women can afford, cosmetic surgery for example, but ought the taxpayers pay for it? We all have the right of free speech, but must the taxpayers purchase a printing press for everyone who can not afford one? The real issue is not whether some women can afford an abortion or not. The issue is whether the killing of innocent preborn human life is the sort of activity the Federal Government ought to pay for.

Abortion is violence. There ought to be human answers to the human problems of unwanted pregnancies. The women's "right to choose" ought to remain fully valid until she conceives and then there is a victim whose "right to life" deserves consideration.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland (Mr. BAUMAN).

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

RECORDED VOTE

Mr. BAUMAN. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

Mr. BAUMAN. Mr. Chairman, I withdraw my point of order of no quorum.

A recorded vote was ordered.

The vote was taken by electronic device, and there were ayes 235, noes 155, not voting 43, as follows:

[Roll No. 712]

AYES—235

Abdnor	Gibbons	Murphy, N.Y.
Albosta	Ginn	Murphy, Pa.
Ambro	Goldwater	Murtha
Annunzio	Goodling	Myers, Ind.
Applegate	Gore	Natcher
Archer	Gradison	Neal
Ashbrook	Gramm	Nedzi
Aspin	Grisham	Nelson
Badham	Gudger	Nichols
Bafalis	Hagedorn	Nowak
Bailey	Hall, Tex.	O'Brien
Baldus	Hamilton	Oakar
Barnard	Hammer-schmidt	Oberstar
Bauman	Hansen	Pashayan
Beard, R.I.	Harsha	Paul
Beard, Tenn.	Heckler	Petri
Benjamin	Hefner	Price
Bennett	Hightower	Quillen
Bereuter	Hillis	Railsback
Bethune	Hinson	Regula
Bevill	Holt	Rhodes
Boggs	Hopkins	Rinaldo
Boland	Hubbard	Robinson
Boner	Huckaby	Rodino
Bonior	Hughes	Roe
Bouquard	Hutto	Rostenkowski
Bowen	Hyde	Roth
Breaux	Ichord	Rousselot
Brinkley	Ireland	Royer
Broomfield	Jacobs	Rudd
Brown, Ohio	Jeffries	Runnels
Burgener	Jenkins	Santini
Byron	Jones, N.C.	Satterfield
Campbell	Jones, Okla.	Sawyer
Carney	Kazen	Schulze
Cavanaugh	Kelly	Sebelius
Cheney	Kemp	Sensenbrenner
Clausen	Kildee	Sharp
Clinger	Kindness	Shelby
Coleman	Kramer	Shumway
Collins, Tex.	LaFalce	Shuster
Conte	Lagomarsino	Skelton
Cotter	Latta	Smith, Nebr.
Coughlin	Leach, La.	Snyder
Courter	Leath, Tex.	Solomon
Crane, Daniel	Lederer	Spence
Crane, Philip	Lee	St Germain
D'Amours	Lent	Stangeland
Daniel, Dan	Lewis	Stanton
Daniel, R. W.	Livingston	Stenholm
Dannemeyer	Loeffler	Stratton
Daschle	Long, La.	Stump
Davis, Mich.	Lott	Symms
de la Garza	Lujan	Tauke
Deckard	Luken	Taylor
Derwinski	Lungren	Traxler
Devine	McClory	Trible
Dickinson	McDade	Vander Jagt
Dodd	McDonald	Vento
Donnelly	McEwen	Volkmer
Dornan	McHugh	Walker
Dougherty	McKay	Wampler
Duncan, Tenn.	Madigan	Watkins
Early	Markey	White
Edwards, Ala.	Marlenee	Whitehurst
Emery	Martin	Whitley
English	Mathis	Whittaker
Erdahl	Mavroules	Wilson, Bob
Erlenborn	Mazzoli	Wright
Ertel	Michel	Wyatt
Evans, Ga.	Miller, Ohio	Wydler
Evans, Ind.	Minish	Wylie
Fary	Mitchell, N.Y.	Yatron
Fish	Moakley	Young, Fla.
Fithian	Montgomery	Young, Mo.
Florio	Moore	Zablocki
Fountain	Moorhead, Calif.	Zeferetti
Fuqua	Mottl	
Gaydos		
Gephardt		

NOES—155

Addabbo	Fowler	Patterson
Anderson, Calif.	Frenzel	Pease
Andrews, N.C	Frost	Pepper
Anthony	Garcia	Peyser
Ashley	Giaimo	Pickle
AuCoin	Gilman	Preyer
Barnes	Gonzalez	Pursell
Bellenson	Gray	Rahall
Bingham	Green	Rangel
Blanchard	Guarini	Ratchford
Bolling	Hall, Ohio	Reuss
Bonker	Harris	Richmond
Brademas	Hawkins	Ritter
Brodhead	Heftel	Rose
Brooks	Holland	Roybal
Brown, Calif.	Hollenbeck	Sabo
Broyhill	Holtzman	Scheuer
Buchanan	Horton	Schroeder
Burlison	Howard	Seiberling
Burton, John	Jeffords	Shannon
Burton, Phillip	Jenrette	Simon
Butler	Johnson, Calif.	Slack
Carr	Johnson, Colo.	Smith, Iowa
Carter	Kastenmeier	Snowe
Chisholm	Kogovsek	Solarz
Clay	Kostmayer	Spellman
Cleveland	Lehman	Stack
Coelho	Leland	Staggers
Collins, Ill.	Levitas	Stark
Conyers	Lloyd	Steed
Corman	Long, Md.	Stewart
Danielson	Lowry	Stockman
Davis, S.C.	Lundine	Stokes
Derrick	McCloskey	Studds
Diggs	McCormack	Swift
Dingell	McKinney	Synar
Dixon	Maguire	Thompson
Downey	Marks	Udall
Drinan	Matsui	Ullman
Edgar	Mica	Van Deerlin
Evans, Del.	Mikulski	Vanik
Fascell	Miller, Calif.	Walgren
Fazio	Mineta	Waxman
Fenwick	Mitchell, Md.	Weaver
Ferraro	Moffett	Weiss
Findley	Mollohan	Whitten
Fisher	Moorhead, Pa.	Williams, Mont.
Foley	Nolan	Wilson, Tex.
Ford, Mich.	Obey	Wirth
Ford, Tenn.	Ottinger	Wolff
Forsythe	Panetta	Wolpe
	Patten	Yates

NOT VOTING—43

Akaka	Edwards, Calif.	Murphy, Ill.
Alexander	Edwards, Okla.	Myers, Pa.
Anderson, Ill.	Flippo	Perkins
Andrews, N. Dak.	Flood	Pritchard
	Gingrich	Quayle
Atkinson	Glickman	Roberts
Bedell	Grassley	Rosenthal
Biaggi	Guyer	Russo
Chappell	Hance	Thomas
Conable	Hanley	Treen
Corcoran	Harkin	Williams, Ohio
Dellums	Jones, Tenn.	Wilson, C. H.
Dicks	Leach, Iowa	Winn
Duncan, Oreg.	Marriott	Young, Alaska
Eckhardt	Mattox	

□ 1340

The Clerk announced the following pairs:

On this vote:

Mr. Atkinson for, with Mr. Edwards of California against.

Mr. Williams of Ohio for, with Mr. Dellums against.

Mr. Hanley for, with Mr. Anderson of Illinois against.

Mr. Guyer for, with Mr. Thomas against.

Mr. Russo for, with Mr. Rosenthal against.

Mr. PEASE and Mr. GUARINI changed their votes from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. LUNGREN

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

The Clerk read as follows:

Amendment offered by Mr. LUNGREN: Section 16 of H.R. 4962 is amended as follows: On page 42, beginning with line 11, delete all on lines 11 through and including line 13, and add the following new section:

CONGRESSIONAL REVIEW OF RULES AND REGULATIONS

SEC. 17. (a) The Secretary shall first establish final regulations to carry out the amendments made by this Act not later than six months after the date of the enactment of this Act: *Provided*, That notwithstanding any other provision of this Act, simultaneously with promulgation of any rule or regulation under this Act, the Secretary shall transmit a copy thereof to the Secretary of the Senate and the Clerk of the House of Representatives. Except as provided in subsection (b), the rule or regulation shall not become effective if—

(1) within 90 calendar days of continuous session of Congress after the date of promulgation, both Houses of Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows: "That Congress disapproves the rule or regulation promulgated by the Secretary of the Department of Health and Human Services dealing with the matter of , which rule or regulation was transmitted to Congress on ," the blank spaces therein being appropriately filled; or

(2) within 60 calendar days of continuous session of Congress after the date of promulgation, one House of Congress adopts such a concurrent resolution and transmits such resolution to the other House, and such resolution is not disapproved by such other House within 30 calendar days of continuous session of Congress after such transmittal.

"(b) If at the end of 60 calendar days of continuous session of Congress after the date of promulgation of a rule or regulation, no committee of either House of Congress has reported or been discharged from further consideration of a concurrent resolution disapproving the rule or regulation, and neither House has adopted such a resolution, the rule or regulation may go into effect immediately. If, within such 60 calendar days, such a committee has reported or been discharged from further consideration of such a resolution, or either House has adopted such a resolution, the rule or regulation may go into effect not sooner than 90 calendar days of continuous session of Congress after its promulgation unless disapproved as provided in subsection (a).

"(c) For the purposes of subsections (a) and (b)—

"(1) continuity of session is broken only by an adjournment of Congress sine die; and

"(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of 30, 60 and 90 calendar days of continuous session of Congress.

"(d) Congressional inaction on or rejection of a resolution of disapproval shall not be deemed an expression of approval of such rule.

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

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

There was no objection.

□ 1350

Mr. LUNGREN. Mr. Chairman, about a year ago, the Secretary of HEW was asked to decide who was a handicapped person for the purpose of enforcing equal employment opportunity laws.

In consultation with the Justice Department, the Secretary of HEW decided that persons addicted to alcohol and drugs were handicapped. This made alcoholics and drug addicts eligible for protection of legislation intended to redress past employment discrimination against the handicapped.

This development was alarming to a number of people—not the least of which was the chain drugstore industry which envisioned itself having to hire drug addicts to work its warehouses.

This is an extreme case of the perversion of congressional intent by bureaucratic regulations. But it is just one example of the mischief HEW can make when it gets into the business of promulgating regulations.

Today, I am introducing a legislative veto amendment to this bill because CHAP deals with the sensitive subject of health care for children and pregnant women.

It is one thing for bureaucrats to regulate commerce. It is quite another for them to be granted sweeping regulatory powers over something so personal as when and where to have health checkups.

I think there are too many places in this bill where we delegate too much authority to the Secretary of HEW.

I counted 22 places in this bill where we leave the details of one particular provision or another up to the discretion of the Secretary of HEW. That is 22 places in a 42-page bill—more than one mention of the Secretary of HEW on every other page.

Here are just some of the details—but no means all—we leave up to the Secretary of HEW in this bill:

First. On page 10, we give the Secretary of HEW authority to decide which nonprofit, community-based organizations can be reimbursed for providing care under this program.

Second. On page 12, we give the Secretary of HEW say over which community mental health centers are eligible to participate in this program.

Third. On page 14, the Secretary is left to decide when and what tests children will be given under this program to assess their general health.

Fourth. On page 15, the Secretary has authority to decide what diagnostic tests and immunizations shall be required of all persons participating in this program.

Fifth. On page 18, the Secretary of HEW determines what primary and preventive care shall be given to pregnant women and their babies.

Sixth. On the same page, lines 23 and 24, the Secretary sets reimbursement levels for those providing care in this program.

Seventh. On page 19, we give the Secretary authority to require every provider in the program to standardize their forms and reports to conform with Wasnington.

Eighth. On page 26, the Secretary is given the power to reduce reimbursement to any State CHAP program that does not meet her/his standards.

Ninth. On page 30, we ask the Secretary to report annually to Congress on how each State is doing under this program.

Tenth. On page 33, lines 8 to 9, and 19 to 20, we ask the Secretary to look into the ratio of those enrolled in this program versus the number of poor children in each State.

Eleventh. On page 31, we give the Secretary authority to force States to set up an outreach program for CHAP, if he/she decides the State does not have enough people in the program, based on a study of the ratios.

Twelfth. On page 34, we allow the Secretary of HEW to determine who is a resident of a State for purposes of eligibility for this program.

Thirteenth. On page 35, we ask the Secretary to determine if this program duplicates the services of any other program.

Fourteenth. On page 37, we give the Secretary all kinds of vague authority to contract out for studies of this program.

Fifteenth. On page 38, we give the Secretary a mandate to tell us if this program has preventive care value.

Sixteenth. And on page 42, we give the Secretary final, blanket authority to make up any regulations deemed fit to enforce this program, if we have left anything out.

Now some of these delegates of authority are appropriate.

For instance, the Secretary should report to the Congress annually on the progress of CHAP.

The Secretary should be required to evaluate the effectiveness of this program.

But should not the Congress determine the overall rate of reimbursement for providers of care—as we have done in financing kidney failure treatment—not the Secretary of HEW?

Should not the States determine who are their residents for purpose of inclusion in this program—not the Secretary of HEW?

How can we ask the Secretary of HEW to determine waste and duplication in this program, when she/he has little incentive to do so. Previous Secretaries of HEW have not been able to find $1 million worth of waste in HEW, as the minority whip's amendment last year asked them to.

And why should HEW determine which community organizations should be reimbursed under this program, when we have had such bad luck with other agencies on this score. ACTION, for example, cannot tell the difference between a charitable and a political organization.

But more importantly, we need to look at the overall question this bill evokes, which is who should decide what care is best for children and pregnant women: The individual in consultation with a physician, or HEW?

We are giving HEW blanket authority in this bill to determine when a child should have dental checkups, what shots he should have, whether or not he gets glasses, and if he should be given psychiatric care.

I can think of no worse place to substitute the decisions of a bureaucracy

for that of an individual than in these instances.

What checks are there against bureaucratic arrogance in this bill?

How can we expect HEW to be sensitive to the needs of individual children and mothers, when they cannot even be responsive to Members of Congress—who have control over their budget?

I have here a copy of a recent letter circulated by my colleague, PETE MCCLOSKEY, another member of the California delegation.

It details the run-around members of the California delegation have gotten while trying to get HEW to pay attention to our complaints about section 223 of their cost control standards.

Thirty-five of us—Republican and Democrats alike—signed a letter to the Secretary of HEW on June 20, 1979 asking that HEW look into these regulations which are blatantly unfair to California hospitals.

Five months went by without a reply.

We were completely ignored.

We were not asking for much—just some kind of directive from HEW on whether or not it would change the regulation before the vote on hospital cost containment came up on November 15.

HEW told us they thought we were too impatient—asking for adjustment and explanation of such a complex regulation in just 5 months. But as my colleague from California said in his letter to the health care financing administrator—no regulation can be that complex.

We still await the adjustment of that regulation by HEW.

This is a perfect example of what happens when the bureaucracy feels it can do whatever it wants. It promulgates regulations, and then ignores both congressional intent and congressional protestations all too often.

This is exactly what my amendment is designed to correct.

My legislative veto amendment is the same language that we recently attached to the FIFRA bill, which passed the House overwhelmingly, 278 to 121.

It says that a rule or regulation shall not become effective if both Houses of Congress adopt a concurrent resolution of disapproval within 90 calendar days after the date of promulgation.

Additionally, if one Chamber of the House passes a resolution disapproving a regulation within 60 days of the promulgation of that regulation, and the other Chamber does not object within 30 days after transmittal, the regulation does not become effective.

If you have any doubts about the potential for perverseness in HEW regulations—just remember, these are the same people who once tried to outlaw father-son sports banquets in the name of equal educational opportunity.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. JOHN L. BURTON, and by unanimous consent, Mr. LUNGREN was allowed to proceed for 5 additional minutes.)

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

Mr. LUNGREN. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. Mr. Chairman, the gentleman is well intentioned and he is, in fact, concerned about agencies that make regulations that might not make a lot of sense as in the case the gentleman just cited. I wonder if the gentleman has thought about the difference between having this Congress act on regulations of a broad policy nature, such as in the case of the Federal Trade Commission where the Congress decided that those matters should come back, and the day-to-day functioning of a program and the regulations that are required on a day-to-day basis, once policy decisions have been made. That is really the case that we have here.

Mr. Chairman, the gentleman's amendment, as I understand it, would get us involved every single time, or potentially get us involved every single time the agency made any of these numerous moves that it has to make to implement a program which, if this passes, we will have already agreed upon and the policy issues will be agreed upon and there will be no further policy issues for this Congress to review.

Has the gentleman contemplated the difference between those two types of cases?

Mr. LUNGREN. Yes, I have, Mr. Chairman. Had we not had the track record of HEW in terms of administering its programs dealing with health-care providers especially in terms of the resistance we, as members of the California delegation, have received from the Secretary of HEW, in attempting to have an explanation of cost-reimbursement regulations dealing with hospitals and how they adversely impact on Californians and the hospitals which serve them, I would perhaps have a better feel for what the gentleman is saying. Unfortunately, that has not been the case.

I do not believe this Congress is so insensitive to the fact that certain regulations must be promulgated in order that a program can come on line, that we will take and attempt to nitpick at every single regulation that comes on line.

Mr. Chairman, the fact of the matter is, without this sort of reference point, we will continue to have what we have at HEW, which is an absolute stonewalling against the attempts of Members of Congress just to get an explanation of regulations, and absolute studied ignorance of anything we have attempted to do in terms of making these regulations more usable and more consistent with the intent of the legislation that we have passed.

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

Mr. LUNGREN. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. We have a new Secretary of HEW.

Mr. LUNGREN. I understand that. I would rather not prejudge the new Secretary of HEW, but based on her track record we have had at HUD, I am not that well disposed to say we will have any better results.

The fact of the matter is, we still have not gotten a reply to our request from the California delegation from the current Secretary of HEW. Just a note to us telling us we are impatient in asking for an explanation after 5 months.

□ 1400

The CHAIRMAN. The time of the gentleman from California (Mr. LUNGREN) has expired.

(At the request of Mr. MAGUIRE and by unanimous consent, Mr. LUNGREN was allowed to proceed for 1 additional minute.)

Mr. MAGUIRE. Mr. Chairman, would the gentleman permit and yield further?

Mr. LUNGREN. I yield to the gentleman.

Mr. MAGUIRE. Mr. Chairman, I thank the gentleman for yielding further.

The problem with the gentleman's amendment is that we are going to be taking over the actual administration of programs if we adopt the gentleman's amendment. I think that is unthinkable. I would urge my colleagues to vote against it.

Mr. LUNGREN. Mr. Chairman, I would suggest that the gentleman's characterization is not correct, and also suggest that this amendment would not be necessary if it were not for the past track record that we have seen. There has been abuse after abuse after abuse, in refusing to recognize what the intent of Congress was and has been in already existing legislation in this field.

This is an extremely sensitive subject in terms of the health care of pregnant women and of young children.

Based on what we have seen in the past, if we do not give ourselves the tools to have input on a regular basis we are not going to have any control over this program, as we seemingly have no control over programs already in existence.

Mr. WAXMAN. Mr. Chairman, I rise in opposition to this amendment.

Mr. Chairman, we have heard the case for a one-House veto made many times on this House floor, particularly when it deals with a regulatory agency or some regulatory function that is being accomplished by the executive branch; but this is not a regulatory bill. This is legislation that would set forth guides to the States within which to manage their own CHAP programs. A one-House veto under these circumstances, I think, would only accomplish the purpose of delaying the regulations and would not give us that needed check that we ought to be exercising through diligent oversight.

We will have regulations. Why delay them when the regulations, at least in these circumstances, are only implementing a bill that provides a framework for the States to run a program that will extend to children who are not now covered under certain medical services and to improve coverage for those who are now covered under the program.

I do not think the amendment will do a tremendous amount of harm. But it will mean delay. And I think it is really unnecessary. I think it has more to do with the objection of my colleague, the gentleman from California, on some

other issue that he has with HEW than with the CHAP legislation. I do not think it is a good idea to put one-House veto language in a bill that is not even regulatory in nature; so I would urge that we defeat it.

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

Mr. Chairman, I oppose the amendment offered by my colleague, the gentleman from California (Mr. LUNGREN), proposing a legislative veto provision for CHAP. There are several reasons why this amendment is unnecessary and inappropriate.

First, the bill already provides for tight congressional control over HEW activities. There are comprehensive requirements for the Department to carry out precise, congressionally defined objectives. Annual congressional oversight is also already mandated. In short, CHAP is not legislation which allows the Secretary great discretion in implementation; CHAP is not an open statutory grant of power, like the FTC authorization, which allows the agency to define its own scope of action. This legislation does not need the safeguard of a legislative veto to preserve our congressional intent, because we have defined precisely our intent in the statute itself.

The legislative veto is a mischievous amendment. It suggests that we have time to reflect on every regulation promulgated by the Secretary and to decide whether or not to veto each one. My colleagues, I suggest that if we do our job properly, conduct oversight of this program as required in the bill, that we do not need this additional workload.

Finally, and more important, what effect would a veto provision have on implementation of CHAP? While the Secretary—and the children of America—wait, we could well have to find time in our already overcrowded schedule to deliberate the propriety of many regulations. We do not need to do this. We do not have time to do this. We should not do this. For every day that CHAP is not implemented, we deny critical health care to millions of poor children.

My colleagues, for all these reasons, vote "no" on this amendment.

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

Mr. LELAND. I would be glad to yield.

Mr. SYMMS. Mr. Chairman, I thank the gentleman very much for yielding.

In light of the gentleman's statement of position, would the gentleman then favor a sunset provision in the bill at some time out in the future so that the Congress could overview the entire program, instead of just on regulation by regulation?

Mr. LELAND. At this point, I would not like to answer the question in the affirmative. I have no problems with sunset provisions. I do not recall the question being addressed during the hearings. Therefore, I have not really scrutinized the proposal.

Mr. SYMMS. Mr. Chairman, would the gentleman yield further?

Mr. LELAND. I would be glad to yield further.

Mr. SYMMS. Mr. Chairman, I thank the gentleman for his answer, but I wonder if the Congress is too busy to oversee these programs, does the gentleman think there may be some point where we are starting too many programs?

Mr. LELAND. I think that the gentleman should address that question overall in terms of all the activities of the bureaucracies that administer the programs that we legislate for.

I would not like to single out this particular program at this time in terms of the sunset provision, primarily because I feel it seriously encumbers at this moment in our time as we consider the CHAP bill from proceeding to establish what it is the intent the legislation represents.

Mr. WAXMAN. Mr. Chairman, would the gentleman yield?

Mr. LELAND. I would be glad to yield to my chairman.

Mr. WAXMAN. Mr. Chairman, I thank the gentleman for yielding.

I think a one-house veto is an excuse to not do the oversight work that is mandated to the Congress. I think people think if they adopt a sunset provision or a one-house veto that that means there is going to be oversight.

But I think it ends up by being an excuse for why the Congress did not do the oversight work. It is a hard, serious time-consuming job of looking to see how the executive agencies are functioning.

I do not think we need this one-house veto proposal. And if a sunset provision is offered will also oppose that.

I wanted to share my views with the gentleman.

Mr. LELAND. Mr. Chairman, I certainly associate myself with the wisdom of my chairman.

I thank the gentleman very much.

Mr. DOUGHERTY. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I will be brief. It seems to me that those of us in this body who are frustrated with the bureaucracy have an opportunity on this amendment to send a signal to them that we expect a greater response to our concerns. All we are doing in the Lungren amendment, from what I understand, is requiring that before the regulations would be implemented, they would be reviewed by Congress.

If the regulations are OK, if there is no problem, nothing would happen, they would be implemented; however, if a sufficient number of Members of this body or of the Senate had a problem with the regulations, we could deal with them up front, rather than going through the bureaucracy and trying to resolve what many of us consider very serious problems.

I think it is very simple. If you think the bureaucracy is running the programs to your satisfaction, then you would want to vote no; but if you think the bureaucracy is not doing the will of Congress, that indeed they are enacting regulations which are not either in the intent or the best interests of the congressional point of view, then I think you should support the Lungren amendment.

I would, therefore, urge my colleagues to join those of us who are frustrated with the bureaucracy and vote to accept this amendment.

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

Mr. DOUGHERTY. I yield to the gentleman from Texas.

Mr. LELAND. Mr. Chairman, I, too, am very frustrated with the problems of the bureaucracy as they proceed to implement programs similar to the CHAP program; but I do not think this is the appropriate time for us to deal with this. CHAP is a very serious program that deals with the involvement of more poor children in a very, very necessary health program. To pick on CHAP to signal HEW it seems to me is somewhat nonsensical at this time.

Mr. DOUGHERTY. Mr. Chairman, if I could respond to the gentleman, it is my time, I am one of the three Republicans who voted "aye" on the last budget resolution; so I have some concern for the social needs of poor children and other people, including urban societies.

Mr. LELAND. And I love the gentleman for that.

Mr. DOUGHERTY. But the fact of the matter is that this is one instance and hopefully as other bills come along dealing with the bureaucracy, we will also be able to put an oversight amendment on Government regulations.

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

Mr. Chairman, I wonder if I could address a question to the author of the amendment, my good friend, the gentleman from California (Mr. LUNGREN).

How is this going to work, procedurally?

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

Mr. JOHN L. BURTON. I yield to the gentleman from California.

Mr. LUNGREN. Mr. Chairman, procedurally, it is the same thing we had in other legislation. The regulations would come before the House.

Mr. JOHN L. BURTON. How do they come before the House? I am serious now.

Mr. LUNGREN. I believe it is within 90 days that we must act after they have been submitted for our review. We have a certain period of time in which to review the regulations.

Mr. JOHN L. BURTON. How do we review it? Is it referred to the committee?

Mr. LUNGREN. It is referred to the committee.

Mr. JOHN L. BURTON. The committee would either approve or disapprove and then send it to us?

Mr. LUNGREN. Mr. Chairman, if they approve it, we, in the full House, would not consider it. It comes before the House only under certain circumstances. If both Houses act in 90 days to disapprove, the regulations do not go into effect.

If one House disapproves of it within 60 days and then sends it to the other House and the other House does nothing on it within 30 days after transmittal, then that essentially is a one-House veto.

Mr. JOHN L. BURTON. Mr. Chairman, I would just submit, first that it seems rather burdensome, if we are

dealing with the health of children, to impose the veto restriction on this.

Second, I am wondering if maybe someday some Member on that side of the aisle could come up with some way—and that would be good; maybe the distinguished minority whip, the gentleman from Illinois (Mr. MICHEL), could do it for us—to find out how much it would cost the taxpayers for us to engage in these vetoes in consideration of measures.

We are here almost the whole year doing a great deal of the people's work, and maybe we could set aside a "legislative veto month."

Has the gentleman given any consideration to the fact that this program—and I am serious—may not really be the proper place to tie it down with that type of procedure by which we would want to hamstring HEW?

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

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

Mr. JOHN L. BURTON. I will yield to my distinguished friend, the gentleman from California, and then I will yield to the distinguished "Senator" from Idaho.

Mr. LUNGREN. Mr. Chairman, because of the experience we have had in HEW with similar type programs for health care that are administered by the States with funding through the Federal Government, because of the lack of response we have had, because of the unnecessary regulations that have been imposed, and because of the additional expense in administration that has been imposed and concurrent siphoning of money away from those to whom we wanted to give the benefits, I would think we would want to have the legislative veto in this particular program. This veto power would seem to be particulary in order if we feel this bill is the proper vehicle to provide those services that some people think are absolutely necessary for pregnant mothers and for young children in certain categories.

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

Mr. JOHN L. BURTON. I am happy to yield to my friend the gentleman from Idaho.

Mr. SYMMS. Mr. Chairman, I thank the gentleman for yielding.

Mr. JOHN L. BURTON. I would like to commend the gentleman on his necktie, by the way.

Mr. SYMMS. I appreciate that very much. It is in the spirit of the Christmas season that I wear it.

Mr. Chairman, there is one other factor, and that is that if we have a legislative veto, then the Members of this body must take responsibility to their constituencies and accept the fact that they are in fact responsible for the bureaucracy in Washington, because the same Congress that grants authority can also take it away. I think this is the underlying fact.

I think this is the real concept of the legislative veto, so that Congressman can no longer go home and say, "Yes, we passed that law, but we did not intend that the people would be subjected to these regulations."

Mr. JOHN L. BURTON. Mr. Chairman, would my friend not agree that there may be an easier way to take authority away from the bureaucracy?

Mr. SYMMS. Yes, I do. We might not enact the program in the first place. We could return the revenues to the States where they belong.

Mr. JOHN L. BURTON. The gentleman is not suggesting a return to the almshouse; is he? He does not think we ought to reinstitute the workshops of Oliver Twist for our sick children; does he?

Mr. SYMMS. Mr. Chairman, what I would recommend is that we return both the responsibilities and the revenues and the right to assume the responsibilities and use the revenues back to the States and let them take care of solving these problems.

Mr. JOHN L. BURTON. Mr. Chairman, I hope the gentleman will be supporting us in the countercyclical program that will be returning revenues to the States and cities.

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

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. LUNGREN).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SYMMS

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

The Clerk read as follows:

Amendment offered by Mr. SYMMS: Page 40, after line 24, insert the following:

"(2) Notwithstanding any other provision of this section, this Act shall not apply after September 30, 1984, and the amendments made by this Act shall not apply to medical assistance provided, under a State plan approved under title XIX of the Social Security Act, after September 30, 1984."

Page 41, line 1, strike out "(2)" and insert in lieu thereof "(3)".

Mr. SYMMS. Mr. Chairman, I rise today to offer an amendment to H.R. 4962, the Child Health Assurance Act, which will impose a sunset provision on the bill in 1984.

I believe on Thursday of last week, we debated a similar issue when considering the Stockham amendment. However, it is vitally important that the Congress impose some control on this legislation which will insure that once instituted, the individuals who are supposed to be served are actually being helped.

By 1984, the States should have had adequate time to install viable programs and at that point the Congress should review the progress of these programs to determine if CHAP has been cost effective and achieved the laudable goals it was supposed to have reached. All too often, as you know, many of the moneys authorized and appropriated by this body are funneled off moneys lost due to human error, mismanagement, graft, and so forth. And, it seems that moneys funding social services programs oftentime dissipate at a higher rate as they filter through the layers of bureaucracy than other programs which we fund. Therefore, it is necessary that we install a mechanism which will force Congress to be responsible for the viability of the programs it establishes.

I doubt that most Members here today would argue against the cost effectiveness of preventive health care, however, I would hope that we, in passing this legislation, would want to insure that the best program possible is implemented. If we who are instituting the program are not willing to take the responsibility of controlling and overseeing its effectiveness, who, may I ask, should?

My amendment will not in any way affect the authorizing level of funding for the program, the authorization levels are equal to the amounts which CBO estimates it would take to fund the program.

Presently, uncontrollable spending constitutes 76 percent of all Federal outlays, and three-fourths of them are entitlements. Now, I am sure that the intentions of the Congress in establishing these programs were good, however, experience should have taught us that establishing programs is only doing half the job. We must also insure that the programs we establish are effective. We do not help anybody by simply doling out money and not making sure that the money is put to best possible use. The medicaid program alone loses approximately 10 to 15 percent of its funding annually. That figure, in itself, should encourage us to institute measures in this program which will provide incentives to be more cost efficient.

If we are serious about controlling spending and insuring that we are getting the most for our money, it is incumbent upon us to adopt this measure which will provide for a review of the program we are establishing.

Mr. WAXMAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, unlike the last amendment, which I did not think was necessary but which probably will not do a lot of harm, this amendment could do a great deal of harm. Therefore, I want to oppose it quite vigorously and urge my colleagues to join me in defeating the amendment. If we have a sunset provision in a bill to encourage the States to reach out and bring children into a program to be screened for medical services and then to have followup services, we would give incentives to the States to do this job on the one hand, but at the same time there would be a signal by virtue of the sunset provision that the Federal commitment to assist in funding this program might not continue.

This could inhibit State action to seek out new eligibles and bring them into the program. It could deter effective implementation, which is the very purpose of this bill. If a program contains a sunset provision and it is not renewed, or if sometimes a renewal is just delayed for some reason or another, many children who had finally started receiving medical services would become ineligible for those services.

Mr. Chairman, this could cause severe problems for both the States and the Congress, and it could cause serious problems for those people who are going to lose out on those benefits.

□ 1420

Mr. SYMMS. Mr. Chairman, will the gentleman yield on that point?

Mr. WAXMAN. I yield to the gentleman from Idaho.

Mr. SYMMS. I thank the gentleman for yielding.

Mr. Chairman, I think if the program is operating as the goals are set out for the program, there should be no problem in having Congress renew the program.

If the distinguished chairman is fearful that the program is not going to be working out as it is, then it could be that some delay might come about. I would agree.

But how else will the Congress actually control and be careful in their analysis of how well the program is working?

Mr. WAXMAN. If I could just reclaim my time, if we had sunset provisions in all bills, and had to reexamine all of the legislation that is on the books, we would end up doing it without even looking at them and doing the oversight work that is necessary, because we would have no time. I am convinced we would be renewing programs without doing the job that I know the gentleman wants us to do, and that is the oversight work.

Sunset provisions may be appropriate when the content of the program is experimental or if it is totally new. But this is not a new program. It is not an experimental program. It is building on an operational program. It provides prenatal and preventive services which have proved their value.

The gentleman, in proposing the amendment, suggested that we could determine the cost effectiveness of the program after a 5-year period. To some extent, we will be able to do that. But I believe that the real cost effectiveness in a program like this comes over a period of years, when we treat children at an early age so that we can avoid the problems that, when a child is at a much more advanced age, will be far more costly.

I do not know that we are going to have this information in a 5-year period. If the idea is that we are automatically going to renew a program because it is a good one, then I expect that we will be renewing this program. But I would hate to see the uncertainty this brings, and any gaps in time that might occur when children would not be covered. I hate to see that we think we are really doing something on oversight just because we put a sunset provision in this bill, because that just means that we are adopting an excuse for not doing oversight. To do oversight, we do not need a sunset provision in the law.

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

Mr. WAXMAN. I yield to the gentleman from Idaho.

Mr. SYMMS. I thank the gentleman for yielding, and I would just say to the chairman that if this Congress had sunset provisions coming up on all of the programs that have been passed by the Congress in, say, the last 40 years, we would be busy reviewing some of the mess that we have created throughout the country. I think it might be very healthy for the country if the Congress did that instead of always spending time coming up with new schemes. We debate issues in this House day after day after day on new ideas.

Mr. WAXMAN. If I may reclaim my time, I agree that the Congress has often failed in its oversight responsibility. I think in some cases we can do more good by oversight than we can by adopting new legislation and new programs. But this is not a new program; it is an extension of an existing one. It makes changes that were discovered to be needed through various oversight activities.

Mr. SYMMS. I understand.

Mr. WAXMAN. But I think if we have so many items on our agenda to renew or have the legislation expire, what we would end up doing, as a practical matter, is just churning out renewals of legislation without giving it the oversight perspective that we ought to get into.

Mr. SYMMS. The way it is today, we get no time on it at all, I say to the chairman.

Mr. WAXMAN. We ought to be doing oversight. If the department that is in charge of this proposal does not do its job appropriately, we now have a one-house veto to correct the regulations. We should be doing oversight throughout the program. I think that we run a danger in having a sunset provision that could mean that the program could terminate and the children will be without services, and that could adversely affect vigorous State implementation of the program.

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

Mr. Chairman, if I could, I would like to engage my colleague, the gentleman from Idaho (Mr. SYMMS), in colloquy, in consideration of some of the points that have just been discussed. Is the gentleman aware that the committee has in fact spent the last 3 years evaluating, overseeing the EPSDT program, the early periodic screening, diagnostic, and treatment program for the delivery of preventive health care services to poor children, and that this bill that is before us today is in fact the result of that oversight effort?

Mr. SYMMS. If the gentleman will yield, I laud the committee for its oversight effort. I am not taking anything away from the committee or the gentleman from New Jersey or the gentleman from California in their efforts in this.

The fact is that my amendment would not stop this program. This amendment would merely state unequivocally that the Congress will come back and reappraise the situation in 1984, and that will be ample time for these programs to be in place. We very simply will have an oversight of it. We will be forced to have an oversight of it, very much as this committee has had today, because we will have to go back and examine what has happened, what was intended to happen, and what you foresee to happen in the future, and it will be a positive way for Members of Congress to see that the program is carried out the way those who here today intended it to be.

Mr. MAGUIRE. Mr. Chairman, I hesitate to ask the gentleman this question, because I am afraid that I may know what the answer is, but would the gentleman take the same approach on medicaid or medicare or social security?

Mr. SYMMS. I think that it would be very worth while for the Congress to examine all Government activities, with the intention of whether or not they are achieving the goals that Congress originally intended.

Mr. MAGUIRE. Would the gentleman put a sunset provision on medicare or on the social security bill, for example?

Mr. SYMMS. The social security bill goes back even before the gentleman and I were born, so it may be that it is a little late for that. But I think we are starting now. The gentleman is comparing apples with oranges.

Mr. MAGUIRE. No.

Mr. SYMMS. We are talking about starting a new entitlement. Why not examine what we have done? That is part of the reason why we cannot get the budget in balance.

Mr. MAGUIRE. If I could correct the gentleman somewhat, this is a continuation of an existing entitlement program in improved form.

Mr. SYMMS. It is going to be an expansion of an entitlement program, is it not?

Mr. MAGUIRE. It is going to be a much more effective and cost effective program as a result of changes that result from the 3 years of oversight that we have done.

But let me ask the gentleman this, since he has not directly answered the question on social security or medicare. That does give me some hope that perhaps the gentleman would not be rushing in to suggest a sunset provision for those kinds of programs, which I think would be unwise. I have voted for sunset provisions on other kinds of programs, and there are places where I think it makes sense. But here we are talking about a children's program which depends for its cost effectiveness on reaching out and knowing that when children will be brought into the program they will be served. If the gentleman is not emphatic in favor of such a sunset provision for medicaid, covering adults, or for medicare, covering senior citizens, why is the gentleman selecting out children now for this particular amendment at this particular time?

Mr. SYMMS. Because we have the entitlement program before us here today, that is all. I think the philosophy behind the sunset provision is nothing new. As a matter of fact, it was Justice Douglas who was, at the time when the New Deal started, trying to put the sunset provision on most of the agencies that F. D. R. himself asked the Congress to pass during the 1930's. He told him at the time that they should have sunset provisions. So this is not a new concept, and the gentleman from Idaho is not the originator of the idea of a sunset provision. It just seems to me that it makes a lot of sense, in dealing with the bureaucracies that come from Government programs, where it is very hard for the people we want to help, the needy children, when they oftentimes get lost in the shuffle and the bureaucracy gets the money. With a sunset provision, I think this Congress can insure that the needy children will get the money and get the help and get the medical care that is intended through this legislation and not layer upon layer upon layer of bureaucracy.

Mr. MAGUIRE. Mr. Chairman, is the gentleman planning to vote for the bill if his amendment passes?

Mr. SYMMS. No.

Mr. MAGUIRE. So the gentleman is opposed to the bill, whether or not his amendment passes?

Mr. SYMMS. The gentleman from Idaho believes that the proper way to approach the problem is to return the revenues and the rights for those revenues and the responsibilities back to the people in the respective 50 States and allow them the privilege of taking care of their own needy children. I think that would be a much more humanitarian approach than to try to have some massive Federal program, which all too often we end up with high, laudable goals, but the people who need the help are the last ones to get the help at the bottom end of the spectrum. I would say to the gentleman that it would make the bill much more agreeable to the gentleman from Idaho if the sunset provision is in it.

The CHAIRMAN. The time of the gentleman from New Jersey (Mr. MAGUIRE) has expired.

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

Mr. MAGUIRE. Mr. Chairman, I would just say to the gentleman that the very inequality of treatment under the current program between States is one of the major reasons for the amendments that we have before us in this bill to improve the existing program.

I would plead with my colleagues to keep in mind that the gentleman is opposed to the entire bill here. In fact, the amendment he is proposing would be terribly harmful to the objectives of the bill, and just at a time when we are starting to realize the cost savings under this program, it would be just at that time when the whole program would be placed in jeopardy and we would not be able to plan properly.

Mr. Chairman, I urge that the gentleman's amendment be defeated.

□ 1430

Mr. CARTER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I strongly oppose this amendment to add a sunset provision to the CHAP program. There is no such arbitrary expiration date on the rest of medicaid so I would urge my colleagues to reject this amendment.

Moreover, the intent of this amendment can be achieved without amending the bill. Our committee already has jurisdiction over medicaid—and we can conduct oversight hearings at any time. I can assure my colleagues that we will be following implementation of this legislation very closely and that we can consider the need for legislative action at any time rather than at some arbitrary time.

In addition, the effect of an expiration date on this program could have a disastrous effect on the CHAP program. It would bring a great deal of uncertainty to the operation of CHAP and States would be reluctant to seek out additional poor children because of the possibility that the program might be terminated if Congress failed to act. Poor children are likely to be denied needed services.

In addition, this amendment would terminate the program at the very time when CHAP is bringing in the additional poor children it is intended to serve.

Even though 5 million additional would become eligible for medicaid under this bill, it will take many years to actually reach and provide services to the majority of these children. In fact, according to the Congressional Budget Office, by the fifth year of the program only about one-third of the eligible children would be served by CHAP. This amendment would have CHAP expire at that time, unless Congress acts promptly to renew it.

In summary, the basic intent of this amendment can be achieved without altering the legislation while adoption of the amendment would have a far-reaching and undesirable impact on the success of CHAP.

I urge defeat of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Idaho (Mr. SYMMS).

The question was taken; and on a division (demanded by Mr. SYMMS) there were—ayes 18, noes 21.

RECORDED VOTE

Mr. SYMMS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 226, noes 162, not voting 45, as follows:

[Roll No. 713]

AYES—226

Abdnor	Emery	Latta
Albosta	English	Leach, La.
Andrews, N.C.	Erdahl	Leath, Tex.
Anthony	Erlenborn	Lee
Applegate	Evans, Del.	Levitas
Archer	Evans, Ga.	Lewis
Ashbrook	Evans, Ind.	Livingston
Ashley	Fenwick	Loeffler
Atkinson	Findley	Long, Md.
Badham	Fish	Lott
Bafalis	Fithian	Lujan
Bauman	Foley	Lungren
Beard, R.I.	Forsythe	McCloskey
Beard, Tenn.	Fountain	McCormack
Benjamin	Fowler	McDonald
Bennett	Frenzel	McEwen
Bereuter	Fuqua	McHugh
Bevill	Gephardt	McKay
Boland	Gibbons	McKinney
Boner	Gilman	Madigan
Bouquard	Goldwater	Markey
Bowen	Goodling	Marlenee
Breaux	Gore	Martin
Brinkley	Gradison	Mathis
Broomfield	Gramm	Mavroules
Brown, Ohio	Grisham	Mazzoli
Broyhill	Guarini	Mica
Buchanan	Gudger	Michel
Burgener	Hagedorn	Miller, Ohio
Butler	Hall, Tex.	Mitchell, N.Y.
Byron	Hammer-schmidt	Mollohan
Campbell	Hefner	Montgomery
Carney	Heftel	Moore
Cheney	Hightower	Moorhead, Calif.
Clausen	Hillis	Motti
Cleveland	Hinson	Murphy, Pa.
Clinger	Holt	Myers, Ind.
Coleman	Hopkins	Natcher
Collins, Tex.	Hubbard	Nelson
Corcoran	Huckaby	Nichols
Courter	Hughes	O'Brien
Crane, Daniel	Hutto	Panetta
Crane, Philip	Hyde	Pashayan
D'Amours	Ichord	Paul
Daniel, Dan	Ireland	Petri
Daniel, R. W.	Jacobs	Pursell
Dannemeyer	Jeffries	Quayle
Daschle	Jenkins	Quillen
Davis, S.C.	Jenrette	Ratchford
de la Garza	Johnson, Colo.	Regula
Deckard	Jones, N.C.	Rhodes
Derwinski	Jones, Okla.	Rinaldo
Devine	Jones, Tenn.	Ritter
Dickinson	Kazen	Robinson
Dodd	Kelly	Roth
Donnelly	Kemp	Rousselot
Dornan	Kindness	Royer
Dougherty	Kostmayer	Rudd
Duncan, Tenn.	Kramer	Runnels
Early	Lagomarsino	Santini
Edwards, Ala.	Satterfield	Stangeland
Sawyer	Stanton	Wampler
Schulze	Stockman	White
Sebelius	Stratton	Whitehurst
Sensenbrenner	Stump	Whitley
Sharp	Symms	Whittaker
Shelby	Synar	Whitten
Shumway	Tauke	Williams, Ohio
Shuster	Taylor	Wilson, Bob
Skelton	Traxler	Wolff
Smith, Nebr.	Trible	Wyatt
Snowe	Udall	Wydler
Snyder	Ullman	Wylie
Solomon	Vander Jagt	Yatron
Spence	Walker	Young, Fla.
		Young, Mo.

NOES—162

Addabbo	Frost	Patterson
Alexander	Garcia	Pease
Ambro	Gaydos	Pepper
Anderson, Calif.	Giaimo	Peyser
Annunzio	Ginn	Pickle
Aspin	Gonzalez	Preyer
AuCoin	Gray	Price
Bailey	Green	Rahall
Baldus	Hall, Ohio	Railsback
Barnard	Hamilton	Rangel
Barnes	Harris	Reuss
Bellenson	Harsha	Richmond
Bingham	Hawkins	Rodino
Blanchard	Heckler	Roe
Boggs	Holland	Rose
Bolling	Hollenbeck	Rostenkowski
Bonior	Holtzman	Roybal
Bonker	Horton	Sabo
Brademas	Howard	Scheuer
Brodhead	Jeffords	Schroeder
Brooks	Johnson, Calif.	Seiberling
Brown, Calif.	Kastenmeier	Shannon
Burlison	Kildee	Simon
Burton, John	Kogovsek	Slack
Burton, Phillip	LaFalce	Smith, Iowa
Carr	Lederer	Solarz
Carter	Lehman	Spellman
Chisholm	Leland	St Germain
Clay	Lloyd	Stack
Coelho	Long, La.	Staggers
Collins, Ill.	Lowry	Stark
Conte	Luken	Steed
Conyers	Lundine	Stewart
Corman	McClory	Stokes
Cotter	McDade	Studds
Coughlin	Maguire	Swift
Danielson	Marks	Thompson
Davis, Mich.	Matsui	Van Deerlin
Derrick	Mikulski	Vanik
Diggs	Miller, Calif.	Vento
Dingell	Mineta	Volkmer
Dixon	Minish	Walgren
Downey	Mitchell, Md.	Waxman
Drinan	Moakley	Weaver
Edgar	Moffett	Weiss
Ertel	Moorhead, Pa.	Williams, Mont.
Fary	Murphy, N.Y.	Wilson, Tex.
Fascell	Neal	Wirth
Fazio	Nedzi	Wolpe
Ferraro	Nowak	Wright
Fisher	Oakar	Yates
Florio	Oberstar	Zablocki
Ford, Mich.	Obey	Zeferetti
Ford, Tenn.	Ottinger	
	Patten	

NOT VOTING—45

Akaka	Flippo	Myers, Pa.
Anderson, Ill.	Flood	Nolan
Andrews, N. Dak.	Gingrich	Perkins
	Glickman	Pritchard
Bedell	Grassley	Roberts
Bethune	Guyer	Rosenthal
Biaggi	Hance	Russo
Cavanaugh	Hanley	Stenholm
Chappell	Hansen	Thomas
Conable	Harkin	Treen
De'lums	Leach, Iowa	Watkins
Dicks	Lent	Wilson, C. H.
Duncan, Oreg.	Marriott	Winn
Eckhardt	Mattox	Young, Alaska
Edwards, Calif.	Murphy, Ill.	
Edwards, Okla.	Murtha	

□ 1450

The Clerk announced the following pairs:

On this vote:

Mr. Hansen for, with Mr. Edwards of California against.

Mr. Thomas for, with Mr. Dellums against.

Mr. Guyer for, with Mr. Myers of Pennsylvania against.

Mr. Lent for, with Mr. Rosenthal against.

Mr. Marriott for, with Mr. Akaka against.

Messrs. TRAXLER, SHARP, and FITHIAN changed their vote from "no" to "aye."

Mr. BLANCHARD and Mr. MOFFETT changed their vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. WAXMAN. Mr. Chairman, I ask unanimous consent that all debate on the bill and all amendments thereto close at 3:15 o'clock.

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

Mr. BAUMAN. Mr. Chairman, reserving the right to object, could the Chair tell us how many amendments are at the desk?

The CHAIRMAN. There is one technical amendment at the desk.

Mr. BAUMAN. And there are no other substantive amendments?

Mr. Chairman, I withdraw my reservation of objection.

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

There was no objection.

The CHAIRMAN. All debate on the bill and all amendments thereto will cease at 3:15 o'clock.

AMENDMENT OFFERED BY MR. WAXMAN

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

The Clerk read as follows:

Amendment offered by Mr. WAXMAN: Page 34, line 14, strike out "(4)" and insert in lieu thereof "(3)".

Page 42, line 1, strike out "sections" and insert in lieu thereof "section".

The CHAIRMAN. Members standing at the time the unanimous-consent request was granted will be recognized for 4 minutes each.

The Chair recognizes the gentleman from Pennsylvania (Mr. WAXMAN) for 4 minutes in support of his amendment.

Mr. WAXMAN. This amendment, Mr. Chairman and Members, is solely a technical amendment. On page 34, line 14, we are striking "4" and inserting in lieu thereof the number "3".

On page 42, line 1, we strike out the word "sections" and insert in lieu thereof the word "section".

Mr. Chairman, I know of no opposition to the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. WAXMAN).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. PHILIP M. CRANE

Mr. PHILIP M. CRANE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PHILIP M. CRANE: On page 38, following line 15, insert the following new subsection:

(2)(a) No officer, employee, or agent of the Federal Government or of an organization conducting medical reviews for purposes of carrying out the study provided for in subsection (a)(1) of this section shall inspect (or have access to) any part of an individually identifiable medical record (as described in subsection (c)) of a patient which relates to medical care not provided directly by the Federal Government or paid for (in whole or in part) under a Federal program or under a program receiving Federal financial assistance, unless the patient has authorized such disclosure and inspection in accordance with subsection (b).

(b) A patient authorizes disclosure and inspection of a medical record for purposes of subsection (a) only if, in a signed and dated statement, he—

(1) authorizes the disclosure and inspection for a specific period of time;

(2) identifies the medical record authorized to be disclosed and inspected; and

(3) specifies the agencies which may inspect the record and to which the record may be disclosed.

(c) For purposes of this section:

(1) The term "individually identifiable medical record" means a medical, psychiatric, or dental record concerning an individual that is in a form which either identifies the individual or permits identification of the individual through means (whether direct or indirect) available to the public.

(2) The term "medical care" includes preventive and primary medical, psychiatric, and dental assessments, care and treatment.

Mr. WAXMAN. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from Illinois (Mr. PHILIP M. CRANE) is recognized for 4 minutes in support of his amendment.

□ 1500

Mr. PHILIP M. CRANE. Mr. Chairman, a recent edition of State Legislatures in April of 1978 reported that an OMB study confirmed that Federal agencies maintain an average of 18 files on every man, woman, and child in these United States. It seems to me that we have witnessed, with the general growth of our Federal Government, a growth of the invasion of the right to privacy that should be a fundamental right enjoyed by all American citizens.

What my amendment would do, Mr. Chairman, is to guarantee confidentiality in this critical area of medical records. The reason it is needed is because we have very recently in our experience witnessed an event that involved the invasion of a man's rights by an illegal break-in to a psychiatric office and the public dissemination of that kind of information.

What we are potentially doing here, it seems to me, is to make this legal and authorized under legislation designed with the best of intentions but which has the unfortunate potential consequence of permitting a violation of the sanctity of medical records.

A 1977 National Bureau of Standards study primarily conducted by Dr. Alan Westin of Columbia University, established that once the records were allowed to fall into the hands of a bureaucrat, they were no longer confidential. Dr. Westin said his studies confirmed that potential employers often use evidence of the treatment of mental stress as a criterion for screening out potential employees. Will attempts to get help for a child actually complicate his life by foreclosing future employment opportunities if we do not support this amendment?

Dr. Alfred Freedman, past president of the American Psychiatric Association, says forthrightly:

I think this threat to privacy is going to be steadily accelerated as we move into the direction of national health insurance.

He went on to say:

We all need to be constantly aware of the delicate complex balances which must be struck between the patient's right to privacy and the society's need for information.

I would urge, Mr. Chairman, support for this amendment which serves, I think, the interest not only of the affected potential patients coming under the jurisdiction of this bill, but I think it certainly serves the long-term ideals of all of us as people who have profited by growing up in the freest of societies, but one of the corollaries of living in a free society, it seems to me, is to be guaranteed the sanctity of one's medical records, amongst other things, in short, a guarantee of one's right to privacy. This amendment is designed to achieve that end.

Mr. Chairman, I yield back the remainder of my time.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from California (Mr. WAXMAN) insist upon his point of order?

Mr. WAXMAN. I would like a clarification, Mr. Chairman, if I might, before I pursue whether I have a point of order.

The CHAIRMAN. The gentleman from California reserves his point of order, and the gentleman is recognized for his remaining time under the allocation.

Mr. WAXMAN. I would like to make an inquiry of the gentleman from Illinois (Mr. PHILIP M. CRANE) who has offered the amendment, if I might. The section (2)(a) on page 38 following line 15 as it would be inserted by this amendment says:

No officer, employee, or agent of the Federal Government or of an organization conducting medical reviews for purposes of carrying out the study provided for in subsection (a)(1) of this section shall inspect (or have access to) * * *.

Is this a parenthetical clause: "Or of an organization conducting medical reviews for purposes of carrying out the study provided for," or are we also referring only to the officers, employees, or agents of the Federal Government who are conducting medical reviews for purposes of carrying out the study?

Mr. PHILIP M. CRANE. If the gentleman will yield, the reason for the seeming redundancy of language was to guarantee that there would not be any commission or what I would classify as an agent, but which might be open to some debate, or group of private individuals performing a function under the auspices of the Federal Government. I would define that as an agent and, therefore, that language would be, then, redundant to that extent. My concern is quibbling over fine points of definitions, and to the extent that there is a potential here for some private group with the full authority of the Federal Government to conduct these kinds of studies, I want to make sure that those do not in any way have the possibility of falling into the hands of Government officials without the written consent of the patient involved.

Mr. WAXMAN. If I might further in-

quire, is it fair to say that the limitation, "No officer, employee, or agent of the Federal Government" pertains specifically to the carrying out of the study provided for in subsection (a)(1)? Is it specifically addressed to carrying out that study?

Mr. PHILIP M. CRANE. In the process of carrying out the study, my understanding is there is a potential for examination, obviously, of medical records, and to the extent there is, then I think if they are identifiable medical records, the potential exists for those to come into the hands of Government officials unbeknownst to the patient.

Mr. WAXMAN. But I am trying to ascertain whether it is limited to carrying out the study provided for in subsection (a)(1) and the medical records are viewed only for the purpose of carrying out that study.

Mr. PHILIP M. CRANE. Does the gentleman mean is it confined to that?

Mr. WAXMAN. Yes.

Mr. PHILIP M. CRANE. No, it is not. That would not be my understanding of the amendment.

The CHAIRMAN. Does the gentleman from California (Mr. WAXMAN) insist on his point of order?

Mr. WAXMAN. Mr. Chairman, I am going to pursue my point of order, then.

The CHAIRMAN. The gentleman will state his point of order.

Mr. WAXMAN. Mr. Chairman, as I read this section without the limitation that I tried to determine was included there, I believe it is overly broad and, therefore, not germane, and I make a point of order of the fact that it is not germane to the bill before us.

The CHAIRMAN. Does the gentleman from Illinois (Mr. PHILIP M. CRANE) wish to be heard on the point of order?

Mr. PHILIP M. CRANE. I do, Mr. Chairman. I think it is, indeed, germane because, Mr. Chairman, the language of the amendment, I think, addresses the specific narrow concern that the Chairman has upon which he bases his point of order, but, on the other hand, there are implications in the language of the bill that I think this additional language in this paragraph addresses, and that is the potential to go beyond those narrow constraints that I think the gentleman, the Chairman, would presume exist within this legislation.

I am less sure and less confident that those restraints are there. I would argue that the specificity of the first part of this sentence that "No officer, employee, or agent of the Federal Government or of an organization conducting medical reviews for purposes of carrying out the study provided for in" that subsection indicated is language narrow enough to be germane to the intent of the bill.

The CHAIRMAN (Mr. VENTO). Are there further Members who wish to be heard on the point of order? If not, the Chair is prepared to rule.

The Chair, in listening to and weighing the arguments, finds that the point of order is well taken. The argument seems to establish that the amendment offered by the gentleman from Illinois (Mr. PHILIP M. CRANE) could go to confidentiality of other medical records that would not otherwise be covered by the pending legislation and as such represents, then, too broad an amendment. The records could deal with additional information that would usually be under the confidentiality of physician-and-patient relationship, that would be outside the services rendered through this program if the conduct of Federal officers is not to be confined to the carrying out of the study in section 14. Therefore, the Chair states that the point of order is well taken.

Mr. PHILIP M. CRANE. Mr. Chairman, may I direct a question to the chairman of the committee?

The CHAIRMAN. The point of order is sustained. The amendment is ruled out of order.

The Chair recognizes the gentleman from Missouri (Mr. VOLKMER).

Mr. VOLKMER. Mr. Chairman, I rise in strong support of the legislation before us and ask all Members to vote for it.

I can well remember earlier this year debate on behalf of foreign assistance, economic assistance to foreign countries. Many times I heard during that debate that we should take care of our own people first and that we should not be spending the money overseas. I point out to everyone here right now that this is their opportunity to take care to a great extent of the health care of people who really need it—many of the poor. Also one thing I like in this bill is the provisions we now have incorporated in the bill to provide for precare treatment and diagnostic services so that we can have preventive care for our children and bring them up healthy and also for pregnant women.

I wish to congratulate the chairman and also the ranking minority member for the legislation.

Mr. Chairman, I yield back the remainder of my time.

□ 1510

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. DANNEMEYER).

Mr. DANNEMEYER. Mr. Chairman, perhaps some of the Members have seen a book written by Martin Anderson entitled "Welfare, the Political Economy of Welfare Reform in the United States." This book came out last year and in chapter 1 the author stated:

> The "war on poverty" that began in 1964 has been won. The growth of jobs and income in the private economy, combined with an explosive increase in government spending for welfare and income transfer programs, has virtually eliminated poverty in the United States. Any Americans who truly cannot care for themselves are now eligible for generous government aid in the form of cash, medical benefits, food stamps, housing, and other services.

Then Anderson goes on to point out that the estimated cost of fighting World War II was $288 billion. By comparison, since 1964 when this "war on poverty" began, we have spent over $300 billion. There are some 90-odd social welfare programs providing for the people of this country. In 1978 alone, the Federal Government will spend over $190 billion on top of the 12 income-transfer welfare programs.

Yet, here we are debating yet another program at a time when we are $40 billion in the red. It just does not make sense to enact yet another program on top of a war that has been won.

What war are we pursuing now? Is Martin Anderson right when he says the war is not poverty any more, it is the war on inequality?

The CHAIRMAN. The Chair recognizes the gentleman from New Jersey (Mr. MAGUIRE).

Mr. MAGUIRE. Mr. Chairman, I also want to praise the ranking minority member, the gentleman from Kentucky (Mr. CARTER), for the extraordinary work he has done on this legislation over a 3-year period. We are going to miss Dr. CARTER and I hope that we can give him a sendoff with a tremendous vote in favor of this bill which is very much his bill. And I also would compliment the gentleman from California (Mr. WAXMAN), who has done an extraordinary piece of work on this legislation.

I have 2 points: First, this bill is the result of 3 years of careful work on how to make an existing program function more effectively. You could not have a better example of the Congress buckling down to the task of oversight and figuring out how to tune up and make effective an existing program.

Second, it is one of the most cost-effective things that we can ever do, to provide preventive-care services for health, because the data show we will save as much or more than 40 percent of our health-care dollar if we take this kind of approach.

Mr. Chairman, let us do this with children under the existing medicaid program. Let us pass this bill today.

● Mr. FLORIO. Mr. Chairman, I rise in support of the Child Health Assurance Act of 1979 (H.R. 4962). I am proud to have both served on the committee which developed this legislation for a child health assurance program and cosponsored the legislation when it was first introduced. The merits of CHAP are many and I urge my colleagues to join me in support of this bill which will make sorely needed changes in our federally supported health care program for low-income children and pregnant women.

Our current federally supported health care system for low-income children does not go far enough. These programs alone are not sufficient to respond adequately to the health care needs of poor women and children. There are two basic reasons for this shortcoming. Current programs fail to cover many low-income children and pregnant women and fail to place enough emphasis on preventive care.

Medicaid is essentially a payment program. It assures eligible persons that when health care is needed, the bill will be paid. In 1967, Congress, recognizing the need to do more for children than insure financial access, enacted the early and periodic screening diagnosis and treatment program as part of medicaid specifically to meet the health care needs of children, including Outreach and health status monitoring.

However, the program has been fraught with serious shortcomings. While children represent over 40 percent of our medicaid-eligible population, they

account for a relatively small proportion of medicaid expenditures—just over 15 percent. Medicaid fails to cover many low-income children and pregnant women in the first place. Although 11 million children are eligible for medicaid, another 7 million children who live in families with incomes below the Federal poverty level are not covered. Some of them are ineligible because they live in two-parent families, others because their family income is slightly above restrictive State welfare standards. Further, over 250,000 pregnant women with incomes below the poverty level are not covered because either they live in two-parent families or have income just above State welfare standards.

Moreover, some essential child health services are severely restricted at State discretion. Current law requires States to provide dental, hearing, and vision services only to children screened under EPSDT. Other children may be denied these vital services. Further, treatment for mental illness is often so limited that only minimal levels, if any, are provided. Inpatient and outpatient medical services may be limited as to amount, duration, and scope; clinic services need not be provided.

CHAP, as pointed out several days ago by my colleague from New Jersey (Mr. MAGUIRE), would not create an entirely new system. Rather it sets to right many of the wrongs inherent in the existing EPSDT program.

By focusing Federal efforts on preventive and comprehensive health care for all eligible children under 18 who are members of families whose income is less than either two-thirds of the poverty level or the applicable State medicaid standard, we can assure, through CHAP, that this Nation's neediest children have access to health care. By mandating a greater number of services to be provided, and at the same time increasing the Federal share of funds for each State, we can assure that children in one State are not suffering from lack of needed services, and others in a different State receiving a fair share. By providing prenatal and neonatal care to the low-income pregnant woman, we can help assure that her offspring are born, and born without many of the heartbreaking effects of poverty—malnutrition and birth defects.

Many of my colleagues have cited the actual cost savings which will accrue as the result of CHAP's implementation—the effects of early diagnosis and treatment. New Jersey can have as much as $2.2 million in State costs in CHAP's first year. However, it is equally important to speak of the savings in terms of human suffering and loss of productivity. I am thinking particularly of the child who under EPSDT would have been labeled mentally ill, mentally retarded, or developmentally disabled and who, more likely than not, would not have received treatment. Such children could carry that stigmatizing label for life, limiting their chance for a productive future. But CHAP offers treatment—treatment not hitherto mandated under medicaid; treatment which can make the difference between a life of dependency and independence.

This is just one group of many who will benefit from CHAP. Our future is in the hands of our Nation's children, our healthy children. Let us not damn the low-income child twice, once by the poverty into which he or she has been born and once again by physical or mental disability.

In this last month of the International Year of the Child, I can think of no greater fitting tribute than to pass this critical legislation. Therefore I urge my colleagues to vote for and support passage of the child health assurance program, H.R. 4962.●

● Mr. MARKEY. Mr. Chairman, the quality of our children's health care is of the utmost concern to all of us. The Child Health Assurance Act (H.R. 4962) (CHAP) addresses this concern in a very positive way. For the first time, millions of low-income children would receive badly needed basic health care.

There are many features of this legislation that deserve special mention. For example, CHAP would extend medicaid eligibility to children who are not presently on medicaid but whose families cannot afford basic health care; for example, children in low-income, intact families. CHAP would establish a national minimum standard for access to health care services for children and pregnant women. Further, a child health assurance program would replace the underfunded early screening program (EPSDT).

CHAP is consistent with Congress concern for containing spiraling health costs. Indeed, its emphasis on preventive and primary care is the essence of cost containment. Numerous studies have shown that savings of up to 40 percent in health bills are attainable for children who receive preventive and primary care.

In my home State of Massachusetts, CHAP would provide 300,000 children, up to age 18, with greater access to more medical care and followup services. CHAP would allow a shift of emphasis from treatment to prevention services for these children. CHAP would provide Massachusetts with an additional $6 to $8 million to improve existing programs and establish new ones. For example, the particular needs of a group of needy children; namely adolescents, would now be addressed. Each year in Massachusetts, 3,000 to 5,000 teenage girls give birth. CHAP would improve both prenatal and postnatal care for these girls and their newborn babies.

For these and many other reasons, I am a cosponsor of this legislation. I wish to commend and applaud the efforts of Mr. MAGUIRE, the sponsor of H.R. 4962, and the work of Mr. WAXMAN and his subcommittee for the excellent job they have done on this legislation.

CHAP would improve the effectiveness of the medicaid program in relation to children and pregnant women. Its passage is crucial to the well-being of millions of poor children who now suffer needless and costly pain. If we are serious about containing costs and insuring the health of American children and families, CHAP must be passed.●

● Mr. FRENZEL. Mr. Chairman, as an expansion of the early periodic screening and diagnosis and treatment program, the Child Health Assurance Act will extend coverage under the medicaid program to additional low-income children and pregnant women. In essence, it assures that medical care will be availabel to those individuals and familes who are unable to afford such care.

In my own State of Minnesota, the EPSDT program was most successful, but was not without problems. The majority of those problems, access to medicaid recipients for outreach purposes and providing adolescents with prenatal care, will be alleviated with this legislation. Further, H.R. 4962 permits States to allow nonmedicaid poor individuals and families to qualify for the program, as Minnesota has done on a reduced-fee basis. Finally, CHAP encourages the participation of health maintenance organizations (HMO's) in the program to enable beneficiaries to have their health care delivered in an HMO setting.

While I intend to support the bill, I feel that its primary shortcoming is the greatly expanded entitlement program it authorizes. I share Mr. STOCKMAN'S concern that this program ought to be subject to an annual review of these ever increasing Federal expenditures. As the committee report specifies a study of the duplication of existing programs of services, there is even further justification for an annual review. Therefore, I intend to support Mr. Stockman's amendment and urge my colleagues to join me.

This is a good bill and I hope it will be passed by this body, but without the entitlement provisions.●

● Mr. DOWNEY. Mr. Chairman, I want to express my strong support for the Child Health Assistance Act.

This bill will guarantee poor children the right to preventative health care. It comes at a time when national focus is turning to proposals for health insurance for all Americans. Children currently receive health care under medicaid, but only by virtue of their relationship to an entitled adult, or because they are disabled.

Under CHAP, children will become entitled to good health care in their own right. Whether they have two parents, one parent, are in foster care, or adopted—variables in family size and circumstance will not determine their entitlement. In essence, the child remains the beneficiary of the program, rather than the adult who is responsible for the child. This new emphasis would insure uninterrupted care.

This program rewards individual States which do a good job identifying and delivering health care to healthy children. On the other hand, it penalizes States which do not. Financial incentives to carry out the mandate of the Child Health Assurance Act are built in, and while the numbers of children enrolled in this new program is expected to grow, in the long run, many costly, disabling diseases will be prevented.

I am convinced that the Child Health Assurance Act is a moral and legal obligation of all of us to the children of this Nation.●

The CHAIRMAN. All time has expired.

Are there further amendments to the bill? If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. VENTO, 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. 4962) to amend title XIX of the Social Security Act to strengthen and improve medicaid services to low-income children and pregnant women, and for other purposes, pursuant to House Resolution 487, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. 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.

MOTION TO RECOMMIT OFFERED BY MR. DANNEMEYER

Mr. DANNEMEYER. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. DANNEMEYER. Mr. Speaker, I am opposed to the bill.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows: Mr. DANNEMEYER moves to recommit the bill, H.R. 4962, to the Committee on Interstate and Foreign Commerce with instructions to report the bill back to the House forthwith with the following amendment:

On page 13, after line 9, insert the following new subsection:

"(2) Section 1905(a)(4)(C) is amended by adding at the end thereof the following: *'Provided,* That, such services and supplies made available to minors pursuant to this subsection shall only be provided upon the consent of the parent or legal guardian of said minor;' ".

On page 13, line 10, strike "(2)" and insert in lieu thereof "(3)".

Mr. DANNEMEYER. Mr. Speaker, this amendment was offered last Thursday by this Member. There was a division asked for and a rollcall asked for. Needless to say, the rollcall was not achieved. That it was not is one of the reasons this Member has elected to pursue the motion to recommit to give the Members of our body the opportunity of voting on a very important feature of this legislation that I think deserves the close attention of each and every one of us.

Mr. Speaker, specifically this proposed motion to recommit will entail a philosophical concern over who really controls family life in this country. Do parents control the education their children will receive in the area of sex education and family planning, or is that activity, like so many others in our culture, to be taken over by the States.

The language of the motion makes very clear that, insofar as family planning services and supplies furnished directly to individuals of childbearing age—including minors who can be considered to be sexually active, who are eligible under the State plan, and who desire such services and supplies—are concerned, those services and supplies can only be rendered to minors only on the consent of the parent or legal guardian of the minor.

Mr. Speaker, the philosophical question at the bottom of this whole issue is a confrontation between the philosophy of permissiveness, on the one hand, and the philosophy of parental consent, on the other. Earlier today, this House considered the subject of abortion and the degree to which the Federal Government can dictate to the States, and we decided that the Federal Government should not so dictate. Now, we are facing an extension of the same question; to what extent should the Government have control over the lives of the people it governs. Or, to put it another way, if we believe in limited Government as the vote on the Bauman amendment would seem to indicate, is it not logical to require that Government provision of family planning services and supplies for minors who are sexually active be tempered by the requirement that the parents or guardians, who are legally responsible for said minors, must give their written consent? If such consent is not required, then we are saying that the power of Government takes precedence over the rights of parents and, by extension, the family.

□ 1520

Any Member in this Chamber who has strong feelings about the stability of the family as the basis of our society, I believe is going to be compelled to vote for this motion to recommit, because it is appropriate for us in this forum to say to any government in this country that we believe that the basis of our society is the family unit and that, when it comes to the subject of reproduction, such a question involves moral choices which should be the sole prerogative of the parents of minors in that unit.

Moral choices are subjects that parents should be talking about with their children, not the State.

Mr. Speaker, the issue is a simple one, as I have stated. We can give respect for the family unit by indicating that, these sensitive areas of family planning and services are, and should be, the sole prerogative of parents.

Mr. Speaker, I ask for an "aye" vote on the motion to recommit.

Mr. WAXMAN. Mr. Speaker, I rise in opposition to this motion to recommit.

The gentleman suggested that we ought to give the committee opportunity to consider this issue. The proponent of this motion is a member of the subcommittee and the full committee. The gentleman did not propose it in either place. It was proposed when we were in the Committee of the Whole. It was defeated. We ought not now to adopt this motion to recommit, when it has already been disposed of.

The question of parental consent is a very complex question from State to State. What is the age of majority? Different States adopt different laws. It is their prerogative to adopt those laws. If we now adopt this motion to recommit, we are saying that children who are on medicaid are going to have a certain standard of age of majority and we are going to require them to get parental consent when they are minors, where other children in the same State who under State law could go get family planning services and not have their parents consent under State law.

Let us let the State handle it. It belongs at the State level. That is where we ought to leave it. That is why we defeated this motion to add this to this bill when it was in the Committee of the Whole and we ought to defeat this again and adopt the bill.

I urge a "no" vote.

Mr. CARTER. Mr. Speaker, will the gentleman yield?

Mr. WAXMAN. I yield to the distinguished Republican member of the subcommittee.

Mr. CARTER. Mr. Speaker, I thank the distinguished chairman for yielding.

Mr. Speaker, I oppose this motion to recommit this bill and urge that this motion be defeated. We have gone over these arguments already, and this amendment was defeated last week. I would urge its defeat again.

Actually, of the youngsters in our country who are 15 years old and younger, about one-fifth of them are sexually active. To prevent them from getting needed contraceptives beggars the imagination. Defeat of this amendment would save these children from unwanted pregnancies. It would save the country from unnecessary abortions which might occur as well.

At this time I would like to commend several members of our subcommittee who have worked so long and so hard to develop the CHAP bill and to make it what it is today. First, I would like to commend my distinguished chairman, the Honorable HENRY A. WAXMAN, who has strongly supported this legislation and under whose excellent leadership this bill has been successfully guided through the legislative process. In addition, I would like to commend my distinguished colleague, Mr. ANDREW MAGUIRE, who has been a vital and active proponent of this legislation and who has been working on this legislation with me for 3 years. I also want to commend my good friends RICHARDSON PREYER and MICKEY LELAND as well who know how important this legislation is and who have spoken so strongly and articulately in support of its enactment. And I would like to give special recognition to the distinguished chairman of the Commit-

tee on Interstate and Foreign Commerce, Mr. HARLEY STAGGERS, who has long been a proponent of the CHAP bill and who has always supported efforts to improve the health of our people.

Mr. Speaker, it has been my pleasure and my good fortune to work with my distinguished colleagues on this legislation including GEORGE DANIELSON. I share their commitment to improving the health of our children. As I said before I believe this CHAP program is the best piece of health legislation for poor children and poor women ever to be considered by the House. I urge enactment of this legislation and defeat of the motion to recommit this bill.

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

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The question was taken; and on a division (demanded by Mr. DANNEMEYER) there were—ayes 27, noes 93.

Mr. DANNEMEYER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Pursuant to the provisions of clause 5, rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the passage of the bill. Members will record their presence by electronic device.

The pending vote on the motion to recommit will take 15 minutes. The vote on final passage of the bill, if ordered, will take 5 minutes.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 163, nays 225, not voting 45, as follows:

[Roll No. 714]

YEAS—163

Abdnor	Daniel, Dan	Hopkins
Andrews, N.C.	Daniel, R. W.	Hubbard
Anthony	Dannemeyer	Huckaby
Applegate	de la Garza	Hutto
Archer	Deckard	Hyde
Ashbrook	Derwinski	Ichord
Badham	Devine	Ireland
Bafalis	Dickinson	Jeffries
Bauman	Donnelly	Jenkins
Beard, Tenn.	Dornan	Jones, N.C.
Bennett	Dougherty	Kazen
Bevill	Duncan, Tenn.	Kelly
Bouquard	English	Kemp
Bowen	Erlenborn	Kindness
Breaux	Evans, Ga.	Kramer
Brinkley	Evans, Ind.	Lagomarsino
Broomfield	Fountain	Latta
Brown, Ohio	Gephardt	Leach, La.
Burgener	Goldwater	Leath, Tex.
Byron	Goodling	Lederer
Campbell	Gramm	Lee
Carney	Grisham	Lent
Cheney	Gudger	Lewis
Clausen	Hagedorn	Livingston
Cleveland	Hall, Tex.	Loeffler
Clinger	Hammer-schmidt	Lott
Coleman	Hansen	Lujan
Collins, Tex.	Harsha	Lungren
Corcoran	Hefner	McClory
Coughlin	Heftel	McDade
Courter	Hightower	McDonald
Crane, Daniel	Holt	McEwen
Crane, Philip		McKay
Madigan	Ritter	Stump
Marlenee	Robinson	Symms
Martin	Rose	Tauke
Mathis	Roth	Taylor
Michel	Rousselot	Trible
Miller, Ohio	Royer	Vander Jagt
Montgomery	Rudd	Volkmer
Moore	Runnels	Walker
Moorhead, Calif.	Satterfield	Wampler
Motti	Sawyer	White
Murtha	Schulze	Whitehurst
Neal	Sebelius	Whitley
Nelson	Sensenbrenner	Whittaker
Nichols	Shelby	Williams, Mont.
O'Brien	Shumway	Wilson, Bob
Pashayan	Skelton	Wilson, Tex.
Paul	Smith, Nebr.	Wyatt
Petri	Solomon	Wydler
Preyer	Spence	Wylie
Quillen	St Germain	Young, Fla.
Regula	Stangeland	Young, Mo.
	Stanton	Zablocki

NAYS—225

Addabbo	Fithian	Murphy, Pa.
Albosta	Florio	Myers, Ind.
Alexander	Foley	Natcher
Ambro	Ford, Mich.	Nedzi
Anderson, Calif.	Ford, Tenn.	Nowak
Annunzio	Forsythe	Oakar
Ashley	Fowler	Oberstar
Aspin	Frenzel	Ottinger
Atkinson	Frost	Panetta
AuCoin	Fuqua	Patten
Bailey	Gaydos	Patterson
Baldus	Giaimo	Pease
Barnard	Gibbons	Pepper
Barnes	Gilman	Peyser
Beard, R.I.	Ginn	Pickle
Beilenson	Gonzalez	Price
Benjamin	Gore	Pursell
Bereuter	Gradison	Quayle
Bingham	Gray	Rahall
Blanchard	Green	Railsback
Boggs	Guarini	Rangel
Boland	Hall, Ohio	Ratchford
Bolling	Hamilton	Reuss
Boner	Harris	Rhodes
Bonior	Hawkins	Richmond
Bonker	Heckler	Rinaldo
Brademas	Hillis	Rodino
Brodhead	Hinson	Roe
Brooks	Holland	Rostenkowski
Brown, Calif.	Hollenbeck	Roybal
Broyhill	Holtzman	Sabo
Buchanan	Horton	Santini
Burlison	Howard	Scheuer
Burton, John	Hughes	Schroeder
Burton, Phillip	Jacobs	Seiberling
Butler	Jeffords	Shannon
Carr	Jenrette	Sharp
Carter	Johnson, Calif.	Simon
Cavanaugh	Johnson, Colo.	Slack
Chisholm	Jones, Okla.	Smith, Iowa
Clay	Jones, Tenn.	Snowe
Coelho	Kastenmeier	Snyder
Collins, Ill.	Kildee	Solarz
Conte	Kogovsek	Spellman
Conyers	Kostmayer	Stack
Corman	LaFalce	Staggers
Cotter	Lehman	Stark
D'Amours	Leland	Steed
Danielson	Levitas	Stewart
Daschle	Lloyd	Stockman
Davis, Mich.	Long, La.	Stokes
Davis, S.C.	Long, Md.	Stratton
Derrick	Lowry	Studds
Diggs	Luken	Swift
Dingell	Lundine	Synar
Dixon	McCloskey	Thompson
Dodd	McCormack	Traxler
Downey	McHugh	Udall
Drinan	McKinney	Ullman
Early	Maguire	Van Deerlin
Eckhardt	Markey	Vanik
Edgar	Marks	Vento
Edwards, Ala.	Matsui	Walgren
Emery	Mavroules	Waxman
Erdahl	Mazzoli	Weaver
Ertel	Mica	Weiss
Evans, Del.	Mikulski	Whitten
Fary	Miller, Calif.	Williams, Ohio
Fascell	Mineta	Wirth
Fazio	Minish	Wolff
Fenwick	Mitchell, Md.	Wolpe
Ferraro	Moakley	Yates
Findley	Moffett	Yatron
Fish	Mollohan	Zeferetti
Fisher	Moorhead, Pa.	
	Murphy, N.Y.	

NOT VOTING—45

Akaka	Andrews, N. Dak.	Bedell
Anderson, Ill.	Biaggi	Bethune
Chappell	Guyer	Roberts
Conable	Hance	Rosenthal
Dellums	Hanley	Russo
Dicks	Harkin	Shuster
Duncan, Oreg.	Leach, Iowa	Stenholm
Edwards, Calif.	Marriott	Thomas
Edwards, Okla.	Mattox	Treen
Flippo	Mitchell, N.Y.	Watkins
Flood	Murphy, Ill.	Wilson, C. H.
Garcia	Myers, Pa.	Winn
Gingrich	Nolan	Wright
Glickman	Obey	Young, Alaska
Grassley	Perkins	
	Pritchard	

□ 1540

The Clerk announced the following pairs:

On this vote:

Mr. Chappell for, with Mr. Russo against.

Mr. Myers of Pennsylvania for, with Mr. Hanley against.

Mr. Stenholm for, with Mr. Wright against.

Mr. Guyer for, with Mr. Anderson of Illinois against.

Mr. Shuster for, with Mr. Thomas against.

Until further notice:

Mr. Akaka with Mr. Leach of Iowa.

Mr. Murphy of Illinois with Mr. Winn.

Mr. Obey with Mr. Mitchell of New York.

Mr. Roberts with Mr. Young of Alaska.

Mr. Biaggi with Mr. Charles H. Wilson of California.

Mr. Edwards of Oklahoma with Mr. Garcia.

Mr. Rosenthal with Mr. Pritchard.

Mr. Dellums with Mr. Conable.

Mr. Edwards of California with Mr. Bethume.

Mr. Duncan of Oregon with Mr. Andrews of North Dakota.

Mr. Bedell with Mr. Marriott.

Mr. Dicks with Mr. Flood.

Mr. Flippo with Mr. Grassley.

Mr. Glickman with Mr. Gingrich.

Mr. Harkin with Mr. Mattox.

Mr. Nolan with Mr. Perkins.

Mr. Watkins with Mr. Hance.

Messrs. LEACH of Louisiana, HEFTEL, HUCKABY, BREAUX, PREYER, McDADE, ROYER, HAGEDORN, and COLEMAN changed their votes from "nay" to "yea."

Mr. MURPHY of New York, Mr. PATTEN, and Ms. FERRARO changed their votes from "yea" to "nay."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the passage of the bill.

The bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

AUTHORIZING CLERK TO MAKE TECHNICAL CORRECTIONS IN ENGROSSMENT OF H.R. 4962

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that, in the engrossment of the bill, the Clerk be authorized to make such technical corrections as

may be necessary to reflect the actions of the House in amending the bill, H.R. 4962.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

CONFERENCE REPORT ON H.R. 5359, DEPARTMENT OF DEFENSE APPROPRIATION ACT, 1980

Mr. ADDABBO submitted the following conference report and statement on the bill (H.R. 5359) making appropriations for the Department of Defense for the fiscal year ending September 30, 1980, and for other purposes.

CONFERENCE REPORT (H. REPT. NO. 96-696)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5359) making appropriations for the Department of Defense for the fiscal year ending September 30, 1980, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 16, 17, 21, 30, 36, 54, 59, 60, 61, 62, 67, 68, 69, 70, 71, 72, 73, 74, 78, 79, and 80.

That the House recede from its disagreement to the amendments of the Senate numbered 7, 20, 22, 25, 26, 28, 32, 35, 39, 40, 41, 46, 48, 49, 50, 58, 63, 64, 76, 82, 84, 87, 88, 89, and 91, and agree to the same.

Amendment numbered 1: That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$9,668,819,000"; and the Senate agree to the same.

Amendment numbered 2: That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$6,857,256,000"; and the Senate agree to the same.

Amendment numbered 3: That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$2,089,457,000"; and the Senate agree to the same.

Amendment numbered 5: That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$606,400,000"; and the Senate agree to the same.

Amendment numbered 6: That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$88,100,000"; and the Senate agree to the same.

Amendment numbered 8: That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$867,250,000"; and the Senate agree to the same.

Amendment numbered 9: That the House recede from its disagreement to the amendment of the Senate numbered 9, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$9,915,368,000"; and the Senate agree to the same.

Amendment numbered 10: That the House recede from its disagreement to the amendment of the Senate numbered 10, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$13,272,245,000"; and the Senate agree to the same.

Amendment numbered 11: That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$802,046,000"; and the Senate agree to the same.

Amendment numbered 12: That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$10,459,750,000"; and the Senate agree to the same.

Amendment numbered 13: That the House recede from its disagreement to the amendment of the Senate numbered 13, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$3,528,214,000"; and the Senate agree to the same.

Amendment numbered 14: That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$420,644,000"; and the Senate agree to the same.

Amendment numbered 15: That the House recede from its disagreement to the amendment of the Senate numbered 15, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$396,436,000"; and the Senate agree to the same.

Amendment numbered 24: That the House recede from its disagreement to the amendment of the Senate numbered 24, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$1,140,800,000"; and the Senate agree to the same.

Amendment numbered 29: That the House recede from its disagreement to the amendment of the Senate numbered 29, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$1,435,410,000"; and the Senate agree to the same.

Amendment numbered 33: That the House recede from its disagreement to the amendment of the Senate numbered 33, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$772,600,000"; and the Senate agree to the same.

Amendment numbered 34: That the House recede from its disagreement to the amendment of the Senate numbered 34, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$34,600,000"; and the Senate agree to the same.

Amendment numbered 37: That the House recede from its disagreement to the amendment of the Senate numbered 37, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$6,571,850,000"; and the Senate agree to the same.

Amendment numbered 38: That the House recede from its disagreement to the amendment of the Senate numbered 38, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$2,590,056,000"; and the Senate agree to the same.

Amendment numbered 43: That the House recede from its disagreement to the amendment of the Senate numbered 43, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$7,965,240,000"; and the Senate agree to the same.

Amendment numbered 51: That the House recede from its disagreement to the amendment of the Senate numbered 51, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$280,185,000"; and the Senate agree to the same.

Amendment numbered 57: That the House recede from its disagreement to the amendment of the Senate numbered 57, and agree to the same with an amendment, as follows: Restore the matter stricken by said amendment insert "$1,037,022,000"; and the Senate agree to the same.

Amendment numbered 66: That the House recede from its disagreement to the amendment of the Senate numbered 66, and agree to the same with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows:

SEC. 752. No appropriation contained in this Act shall be available to fund any costs of a Senior Reserve Officers' Training Corps unit—except to complete training of personnel enrolled in Military Science 4—which in its junior year class (Military Science 3) has for the four preceding academic years, and as of September 30, 1979, enrolled less than (a) seventeen students where the institution prescribes a four-year or a combination four- and two-year program; or (b) twelve students where the institution prescribes a two-year program: *Provided*, That, notwithstanding the foregoing limitation, funds shall be available to maintain one Senior Reserve Officers' Training Corps unit in each State and at each State-operated maritime academy: *Provided further*, That units under the consortium system shall be considered as a single unit for purposes of evaluation of productivity under this provision.

And the Senate agree to the same.

Amendment numbered 75: That the House recede from its disagreement to the amendment of the Senate numbered 75, and agree to the same with an amendment, as follows: In lieu of the section number in said amendment, insert 761.

And the Senate agree to the same.

Amendment numbered 77: That the House recede from its disagreement to the amendment of the Senate numbered 77, and agree to the same with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows:

SEC. 762. None of the funds provided by this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest when such rape or incest has been reported promptly to a law enforcement agency or public health service;

Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.

And the Senate agree to the same.

Amendment numbered 85: That the House recede from its disagreement to the amendment of the Senate numbered 85, and agree to the same with an amendment, as follows: Restore the matter stricken by said amendment, amended to change the section number from section 769 to section 767.

And the Senate agree to the same.

Amendment numbered 86: That the House recede from its disagreement to the amendment of the Senate numbered 86, and agree to the same with an amendment, as follows: Restore the matter stricken by said amendment, amended to change the section number from section 770 to section 768.

And the Senate agree to the same.

Amendment numbered 90: That the House recede from its disagreement to the amendment of the Senate numbered 90, and agree

to the same with an amendment, as follows: Restore the matter stricken by said amendment, amended to change the section number from section 774 to section 769.

And the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 4, 18, 19, 23, 27, 31, 42, 44, 45, 47, 52, 53, 55, 56, 65, 81, 83, and 92.

J. ADDABBO,
ROBERT N. GIAIMO,
BILL CHAPPELL,
BILL D. BURLISON,
J. P. MURTHA,
NORMAN D. DICKS,
JAMIE L. WHITTEN,
JACK EDWARDS,
J. K. ROBINSON,
JACK F. KEMP,
SILVIO O. CONTE,
Managers on the Part of the House.

JOHN C. STENNIS,
WARREN MAGNUSON,
BILL PROXMIRE,
D. K. INOUYE,
ERNEST F. HOLLINGS,
TOM EAGLETON,
LAWTON CHILES,
WALTER D. HUDDLESTON,
BIRCH BAYH,
MILTON R. YOUNG,
TED STEVENS,
RICHARD S. SCHWEIKER (except amendment No. 77),
HENRY BELLMON,
LOWELL P. WEICKER, Jr. (except amendment No. 77),
JAKE GARN,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The Managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5359), making appropriations for the Department of Defense for the fiscal year ending September 30, 1980, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the Managers and recommended in the accompanying conference report:

TITLE I—MILITARY PERSONNEL

The following items addressed by the Conferees apply to more than one appropriation. Specific dollar amounts by military service will be reflected under each summary appropriation table.

Up-or-out Moratorium.—The Conferees agreed to the House reduction of $22,700,000 but also agreed to permit current guidelines to remain in effect with the following exception: Those individuals with the rank of O–3 or O–4 who have specialty skills in shortage areas may be selectively retained on active duty until eligible for retirement or until the skill area is otherwise fully staffed.

Physician Assistants.—The Conferees agreed that each military service will be free to designate the appropriate rank for physician assistants with the stipulation that such designation will not include commissioned status. The Conferees further agreed that currently commissioned physician assistants may retain their commissions, but at no rank higher than O–4. Additionally, existing contracts which guarantee commissioned status after appropriate training may be honored.

Recruiting Access to Local Schools.—The Conferees direct the Department of Defense to increase its effort to enlist the help of Guard and Reserve units in arranging access to local high schools and colleges for recruiting personnel. Guard and Reserve members are well known and respected in their communities and can make a positive contribution in getting community support for the military services' recruiting. Such cooperative efforts would prove helpful to the Guard and Reserve units as well as the active services.

Military Veterinary Services.—The Conferees agreed to a reduction of $3,895,000 and a realignment of the military veterinary structure as proposed by the House.

Management Headquarters.—The Conferees agreed upon a reduction of $24,050,000 instead of $51,000,000 as recommended by the House in order to permit functional transfers and to reduce only program growth. The Conferees expect the Department to properly identify personnel assigned to management headquarters and to ensure that the budget justification material for fiscal year 1981 clearly distinguishes between functional transfers and program growth.

Army Guard and Reserve Full-Time Manning.—Both the House and Senate recognized the need to increase the full-time manning support for Army Guard and Reserve units. The House, however, recommended that half of the $12,300,000 increase requested could be obtained by elimination of documented inefficiencies in the Army Reserve component management structure. The Conferees agreed to provide $17,200,000 as provided by the Senate, instead of $11,100,000 as provided by the House, to fully fund this program. The Conferees also agreed that significant savings should be available beginning in fiscal year 1981 from elimination of unproductive management layers in the Army Reserve component support structure. The Conferees request that no later than September 30, 1980 such a realignment be initiated and that no later than March 31, 1980 a report be made available identifying planned improvements.

Army Recruiting Organization Structure.—The Conferees agreed to provide the $5,250,000 deleted by the House. The Conferees also agreed that, in lieu of the reorganization proposal suggested by the House, the Army should proceed with implementing its own reorganization plan which the Army has indicated will exceed the economies desired by the House and can be initiated no later than October 1, 1980.

Consolidation of Undergraduate Helicopter Pilot Training (UHPT).—For a number of years the Defense proposal to consolidate Navy UHPT with Army helicopter training has been the subject of considerable Congressional deliberation. The issue has occupied many hours of Congressional hearings and debate on the floor, and has filled hundreds of pages of testimony and data in the Congressional Record. Without exception, each year the Congress has denied the consolidation request. To avoid starving the UHPT program and to accede to the Congressional mandate, positive action should be taken to include funds for necessary Navy assets in the FY 1980 supplemental, the FY 1981 budget and subsequent budget requests.

Additional Language Items.—The Conferees agreed that certain differences in report language should be resolved as follows: The Conferees accept as a part of the statement of managers the Senate report language addressing "Unit Rotation", "overseas nonsponsored dependents," "Space Available Travel," and "Flight Training Test"; and the House report language addressing "Language Training".

MILITARY PERSONNEL, ARMY

Amendment No. 1: Appropriates $9,668,819,000 instead of $9,668,294,000 as proposed by the House and $9,719,853,000 as proposed by the Senate.

Summary: Items for which the conferees have provided specific guidance have been addressed elsewhere. The agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
Up-or-out	10,400	0	10,400	0
Severance pay, unfitness	4,350	4,000	4,350	4,350
Veterinarians	22,000	19,800	22,000	19,800
Army reception stations	7,900	1,800	5,800	5,800
Recruiting organization structure	99,100	95,600	99,100	99,100
Management headquarters	131,900	130,700	131,900	131,300
Authorization adjustments	0	−30,900	0	−15,400
Do-it-yourself (DITY) moves	149,000	139,000	147,000	147,000
Naval Reserve strength financing	0	−13,000	0	−13,000
Subsistence budget procedures	242,100	234,100	240,600	240,600
Household goods movement	73,000	58,000	67,200	58,000
Public Health Service (PHS) reimbursement	0	0	−853	−853
Fines and forfeitures	0	0	−800	−800
Intelligence programs	202,800	202,800	203,162	202,928
Cost-of-living allowances	74,000	74,000	37,600	37,600
Items not in conference	8,832,350	8,752,394	8,752,394	8,752,394
Total, military personnel, Army	9,848,900	9,668,294	9,719,853	9,668,819

MILITARY PERSONNEL, NAVY

Amendment No. 2: Appropriates $6,857,256,000 instead of $6,809,305,000 as proposed by the House and $6,863,834,000 as proposed by the Senate.

Summary: Items for which the conferees have provided specific guidance have been addressed elsewhere. The agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
Man-year adjustments	0	−25,200	−16,400	−16,400
Up-or-out	2,400	0	2,400	0
Graduate education for officers	670	0	670	0
American Forces Radio and TV Service (AFRTS) personnel	6,600	6,250	6,600	6,600
Recruiting and advertising growth	69,300	66,200	69,300	69,300
Management headquarters	141,600	132,600	141,600	137,100
Authorization adjustments	0	−29,100	0	0
Do-it-yourself (DITY) moves	184,400	178,400	183,400	183,400
Naval Reserve destroyer manning	0	11,500	0	11,500
Naval Reserve strength financing	0	−9,200	0	−9,200
Subsistence budget procedures	212,700	205,700	211,200	211,200
Household goods movement	22,000	14,800	15,900	14,800
Public Health Service (PHS) reimbursement	0	0	−1,749	−1,749
Budget error	0	0	−4,800	−4,800
Substandard basic allowance for quarters (BAQ)	4,600	4,600	2,700	2,700
Intelligence programs	0	0	258	50
Items not in conference	6,270,230	6,252,755	6,252,755	6,252,755
Total, military personnel, Navy	6,914,500	6,809,305	6,863,834	6,857,256

MILITARY PERSONNEL, MARINE CORPS

Amendment No. 3: Appropriates $2,089,457,000 instead of $2,093,100,000 as proposed by the House and $2,074,757,000 as proposed by the Senate.

Summary: Items for which the conferees have provided specific guidance have been addressed elsewhere. The agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
Man-year adjustments	0	−15,800	−52,543	−35,043
Management headquarters	37,000	36,100	37,000	37,000
Do-it-yourself (DITY) moves	29,700	27,700	29,200	29,200
Naval Reserve strength financing	0	−2,800		−2,800
Subsistence budget procedures	36,100	34,100	35,600	35,600
Japanese import restrictions	1,000	0	1,000	1,000
Permanent change of station (PCS)	100,400	100,400	107,800	107,800
Reenlistment bonus	16,000	16,000	19,300	19,300
Items not in conference	1,914,800	1,897,400	1,897,400	1,897,400
Total, military personnel, Marine Corps	2,135,000	2,093,100	2,074,757	2,089,457

MILITARY PERSONNEL, AIR FORCE

Amendment No. 4: Reported in technical disagreement. The Managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment appropriating $7,863,817,000 instead of $7,873,500,000 as proposed by the House and $7,905,275,000 as proposed by the Senate. The Managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Summary: Items for which the conferees have provided specific guidance have been addressed elsewhere. The agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
Up-or-out	13,500	3,600	13,500	3,600
Severance pay for unfitness	150	0	150	150
Veterinarians	7,500	5,800	7,500	5,800
Graduate education for officers	300	0	300	0
AFRTS personnel	7,600	7,250	7,600	7,600
Recruiting and advertising growth	39,900	38,800	39,900	38,800
Management headquarters	324,200	322,700	324,200	323,450
Panama deployment	24,000	22,500	24,000	23,250
Authorization adjustments	14,400	0	6,400	0
Household goods	80,000	63,700	67,500	63,700
Do-it-yourself (DITY) moves	0	−9,000	−1,500	−1,500
Excess trailer allowance	0	0	−200	−200
Maintenance, air launched missile	12,500	7,500	12,500	7,500
Naval Reserve strength financing	0	−10,500	0	−10,500
Reimbursements from Iran	0	16,000	9,000	9,000
Interceptor detachments	500	0	500	500
Intelligence programs	4,000	0	4,690	4,432
Intelligence related activities (PARCS)	500	0	500	500
Subsistence budget procedures	0	−3,000	−1,500	−1,500
Japanese import restrictions	1,000	0	1,000	1,000
Man-year adjustments	0	0	−12,000	−12,000
PHS reimbursement	0	0	−790	−790
Fines and forfeitures	0	0	−125	−125
Cost of living allowances (COLA)	52,800	52,800	43,800	43,800
Air passenger terminals	88,000	85,000	88,000	87,000
Items not in conference	7,296,050	7,270,350	7,270,350	7,270,350
Total, military personnel, Air Force	7,966,900	7,873,500	7,905,275	7,863,817

RESERVE PERSONNEL, ARMY

Amendment No. 5: Appropriates $606,400,000 instead of $591,300,000 as proposed by the House and $606,700,000 as proposed by the Senate.

Summary: Items for which the conferees have provided specific guidance have been addressed elsewhere. The agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
Full-time manning	8,300	5,500	8,300	8,300
Overstrength units	600	0	600	300
Pay group F	32,300	32,300	44,300	44,300
Items not in conference	556,400	553,500	553,500	553,500
Total, Reserve personnel, Army	597,600	591,300	606,700	606,400

RESERVE PERSONNEL, MARINE CORPS

Amendment No. 6: Appropriates $88,100,000 instead of $88,400,000 as proposed by the House and $87,800,000 as proposed by the Senate.

Summary: Items for which the conferees have provided specific guidance have been addressed elsewhere. The agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
Training participation	0	600	0	300
Items not in conference	87,000	87,800	87,800	87,800
Total, Reserve personnel, Marine Corps	87,000	88,400	87,800	88,100

RESERVE PERSONNEL, AIR FORCE

Amendment No. 7: Appropriates $214,400,000 as proposed by the Senate instead of $213,500,000 as proposed by the House.

Summary: Items for which the conferees have provided specific guidance have been addressed elsewhere. The agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
ROTC scholarships	7,900	7,300	7,900	7,900
Reserve incentives	400	400	2,200	700
Technician conversion	2,600	2,600	1,100	2,600
Items not in conference	203,800	203,200	203,200	203,200
Total, Reserve personnel, Air Force	214,700	213,500	214,400	214,400

NATIONAL GUARD PERSONNEL, ARMY

Amendment No. 8: Appropriates $867,250,000 instead of $859,430,000 as proposed by the House and $867,700,000 as proposed by the Senate.

Summary: Items for which the conferees have provided specific guidance have been addressed elsewhere. The agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
Full-time manning	11,900	5,600	8,900	8,900
Overstrength units	900	0	900	450
Transfer overseas travel to O&M	4,070	0	4,070	4,070
Items not in conference	857,330	853,830	853,830	853,830
Total, National Guard personnel, Army	874,200	859,430	867,700	867,250

TITLE III—OPERATION AND MAINTENANCE

The following items addressed by the conferees apply to all Operation and Maintenance appropriations of the Department of Defense.

Creation of a Defense Traffic Management Agency

The Senate agreed with the House recommendation that the Department of Defense proceed to develop a plan for consolidating the Military Sealift Command (MSC) and the Military Traffic Management Command (MTMC) and/or create a single traffic management agency. However, the Senate cautioned against precipitous action that would result in consolidating inland traffic functions and MSC/MTMC command and regional headquarters at this time. In conference, it was agreed that the Senate language did not preclude any consolidation or elimination of duplicative functions within these commands that could be accomplished immediately in the interest of economy and cost effectiveness.

Transportation industrial funds

The House receded to the Senate position with respect to the continued operation of the transportation industrial funds during FY 1980. In addition, the conferees agreed that the Defense Department should submit all justification data in support of the FY 1981 requests in two formats, one which will reflect continued operation of the MTMC and MSC industrial funds in FY 1981 and a second format converting all transportation costs including airlift activities to direct funding. An explanation of all "paperwork" changes resulting from disestablishment of the Transportation Industrial Funds should also be provided in conjunction with the FY 1981 budget submission. This explanation should cover both internal DoD transactions (e.g., Army buying airlift services from MAC) and external transportation such as that purchased from a commercial trucking firm.

Visibility of intransit cargo

The conferees agreed that funding for the Visibility of Intransit Cargo System should continue as proposed by the Senate pending consolidation and coordination of various transportation/supply management systems in the Department of Defense.

Service support contracts

The House reduced the request for contract studies and analyses/management and engineering support and consulting

services by $300.0 million, of which $271.6 million was deleted from the Air Force Operation and Maintenance request. The Senate made a similar reduction of $100.0 million but allocated the reduction to the Operation and Maintenance appropriations as follows: Army, —$25.0 million; Navy —$35.0 million; Air Force, —$35.0 million; and Defense Agencies, —$5.0 million.

The conferees agreed to a total reduction of $150.0 million allocated as follows: Army, —$25.0 million; Navy, —$35.0 million; Air Force, —$85.0 million; and Defense Agencies, —$5.0 million.

In reaching agreement on this issue, the conferees reemphasize the need for the Department of Defense to attempt to negotiate all contracts of this type (those involving mostly personnel services) within the Administration's wage and price guidelines. Also, the Department should proceed with issuing of implementing instruction for OMB Bulletin 78–11, "Guidelines for the Use of Consulting Services" issued May 5, 1978. There appears to be a need to establish guidelines for the contracting of management and engineering services separate from commercial and industrial activities where very detailed federal instructions (OMB Circular A–76) are in existence. There is a need for the Department to reduce the number of level-of-effort type (cost reimbursable) contracts in which the contractors are only tasked to provide an estimated number of labor hours to meet the performance requirements of the contract; that is, contracts which do not include specifications and/or instruction with enough clarity for the contractor to complete the job without further direction or continued supervision or "shared" work arrangements with government personnel.

The conferees further agreed that the Defense Department can allocate a portion of this reduction to other appropriations contained in the bill, if necessary and justified. All such allocations will be considered by the Congress under established reprogramming procedures.

Finally, the conferees request a special report, in conjunction with the fiscal year 1981 budget, which outlines the actions the Department of Defense has taken in this area, pursuant to the direction contained in this report, and the manner in which the $150 million reduction has been allocated by appropriation.

Foreign national employee pay raises

The House deleted approximately $8,600,000 of the $43,849,000 requested to provide pay raises for indirect hire foreign nationals. The amount deleted represented an estimate of the amount by which the request provided pay raises in excess of seven percent. The House bill also contained a general provision (Section 772) limiting foreign national pay raises to seven percent, the same limitation placed on U.S. employees of the federal government. The Conferees retained the reductions made by the House to encourage the Department to attempt to negotiate these increases downward in order not to have to reduce other programs in order to make funds available to provide raises in excess of seven percent. The general provision (Section 772) was deleted from the bill. The recommendations of the conferees are in conformance with the action taken by the Congress earlier this year on H.R. 4392, the appropriations bill for the Department of State.

Factory training

The House transferred all funds budgeted for factory training which had not previously been requested in the Operation and Maintenance appropriation to these appropriations. The conferees agreed that future requests for factory training should be funded in the Operation and Maintenance appropriation and separately identified. The conferees also agreed to restore $1.0 million to the Army appropriation because the House deleted this amount from the procurement estimate but did not make the necessary addition to the Operation and Maintenance appropriation.

Panama deployment

The conferees agreed that the helicopter gunship mission should be transferred to the Army in view of the need to operate both services' helicopter assets from the same installation. There is no need for each service to operate a helicopter maintenance activity at the same location. The conferees also agreed that one-half of the reduction of 300 Air Force military and civilian personnel recommended by the House should be carried out by the end of Fiscal Year 1980.

Panama Canal medical operations

The conferees agreed to the House proposal for recovering costs associated with the transfer of medical activities in Panama from the Panama Canal Company to the Department of the Army. The Department of Defense is directed to make the necessary changes in rates charged for in-patient and out-patient services (use of the same rates as the Canal Company used plus inflation in lieu of lower DOD rates) and to make the necessary changes in reimbursement policy to preclude the need for additional appropriations.

American Forces Radio and Television Service (AFRTS)

The Conferees agreed to the House direction which recommends the consolidation of management of the AFRTS under the Director of American Forces Information Service. The House also recommended a reduction of 100 military personnel and 50 civilian foreign national employees of the AFRTS to encourage the Department of Defense to effect consolidation of management functions supporting the American Forces Radio and Television Service. The Conferees agreed to restore the military personnel positions deleted from the Navy and Air Force request. The Conferees further agreed to a reduction of 25 foreign national employees of the Army on the basis that these positions could be filled by military personnel at less cost if the AFRTS determines that the positions must be filled to meet operating requirements.

OPERATION AND MAINTENANCE, ARMY

Amendment No. 9: Appropriates $9,915,368,000 instead of $9,791,832,000 as proposed by the House and $10,006,355,000 as proposed by the Senate.

Luxembourg Storage Facilities.—The conferees agreed to continue funding for this project with the understanding that operation and maintenance funds were not to be used to amortize or otherwise directly or indirectly pay for any construction or real estate costs, including interest payments which are eligible for NATO infrastructure financing. A total of $9,800,000 is made available for this purpose. The House had deleted the entire request of $23,600,000 while the Senate recommended an appropriation of $11,900,000.

Combat Helmets and Vests.—The conferees agreed to provide $9,400,000 as recommended by the Senate to purchase approximately 30,000 each Kevlar helmets and fragmentation vests with the understanding that this procurement will be made using fully competitive procurement procedures. Such competition will obtain contract prices that both include and exclude the use of government furnished material and production equipment.

Summary: Items for which the conferees have provided specific guidance have been discussed elsewhere in this report. The conference agreement on items in conference is as follows:

OPERATION AND MAINTENANCE, ARMY

[In thousands of dollars]

Item	Budget	House	Senate	Conference
Payroll allotment program	3,400	0	3,400	3,400
Overtime pay	80,400	60,985	71,855	71,855
Panama Canal medical operations increase	14,700	0	9,700	0
Army specialized skill training	20,000	11,600	20,000	15,800
Increased Europe/Conus travel for training	1,700	0	1,400	700
Graduate education for officers	3,847	2,747	3,847	3,847
Tuition assistance	12,000	9,000	12,000	12,000
Mail order catalogs	500	0	400	0
Nonappropriated fund support (AFRTS)	0	−1,000	0	0
American Forces Radio and TV personnel	6,500	6,150	6,500	6,350
Recruiting organization structure	82,680	80,930	82,680	82,680
Management headquarters	293,188	288,188	293,188	290,688
Army Air defense battalion phase down	7,800	0	5,900	3,000
European support and base operations	27,740	640	25,540	13,050
NORTHAG planning staff	2,300	300	2,300	1,300
Panama, helicopter deployment	0	500	0	500
Authorization adjustments	0	−24,500	−4,000	−15,000
Luxembourg storage facilities	23,600	0	11,900	9,800
Creation of single traffic management agy	270,000	247,200	270,000	258,600
Property disposal activities/materiel returns	0	−10,000	0	−10,000
Disposal in lieu of reloading ammo	12,172	7,772	12,172	9,972
Collecting contract admin svcs on FMS contracts	0	−4,000	−6,000	−6,000
Army supply activities	260,000	248,300	270,000	267,000
Single manager for ammo	(27,400)	(37,400)	(37,400)	(37,400)
Logistical administrative support	(221,500)	(202,800)	(221,500)	(221,500)
Rocky Mountain Arsenal	(11,000)	(8,000)	(11,000)	(8,000)
Army Latin American activities	722	422	722	522
Contract stds and analysis, mgt spt and consulting svs	395,200	387,800	370,200	370,200
Naval Reserve strength financing	0	−13,300	0	0
Long-distance calls	0	−2,500	−1,000	−1,800
Foreign national pay raise	34,571	31,860	34,571	31,860
Recruiting	153,600	143,700	152,400	149,400
Disability retirement and assoc sick leave	0	−33,300	−6,660	−19,980
Natick Lab	9,718	7,118	9,718	8,418
Organizational effectiveness training	6,800	6,800	3,600	3,600
Computer technology training	2,700	2,700	0	2,700
Combat helmets and vests	0	0	9,400	9,400
Military construction support	13,971	13,971	13,232	13,232
Reserve personnel admin center	6,500	6,500	3,500	3,500
Public Health Service (PHS) reimbursements	0	0	8,669	8,669
Intelligence programs		0	−28	−144
Factory training, procurement appropriations	1,000	0	0	1,000

OPERATION AND MAINTENANCE, NAVY

Amendment No. 10: Appropriates $13,272,245,000 instead of $13,134,875,000 as proposed by the House and $13,317,224,000 as proposed by the Senate.

Supervisor of Shipbuilding.—The conferees agreed to provide the full budget amount ($83.0 million) for the Supervisor of Shipbuilding as proposed by the Senate, with the understanding that the Navy will not request further personnel increases for this organization pending full implementation of an effective work measurement/manpower documentation program for the organization.

Support of Navy Carrier Based Aircraft.—The House directed the Navy to test a new concept for supporting modern aircraft deployed aboard carriers, following a Defense Resource Management study which detailed significant cost savings and readiness improvements from application of new organizational and logistical concepts. The Senate agreed with the need for a test but believes that the Navy cannot be ready to begin the test in FY 1980. The conferees accepted the Senate direction which would have the Navy formulate a test plan between now and February 1980 and actually test the concepts beginning in FY 1981.

Summary: Items for which the conferees have provided specific guidance have been discussed elsewhere in this report. The conference agreement on items in conference is as follows:

OPERATION AND MAINTENANCE, NAVY

[In thousands of dollars]

	Budget	House	Senate	Conference
Payroll allotment program	1,400	0	1,400	1,400
GSA directed manpower computer system replacement	2,500	0	1,900	1,900
Overtime pay	255,200	179,246	222,142	222,142
Navy civilian personnel offices	8,900	4,800	7,000	7,000
Navy specialized skill training	64,700	40,700	64,700	64,700
Tuition assistance	9,200	6,900	9,200	9,200
Mail order catalog	0	−500	−100	−500
Recruit and advertising program growth	68,338	66,638	70,538	68,338
Management headquarters	282,398	262,698	282,398	272,548
Trident support	191,700	171,900	191,700	181,800
Authorization adjustments	0	−6,000	−4,000	−4,000
Creation of single traffic management agency	0	−9,800	0	−4,900
Log Air and Quicktrans	19,472	15,672	19,472	15,672
Property disposal activities/material returns	0	−10,000	0	−10,000
Collecting contract admin. services on FMS contract	0	−6,000	−9,000	−9,000
Supervisor of shipbuilding	83,045	80,045	83,045	83,045
Contract studies and analysis, management support and consulting services	260,600	240,000	225,600	225,600
Naval Reserve strength financing	0	−17,200	0	0
Computer aided ship design	285	0	285	0
Excess computer capacity, Great Lakes	0	−115	0	0
Long-distance calls	0	−1,500	−500	−1,000
Foreign National employee pay raises	11,126	8,478	11,126	8,478
Disability retirement and assoc. sick leave	0	−30,500	−6,100	−18,300
Industrial mobilization support	11,800	11,800	0	11,800
Hurricane Frederick damage	0	0	10,000	10,000
Intelligence programs	0	0	240	144
PHS reimbursements	0	0	8,565	8,565

OPERATION AND MAINTENANCE, MARINE CORPS

Amendment No. 11: Appropriates $802,046,000 instead of $797,881,000 as proposed by the House and $802,726,000 as proposed by the Senate.

Marine Corps Recruiting.—The conferees agreed to provide $35.7 million as provided by the House instead of $32.7 million as provided by the Senate. The conferees further agreed that the Marine Corps could reassign up to 350 additional personnel above the level in the budget request to recruiting duties in order to enable the Marine Corps to meet its fiscal year 1980 strength goal.

Summary: Items for which the conferees have provided specific guidance have been discussed elsewhere in this report. The conference agreement on items in conference is as follows:

OPERATION AND MAINTENANCE, MARINE CORPS

[In thousands of dollars]

	Budget	House	Senate	Conference
Payroll allotment program	400	0	400	400
Overtime pay, direct only	2,599	0	1,455	1,455
Tuition assistance	0	−200	0	0
Management headquarters	18,673	16,673	18,673	18,673
Property disposal activities/materiel return	0	−3,000	0	−3,000
Naval Reserve strength financing	0	−900	0	0
Disability retirement and assoc sick leave	0	−1,700	−340	−1,020
Foreign national pay raise	6,650	6,650	5,180	5,180
Recruiting and advertising, program adjustment	0	0	−3,000	0

OPERATION AND MAINTENANCE, AIR FORCE

Amendment No. 12: Appropriates $10,459,750,000 instead of $10,190,580,000 as proposed by the House and $10,564,409,000 as proposed by the Senate.

Air Passenger Terminals.—The conferees restored $9,000,000 of the $12,000,000 reduction made by the House and agreed with the Senate position on the air passenger terminals. The Department should proceed with the phase down of military air passenger terminals wherever reduced workload and availability of alternative commercial facilities indicate that it is cost effective. However, any diversion of military passengers to commercial facilities should give first consideration to airports that are adjacent or nearest to existing military terminals.

Summary: Items for which the conferees have provided specific guidance have been discussed elsewhere in this report. The conference agreement on items in conference is as follows:

OPERATION AND MAINTENANCE, AIR FORCE

[In thousands of dollars]

	Budget	House	Senate	Conference
Payroll allotment program	1,400	0	1,400	1,400
Overtime pay	32,296	23,900	28,006	28,006
Medical program, capitation budgeting adjustment	4,647	0	4,647	0
ROTC scholarship requirement	15,477	13,777	15,477	15,477
Europe/CONUS travel for training	1,500	0	1,300	650
Graduate education for officers	18,384	18,234	18,400	18,234
Tuition assistance	7,200	5,400	7,200	7,200
Mail order catalogs	500	0	400	0
Recruit/advertising prog growth	32,136	29,036	32,136	29,036
Management headquarters	234,159	228,059	234,159	231,109
Air Defense, DEW and PAVE PAWS radars	82,080	78,999	80,999	78,999
KC-135 deployment to Europe	7,500	2,600	6,000	6,000
Panama deployment Air Force	18,700	17,200	18,700	17,950
Interceptor detachments	1,300	0	1,300	1,300
Authorization adjustments	0	−6,000	−4,000	−4,000
Readiness reporting	3,000	0	3,000	0
Creation of single traffic management agency	0	−7,700	0	−3,850
Log air and Quicktrans	56,200	50,200	56,200	50,200
Space available mail (Sam)	0	−5,000	0	0
Property disposal/exchange sales/materiel returns	0	−10,000	0	−10,000
Collecting contract admin svcs on FMS	0	−10,000	−13,000	−13,000
Air Force supply operations	103,237	98,437	100,237	98,437
Strategic missile maint data collect sys	0	−1,000	0	−1,000
Fire protection	86,000	80,000	86,000	83,000
Air Force test and training ranges	270,000	265,000	270,000	270,000
Contract studies and analyses, management support and consulting services	1,816,736	1,545,136	1,781,736	1,731,736
Naval Reserve strength financing	0	−13,600	0	0
Long-distance calls	0	−3,500	−1,500	−2,500
Intelligence programs	252,194	248,694	247,319	246,666
PARCS	7,111	11	7,111	7,111
Foreign national pay raises	252,400	249,391	252,400	249,391
Disability retirement and assoc sick leave	0	−24,000	−4,800	−14,400
Hurricane Frederic damage	0	0	7,700	7,700
Base realinements	0	0	−5,000	0
PHS reimbursement	0	0	4,592	4,592
Air passenger terminal operation	39,400	30,400	39,400	37,400

OPERATION AND MAINTENANCE, DEFENSE AGENCIES

Amendment No. 13: Appropriates $3,528,214,000 instead of $3,440,435,000 as proposed by the House and $3,550,197,000 as proposed by the Senate.

Tri-Service Medical Information System (TRIMIS).—The conferees agreed to provide a total of $29,100,000 for this program of which $6,200,000 is to be used for the enrollment/eligibility system. The conferees request that the Department of Defense perform an economic analysis of all current TRIMIS systems. Those systems which are found to be economically justified should be transferred for budgetary support to the military services and those systems which cannot be economically justified are to be terminated. All data accumulated by the economic analyses are to be retained and made available to the General Accounting Office for further audit upon the request of the Appropriations Committees. Also, the conferees believe that any further effort to develop a single integrated TRIMIS system should be done using a single prime contractor who will accept full responsibility for development of an integrated DOD medical information system. The present method of relying on a large number of contractors for management assistance, requirement documentation, and system integration appears to be unworkable.

Summary: Items for which the conferees have provided specific guidance have been discussed elsewhere in this report. The conference agreement on items in conference is as follows:

OPERATION AND MAINTENANCE, DEFENSE AGENCIES

[In thousands of dollars]

	Budget	House	Senate	Conference
Payroll allotment program	0	−300	0	0
Overtime pay	22,200	16,283	19,598	19,598
Disability ret and assoc sick leave	0	−8,500	−1,700	−5,100
Tri-Service Med Info Sys (TRIMIS)	41,600	5,329	30,729	29,100
CHAMPUS	754,000	731,410	738,950	831,410
Tuition assistance	0	−700	0	0
Management headquarters	129,900	124,300	129,900	127,100
Authorization adjustments	0	−16,000	−3,000	−3,000
Creation of single traffic management agency	0	−4,900	0	−2,450
Property disposal activities/materiel returns	0	−2,000	0	−2,000
Defense Logistics Agency	1,045,200	1,044,200	1,045,200	1,045,200
Collecting contract admin svcs on FMS contracts	0	−45,000	−4,000	−4,000
Defense Mapping Agency	253,700	252,100	253,700	253,700
Contract stds and analys, mgt supt and consult svcs	174,300	173,900	169,300	169,300
Naval Reserve strength financing	0	−4,800	0	−4,800
Long-distance calls	0	−500	0	−250
Intelligence programs		−389	−2,580	+504
Foreign national pay raise	2,916	2,702	2,900	2,702
Subsistence storage	0	0	−1,100	−1,100
Washington headquarters service	0	0	−1,000	−1,000

OPERATION AND MAINTENANCE, ARMY RESERVE

Amendment No. 14: Appropriates $420,644,000 instead of $419,755,000 as proposed by the House and $421,374,000 as proposed by the Senate.

Summary: Items for which the conferees have provided specific guidance have been discussed elsewhere in this report. The conference agreement on items in conference is as follows:

OPERATION AND MAINTENANCE, ARMY RESERVE

[In thousands of dollars]

	Budget	House	Senate	Conference
Overtime pay	900	715	874	874
Overseas training	0	−1,460	0	−730

OPERATION AND MAINTENANCE, NAVY RESERVE

Amendment No. 15: Appropriates $396,436,000 instead of $434,399,000 as proposed by the House and $347,136,000 as proposed by the Senate.

Naval Reserve Destroyers.—The conferees agreed to provide $34 million to overhaul two additional Naval Reserve Force (NRF) destroyers in fiscal year 1980 and an additional $3 million to conclude the overhauls begun in fiscal year 1979. The conferees agreed to provide $12.3 million above the budget request to continue operating the NRF destroyers in fiscal year 1980. The conferees deleted the rescission of fiscal year 1979 funds related to destroyer overhauls contained in the Senate bill. The conferees also agreed that the Navy should retain 12 of the 20 NRF destroyers programmed to phase out in fiscal year 1980 while a careful review of the feasibility of the program is made.

Amendment No. 16: Deletes the Senate amendment which would have rescinded $30,000,000 of FY 1979 funds approved for overhaul of Naval Reserve Destroyers.

Summary: Items for which the conferees have provided specific guidance have been discussed elsewhere in this report. The conference agreement on items in conference is as follows:

OPERATION AND MAINTENANCE, NAVY RESERVE

[In thousands of dollars]

	Budget	House	Senate	Conference
Overtime pay	226	160	197	197
Ship overhaul and maintenance	26,928	101,928	26,928	63,928
Destroyer operations	8,152	18,152	8,152	18,152
Intermediate and organization maintenance	14,616	16,916	14,616	16,916

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

Amendment No. 17: Appropriates $21,923,000 as proposed by the House instead of $22,003,000 as proposed by the Senate.

Summary: Items for which the conferees have provided specific guidance have been discussed elsewhere in this report. The conference agreement on items in conference is as follows:

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

[In thousands of dollars]

	Budget	House	Senate	Conference
Administrative travel	2,072	1,928	2,008	1,928

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

Amendment No. 18: Reported in technical disagreement. The Managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment appropriating $429,407,000 instead of $430,225,000 as proposed by the House and $431,107,000 as proposed by the Senate. The Managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Summary: Items for which the conferees have provided specific guidance have been discussed elsewhere in this report. The conference agreement on items in conference is as follows:

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

[In thousands of dollars]

	Budget	House	Senate	Conference
Overtime pay	1,323	998	1,180	1,180
Overseas travel	800	600	800	600
Technician conversion	0	0	1,500	0
Recruiting and advertising	0	0	−1,000	−1,000

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

Amendment No. 19: Reported in technical disagreement. The Managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment appropriating $797,150,000 instead of $801,220,000 as proposed by the House and $797,350,000 as proposed by the Senate. The Managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Summary: Items for which the conferees have provided specific guidance have been discussed elsewhere in this report. The conference agreement on items in conference is as follows:

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

[In thousands of dollars]

	Budget	House	Senate	Conference
Transfer of overseas travel	0	4,070	0	0
Overseas travel	0	−200	0	−200

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

Amendment No. 20: Appropriates $1,089,687,000 as proposed by the Senate instead of $1,088,007,000 as proposed by the House.

Summary: Items for which the conferees have provided specific guidance have been discussed elsewhere in this report. The conference agreement on items in conference is as follows:

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

[In thousands of dollars]

	Budget	House	Senate	Conference
Overtime pay	1,044	901	981	981
Interceptor detachments phaseout	0	−1,600	0	0

CLAIMS, DEFENSE

Amendment No. 21: Appropriates $98,200,000 as proposed by the House instead of $113,200,000 as proposed by the Senate.

FOREIGN CURRENCY FLUCTUATIONS, DEFENSE

Amendment No. 22: Appropriates $470,000,000 as proposed by the Senate instead of $370,000,000 as proposed by the House.

TITLE IV—PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

Amendment No. 23: Reported in technical disagreement. The Managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $961,837,000 instead of $982,837,000 as proposed by the House and $1,000,437,000 as proposed by the Senate. The Managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
C-12 aircraft			13,700	13,700
AH-1S Cobra/TOW helicopter	66,300	29,500	29,500	29,500
OV-1 aircraft modifications	44,200	40,900	44,200	44,200
RU-21 aircraft modifications	2,400	2,400	14,900	2,400
EH-60A Quick Fix II	14,500	----------	14,500	----------
Airborne avionics	2,900	----------	2,900	----------
Spares and repair parts	71,500	72,500	71,300	71,300
Component improvement	8,700	----------	8,700	----------

TRANSFERS TO RESEARCH AND DEVELOPMENT

The conferees agreed to transfer to research and development the EH-60A Quick Fix II prototype helicopter, development of the antenna coupler for the AN/ARC-114 radio and engine component improvement, as proposed by the House. In making these transfers, the conferees agree that development of modification kits and all engine component improvement efforts are to be funded in the future in the research and development appropriation.

RU-21 AIRCRAFT MODIFICATIONS

No funds are included for the product improvement of the Army GUARDRAIL V program. This authorization add-on was not funded, without prejudice, pending receipt of a budget request or reprogramming. Funding of this program to enhance the Army capability was not requested in the fiscal year 1980 President's Budget.

MISSILE PROCUREMENT, ARMY

Amendment No. 24: Appropriates $1,140,800,000 instead of $1,088,100,000 as proposed by the House and $1,173,200,000 as proposed by the Senate.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
Patriot (SAM-D)	426,000	426,000	396,000	96,000
General support rocket system	61,900	------	61,900	61,900
Chaparral modifications	16,100	16,100	28,100	16,100
Hawk modifications	44,100	44,100	84,900	64,500
Spares and repair parts	117,500	117,100	117,500	117,500
GSRS spares	(400)	------	(400)	(400)

The conference agreement includes funds for 155 Patriot (SAM-D) surface to air missiles and 1,764 General Support Rocket System rockets, as well as an additional $20,400,000 for Hawk modifications.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

Amendment No. 25: Appropriates $1,824,100,000 as proposed by the Senate instead of $1,786,600,000 as proposed by the House.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
M-548 carrier	42,100	30,000	42,100	30,000
M-60 series combat tank	216,800	------	55,000	52,900
XM-1 series combat tank	576,900	576,900	562,700	576,900
M-60 tank modifications	117,400	177,400	162,000	162,000

The conference agreement provides for 296 M548 carriers, 64 new M60 combat tanks, 352 XM1 combat tanks, and 687 M60 tank modifications.

PROCUREMENT OF AMMUNITION, ARMY

Amendment No. 26: Deletes the subtitle "(Including Transfer of Funds)" as proposed by the Senate.

Amendment No. 27: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $1,232,800,000 instead of $1,243,800,000 as proposed by the House and $1,234,100,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
105-mm high explosive antitank ammunition	22,400	------	22,400	------
155-mm area denial artillery munition	------	26,500	------	26,500
Electronic time fuze	15,200	30,400	15,200	15,200
Components for prove-out	5,100	15,200	20,600	15,200
SLUFAE rocket motor facility	4,200	------	4,200	4,200

COMPONENTS FOR PROVE-OUT

The conference agreement provides no funding for components for prove-out for VIPER.

Amendment No. 28: Deletes House language which transferred forward to fiscal year 1980, $52,500,000 from the "Procurement of Ammunition, Army, 1979/1981" appropriation, as proposed by the Senate.

OTHER PROCUREMENT, ARMY

Amendment No. 29: Appropriates $1,435,410,000 instead of $1,379,710,000 as proposed by the House and $1,611,510,000 as proposed by the Senate.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
10-ton cargo truck	23,100	------	23,100	------
Joint Service Tactical Communication (TRI-TAC)	81,300	67,400	81,300	74,400
Base Command (EUCOM) (European Telephone System)	17,500	8,000	17,500	13,000
Teampack AN/MSQ-103	28,000	------	20,000	20,000
Intelligence data handling system	3,800	2,400	3,600	3,600
Tactical fire direction system (TACFIRE)	94,800	------	94,800	18,200
MUST components	9,700	------	9,700	------
Universal engineer tractor (UET)	40,400	------	40,400	------
Forklift trucks, 10,000 lb	11,900	3,300	11,900	7,600
General reduction	------	−47,000	−36,400	−47,000

TEN-TON CARGO TRUCK

The conferees agreed to deny funding for the ten-ton cargo truck without prejudice. If the program can be more thoroughly defined and justified at some future time, the committees will consider a reprogramming proposal from the Army or a subsequent budget request.

JOINT SERVICE TACTICAL COMMUNICATIONS PROGRAM (TRI-TAC)

The conferees agree that no funds are to be expended on procurement of the circuit switch for the Joint Service Tactical Communications Program until the Secretary of Defense has certified that the switch has been satisfactorily tested in an operational mode by the Department of Defense.

BASE COMMUNICATIONS (EUCOM) (EUROPEAN TELEPHONE SYSTEM)

The conferees urge that American manufactured equipment be utilized, when cost effective, in the European Telephone System program.

TACTICAL FIRE DIRECTION SYSTEM (TACFIRE)

The conference agreement of $18,200,000 for TACFIRE provides only for termination of the program.

UNIVERSAL ENGINEER TRACTOR (UET)

The conference agreement to provide no funding for the universal engineer tractor (UET) is made without prejudice to consideration of this item in a future budget request if the Army can provide adequate justification.

Amendment No. 30: Transfers forward to fiscal year 1980 $47,000,000 from the "Other Procurement, Army, 1979/1981" appropriation as proposed by the House, instead of $36,400,000 as proposed by the Senate. The conference agreement transfers forward $10,600,000 in unobligated fiscal year 1979 funding for the universal engineer tractor to offset a general reduction in fiscal year 1980.

AIRCRAFT PROCUREMENT, NAVY

Amendment No. 31: Reported in technical disagreement. The Managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $4,441,446,000 instead of $4,601,293,000 as proposed by the House and $4,518,000,000 as proposed by the Senate. The Managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
F-14 aircraft	464,700	639,400	569,500	569,500
F-14 advance procurement	115,700	157,200	126,500	126,500
F-18 aircraft	574,600	949,600	890,000	890,000
F-18 advance procurement	91,500	147,900	130,100	130,100
P-3C aircraft	259,600	257,400	244,500	244,500
P-3C advance procurement	58,300	46,600	50,000	50,000
C-9B aircraft	------	------	29,500	29,500
A-6 series modifications	81,300	58,374	81,300	58,374
EA-6 series modifications	28,900	28,314	28,900	28,314
A-7 series modifications	75,500	56,640	75,500	72,106
AV-8A modifications	23,700	22,628	23,700	22,628
F-4 series modifications	85,500	85,400	85,500	85,400
F-8 series modifications	1,400	1,095	1,400	1,095
H-46 series modifications	122,700	122,480	122,700	122,480
H-53 series modifications	42,700	42,600	42,700	42,600
H-1 series modifications	36,100	31,318	36,100	31,318
H-2 series modifications	13,600	13,400	13,600	13,400
H-3 series modifications	14,300	14,200	14,300	14,200
P-3 series modifications	65,900	63,888	65,900	63,888
S-3 series modifications	39,200	36,651	39,200	36,651
E-2 series modifications	22,500	20,357	22,500	20,357
C-9 series modifications	2,200	1,784	1,900	1,784
EC-130 series modifications	22,600	12,811	22,600	12,811
C-130 series modifications	19,300	11,640	19,300	11,640
Various modifications	2,200	2,100	2,200	2,100
General reduction	------	------	−55,000	------
Spares and repair parts	656,600	720,513	703,200	703,200
F-14	(58,000)	(76,100)	(67,000)	(67,000)
F-18	(60,700)	(109,300)	(96,800)	(96,800)
A-7E/HARM	(2,787)	------	(2,787)	(2,787)
C-9B	------	------	(1,500)	(1,500)
Component improvement	73,400	------	73,400	------

The conference agreement provides for 30 F-14 aircraft, 25 F-18 aircraft, 12 P-3C aircraft, and 2 C-9B aircraft. The conferees agreed to transfer training costs to the Operation and Maintenance appropriation and denied factory training costs. In the future funds for these efforts are not to be budgeted in the procurement appropriation. The conferees further agreed to provide $15,466,000 for A-7E/HARM modification kits, and transferred to research and development the $550,000 for development of a prototype kit of the AN/ALQ-162 Clockwise Jammer to be used in the A-7 aircraft.

COMPONENT IMPROVEMENT

In transferring component improvement program funds to research and development, the conferees agreed that future component

improvements are to be funded in the research and development appropriation.

WEAPONS PROCUREMENT, NAVY

Amendment No. 32: Appropriates $1,988,214,000 as proposed by the Senate instead of $1,914,014,000 as proposed by the House.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
BGM-109 Tomahawk Missile:				
Antiship version		19,300	9,700	9,700
Antiship advance procurement	3,300	3,300	5,300	5,300
Land attack version		19,400	9,700	9,700
Land attack advance procurement		7,400	5,400	5,400
Classified projects	23,900		23,900	23,900
MK-48 torpedo	46,600	46,600	121,700	121,700
MK-48 torpedo modifications	10,800	10,800	5,300	5,300

BGM-109 TOMAHAWK MISSILE

The conference agreement funds three anti-ship and three land attack versions of the BGM-109 Tomahawk cruise missile, along with advance procurement associated with these missiles.

MK-48 TORPEDO

In agreeing to add $75,100,000 to buy 144 MK-48 torpedoes, as proposed by the Senate, the conferees agreed that this represents a buyout of this torpedo unless unforeseen operational requirements and/or an evaluation of the inventory objective for this torpedo dictate otherwise.

SHIPBUILDING AND CONVERSION, NAVY

Amendment No. 33: Appropriate $772,600,000 for the SSN-688 nuclear attack submarine program instead of $440,300,000 as proposed by the House and $788,400,000 as proposed by the Senate.

The conference agreement provides $696,400,000 for two submarines as proposed by the Senate instead of $364,100,000 for one such submarine as proposed by the House. In addition, the agreement includes $76,200,000 in advance procurement funding as proposed by the House instead of $92,000,000 as proposed by the Senate.

Amendment No. 34: Appropriates $34,600,000 for the T-AGOS SURTASS ship program instead of $104,000,000 as proposed by the Senate. The House had provided no funds for this program.

The conference agreement provides funding for one T-AGOS SURTASS ship, instead of three such ships as proposed by the Senate.

Amendment No. 35: Appropriates $41,000,000 in advance procurement funding for the LSD-41 ship program as proposed by the Senate. The House had provided no funding for this new class amphibious ship program.

Amendment No. 36: Deletes the $49,500,000 proposed by the Senate for the LPH ship conversion program. The House had provided no funds for that program.

Amendment No. 37: Provides $6,571,850,000 for the Shipbuilding and Conversion, Navy, appropriation instead of $6,163,950,000 as proposed by the House and $6,706,550,000 as proposed by the Senate.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
SSN-688 class submarine	385,300	364,100	696,400	696,400
SSN-688 advance procurement	76,200	76,200	92,000	76,200
T-AGOS SURTASS ship	154,000		104,000	34,600
LSD-41 advance procurement			41,000	41,000
LPH conversion			49,500	

OTHER PROCUREMENT, NAVY

Amendment No. 38: Appropriates $2,590,056,000 instead of $2,524,309,000 as proposed by the House and $2,604,456,000 as proposed by the Senate.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
LM-2500 gas turbine engine	15,006	6,006	15,006	6,006
Allison 501K gas turbine engine	1,400	400	1,400	400
Elec. gyro. navigation system	7,400		7,400	7,400
Classic Wizard	2,600		2,600	2,600
AN/SLQ-17(A)	19,267		19,267	19,267
WSQ ( )	65,501	55,501	65,501	61,501
NAVSAT navigation receiver		2,300		1,200
MATCALS Marine air traffic system	15,780		15,780	15,780
TACAN air navigation system	9,373	5,373	9,373	9,373
Medical support equipment	15,660	14,060	15,660	14,060
General reduction		−46,500	−34,700	−34,700

TACAN

The conference agreement provides some funding for continued procurement of replacement equipment for the TACAN system. However, the conferees agree that the Navy should carefully consider the alternative of overhauling rather than replacing this equipment. Furthermore, the conferees are in agreement that the services should make every effort to avoid the procurement of new equipment which will be replaced by the NAVSTAR Global Positioning System (GPS) in the 1980's. A central justification for the NAVSTAR program is the cost avoidance possible by replacing a multitude of current position/navigation systems with a single system. Interim fielding of new equipment whose functions will be provided by NAVSTAR in the mid-1980's can result in unnecessary expenditure, duplication, and a diminished cost/benefit for NAVSTAR.

Amendment No. 39: Transfers forward to fiscal year 1980 a total of $34,700,000 in prior year unobligated balances as proposed by the Senate instead of $46,500,000 as proposed by the House.

Amendment No. 40: Transfers forward to fiscal year 1980 $5,100,000 from the "Other Procurement, Navy, 1979/1981" appropriation as proposed by the Senate instead of $16,900,000 as proposed by the House.

PROCUREMENT, MARINE CORPS

Amendment No. 41: Appropriates $283,785,000 as proposed by the Senate instead of $277,285,000 as proposed by the House.

AIRCRAFT PROCUREMENT, AIR FORCE

Amendment No. 42: Reported in technical disagreement. The Managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

(Including Transfer of Funds)

In addition to any other funds authorized to be appropriated under this heading, there is hereby authorized to be appropriated during fiscal year 1980 an additional amount of $75,400,000 only for the procurement of F-100 engine initial and replenishment spare parts.

The Managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 43: Appropriates $7,965,240,000 instead of $7,981,300,000 as proposed by the House and $7,941,340,000 as proposed by the Senate.

Amendment No. 44: Reported in technical disagreement. The Managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which transfers to fiscal year 1980 the sum of $13,800,000 from "Aircraft Procurement, Air Force, 1979/1981." The amount transferred is from unobligated balances in the fiscal year 1979 A-10 aircraft program.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
A-7K aircraft		92,000	123,350	123,350
A-10 aircraft	803,300	803,300	789,500	789,500
E-3A advance procurement	68,000	68,000	55,000	55,000
C-130H aircraft			77,220	77,220
EF-111 modifications		55,000	142,000	55,000	102,800
KC-135 reengining			15,000	5,000
Classified projects	60,300	41,300	60,300	41,300
Civil Reserve Air Fleet	73,600	73,600		38,600
Spares and repair parts	1,017,800	1,125,400	1,028,770	1,099,670
Classified projects	(4,500)		(4,500)	
F-100 engine initial spares	(102,300)	(171,300)	(102,300)	(156,300)
F-100 engine replenishment spares	(122,900)	(159,900)	(122,900)	(144,300)
A-7K		(6,100)	(8,500)	(8,500)
C-130H			(2,470)	(2,470)
Component improvement	104,400		104,400	
Other production charges	941,500	934,400	931,500	931,500

The conference agreement includes 12 A-7K aircraft and eight C-130H aircraft only for the Air National Guard.

F-100 ENGINE SPARES

The Senate provided the authorized budget request of $225,200,000 for F-100 engine spares. The House added $106,000,000 for the procurement of engine modules and replenishment spares for the F-100 engine used in the F-15 and F-16 aircraft.

The gravity of the F-100 engine situation became fully known after the fiscal year 1980 authorization bill was passed, and no additional funds above the budget request were included in the fiscal year 1980 Department of Defense Authorization Act.

The Chairman of the Senate Committee on Armed Services, following a special hearing by that Committee, requests inclusion of bill language providing additional authorization, and the conferees so recommend. This action is not a precedent since previous emergency situations have resulted in similar actions.

The conferees agreed to authorize and provide an additional $75,400,000 in fiscal year 1980 because of the concern for the poor operational readiness status of F-15 aircraft due to shortage of F-100 engine spares.

KC-135 REENGINING PROGRAM

The conferees agreed to provide $5,000,000 in procurement and $10,000,000 in research and development for the KC-135 reengining program as recommended by the Air Force. This prototype effort should have been funded in the research and development budget, therefore the conferees are not setting a precedent by this decision. Procurement funds are not to be used for normal development and testing efforts relating to this prototype aircraft.

CIVIL RESERVE AIR FLEET

The conferees agreed to provide $38,600,000 for the Civil Reserve Air Fleet (CRAF) modification program based on a lump sum payment at this time. The Air Force should restructure the payment procedures after performing financial analyses employing return on investment and discounted cash flow criteria. The conferees would have no objection to the negotiation of a contract option allowing for additional payments based on abnormal fuel price increases of eight percent or more in any given year. Such additional payments are to be made from fiscal year 1980 Aircraft Procurement, Air Force appropriations during its obligational availability period and thereafter from the "M" account, as appropriate. In the event there are insufficient funds available in this appropriation or in the "M" account at the time the additional payment may be needed, such funding requirements may be budgeted in the Operation and Maintenance, Air Force appropriation. The Air Force also should invite proposals from industry for CRAF through a competitive process whenever possible.

COMPONENT IMPROVEMENT

In transferring component improvement program funds to research and development, the conferees agreed that future component improvements are to be funded in the research and development appropriation.

MISSILE PROCUREMENT, AIR FORCE

Amendment No. 45: Reported in technical disagreement. The Managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $2,160,385,000 instead of $2,170,485,000 as proposed by the House and $2,175,200,000 as proposed by the Senate. The Managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 46: Provides $15,000,000 which shall be derived by transfer from "Aircraft Procurement, Air Force, 1977/1979" as proposed by the Senate. The House had proposed $19,300,000 in transfers.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
AIM-7F/M Sparrow missile	144,200	139,900	124,200	124,200
Defense meteorological satellite	27,800	19,000	21,600	21,600
Defense satellite communications system	59,615	6,800	59,615	6,800
Special programs	599,600	567,600	532,600	570,600

DEFENSE SATELLITE COMMUNICATIONS SYSTEM (DSCS)

The Conferees agreed to delete the $52,815,000 requested for DSCS II but agreed the Congress will consider a reprogramming or supplemental in the event DOD feels there will be an urgent national defense need in the DSCS II and/or III program.

OTHER PROCUREMENT, AIR FORCE

Amendment No. 47: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $2,634,031,000 instead of $2,534,373,000 as proposed by the House and $2,633,731,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
BSU-49 inflatable retarder	3,600		3,600	3,600
Intelligence data handling system	6,418	2,818	3,018	3,018
Transportable ground intercept facility	35,900		35,900	35,900
Air base defense system	29,594	18,494	29,594	29,594
Combat supply system	5,100		5,100	
Spares and repair parts	73,545	72,645	73,545	73,545
Class IV mods (TACAN)	9,878	8,278	9,878	9,878
Base procured equipment	29,895	21,895	29,895	25,895
Selected activities	1,316,683	1,290,625	1,309,583	1,318,983
General reduction (GBU-15)		-14,000		

GBU-15 GLIDE BOMB

The House version of the bill transferred forward to fiscal year 1980, $14,000,000 in unobligated fiscal year 1978 funding for the GBU-15 glide bomb. The transfer offset a general reduction in fiscal year 1980. The conference agreement deletes this transfer, as proposed by the Senate. The conferees are in agreement that prior to the use of these or any other funds for procurement of the GBU-15, the Secretary of Defense shall again approve this system for production.

Amendment No. 48: Transfers forward to fiscal year 1980 a total of $13,600,000 as proposed by the Senate instead of $38,700,000 as proposed by the House.

Amendment No. 49: Deletes transfer forward to fiscal year 1980 of $14,000,000 from "Other Procurement, Air Force, 1978/1980," as proposed by the Senate.

Amendment No. 50: Transfers forward to fiscal year 1980 $10,600,000 from "Other Procurement, Air Force, 1979/1981," as proposed by the Senate instead of $21,700,000 as proposed by the House.

PROCUREMENT, DEFENSE AGENCIES

Amendment No. 51: Appropriates $280,185,000 instead of $275,685,000 as proposed by the House and $286,185,000 as proposed by the Senate. The conference agreement is explained in the classified annex to this statement.

EXTENDING AVAILABILITY OF FUNDS

The conferees agree with language in the Senate report which stated that transfers set forth in Defense Appropriation Acts which extend availability of funds should be effected by responsible Defense fiscal officials and not by officials of other departments or agencies. The conferees emphasize that they expect such transfers to be promptly made as provided in the Appropriation Acts, except in the most unusual circumstances where anticipated program recoupments cannot be realized. The Department of Defense must make every effort to assure that funds specified for transfer are preserved so that the transfers can be made. Additionally, the conferees direct that the Committees be notified of those instances involving transfers to the fiscal year 1979 Procurement of Ammunition, Army and Other Procurement, Army accounts where the transfers may not be achievable, including a full explanation.

TITLE V—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY

Amendment No. 52: Reported in technical disagreement. The Managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $2,853,331,000 instead of $2,817,674,000 as proposed by the House and $2,785,309,000 as proposed by the Senate. The Managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement on items in conference is as follows:

PROCUREMENT PROGRAM

[In thousands of dollars]

	Budget	House	Senate	Conference
RESEARCH DEVELOPMENT TEST AND EVALUATION, ARMY				
Defense research sciences	118,680	110,335	114,000	114,000
Communications electronics	13,291	8,000	10,500	10,500
Human performance effect/simulation	3,733	3,383	3,733	3,383
Manpower, personnel and training	5,918	5,418	5,918	5,418
Jt svc food sys tech	7,453	3,858	7,453	5,558
Army support DARPA-HOWLS	1,500		1,500	1,500
Mil infect disease technology	12,212	9,712	12,212	11,000
Mil psychiatry and microwave injury	5,056	4,056	5,056	4,500
Recovery from injury	4,957	4,957	4,500	4,500
Test meas diagnostic equip tech	700	700		
Military energy technology	2,635		1,000	
Terminal homing systems	9,500		9,500	3,000
Adv tech demo of test/measure/diagnostic eq	700	700		
Human factors in tng/oper effect	2,309	1,909	2,309	1,909
Education and training	8,370	7,105	8,370	7,105
Adv dev of automatic test eq/sys	2,800	2,800	1,400	1,400
BMD advanced technology	113,668	120,855	83,355	120,855
Ballistic msl def sys tech	114,784	120,840	83,340	120,840
Surf-to-surf msl rocket sys	72,250	69,250	70,250	70,250
Anti-tank guided msl (ATGM) improvements	12,000		12,000	2,000
Acft surv/ew self-protection	6,995	3,495	6,995	6,995
Tactical operations system (TOS)	36,482	2,482		
Command and control	18,590	15,000	9,000	9,000

PROCUREMENT PROGRAM—Continued
[In thousands of dollars]

	Budget	House	Senate	Conference
Aircraft avionics	756	3,656	756	3,656
Aircraft engine component improvement		8,700		8,700
CH-47 modernization	23,146	23,146	22,500	22,500
Pershing II	144,800	116,000	144,800	144,800
Countermine and barriers	4,593	4,593	3,393	3,393
Tank systems	31,569	63,369	49,569	49,569
Advance diesel engine technology			14,200	14,200
High mobility wpns carrier	2,500		2,500	1,300
Tac data sys interoperability	6,984	6,984	4,984	4,984
Command and control	13,591	4,891	13,591	13,591
Battlefield systems integration	3,300	3,300		
Chapparal	6,052	6,052	10,052	6,052
Classified programs	101,469	110,369	94,569	105,369
Soldier support/survivability	3,415	2,915	3,415	2,915
TRADOC studies and analyses	2,300	2,300	2,200	2,200
TRADOC operational testing	26,935	22,935	24,935	24,935
Theater nuclear force survivability	2,480	2,480		
OTEA operational testing	12,613	10,613	11,613	11,613
Technical info activities	4,890	4,090	3,915	3,915
Classified programs	19,945	19,945	19,445	19,445

JOINT SERVICE FOOD SYSTEMS TECHNOLOGY

The conferees agreed to provide $5,558,000 for the Joint Service Food Systems Technology program instead of $3,858,000 as proposed by the House and $7,453,000 as proposed by the Senate. The conferees understand that irradiated food research is being transferred to the Department of Agriculture beginning with fiscal year 1981, and that the Army will no longer budget funds for irradiated food research.

TACTICAL OPERATIONS SYSTEM

The House recommended $2,482,000 and the Senate recommended no funds for the Tactical Operations System (TOS), which failed authorization. The House receded. The conferees agreed that the Army has a significant shortcoming in automation of tactical command and control which must be overcome rapidly. A major difficulty with the former TOS program was its remaining in an "evolving" state for nearly twenty years, with no clear end system in sight. The conferees expect the Army to structure a new program to meet its needs which will lead to rapid fielding of a final, not interim, system using modern technology. The committees will entertain reprogramming requests which reflect this direction.

ADVANCED DIESEL ENGINE TECHNOLOGY

BACKUP DIESEL ENGINE FOR XM-1 TANK

The conferees agreed to provide $14,200,000, the authorized amount for Advanced Diesel Engine Technology. The conferees agreed that advanced technology work on the AVCR-1360 diesel engine is to be pursued, and denied the DOD request that this program be made the subject of permissive language. The conferees fully endorse the position stated by the Senate in Report No. 96-393, and direct the Army to proceed with the AVCR-1360 program and to complete it without further delay.

SOLDIER SUPPORT/SURVIVABILITY

The conferees agreed to provide $2,915,000 as proposed by the House instead of $3,415,000 as proposed by the Senate. The conferees agreed that the reduction of $500,000 is to apply to nutrition research at Letterman Army Institute of Research, as described in Senate Report No. 96-393.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY

Amendment No. 53: Reported in technical disagreement. The Managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $4,537,433,000 instead of $4,478,081,000 as proposed by the House and $4,536,337,000 as proposed by the Senate. The Managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement on items in conference is as follows:

PROCUREMENT PROGRAM

[In thousands of dollars]

	Budget	House	Senate	Conference
RESEARCH DEVELOPMENT TEST AND EVALUATION, NAVY				
Defense research sciences	204,716	191,000	198,000	198,000
Biomedical technology	11,678	9,178	11,678	10,500
Materials technology	23,597	19,727	23,597	22,000
Energy and environmental protection	11,686	2,400	3,000	3,000
Avionics	10,396	12,896	11,896	11,896
Environmental applications	3,678	3,011	3,678	3,678
Adv arm sys tech	3,513		1,500	1,500
Adv air launched air-to-sur msl sys	6,956	6,956	3,915	3,915
A/A msl adv tech demos	6,883	6,883		
Ship propulsion system	25,439	33,139	25,439	33,139
Adv software/computing tech	4,107	1,000	4,107	2,500
Advanced computer technology			12,000	7,000
Medical development (adv)	7,685	6,185	7,685	7,000
Manpower effectiveness	4,459	2,959	4,459	3,700
Manufacturing tech	5,500	5,500		
Trident II missile sys	40,640	40,640	25,640	25,640
Future attack submarine	10,000	10,000	5,000	5,000
ELF communications	13,494		6,750	
ABN electronic warfare eq	11,854	8,854	11,854	11,854
Tacair IR C/M	3,599	1,799	3,599	3,599
Helicopter IR C/M	3,575	1,775	3,575	3,575
Air ASW	2,854	2,854	12,854	12,854
V/Stol acft dev	16,779		3,000	3,000
Acft survivability/vulnerability	3,753	3,055	3,753	3,753
30mm gun pod			2,000	2,000
Sub ASW standoff wpn	8,049	8,049	7,000	7,000
Air-to-ground standoff weapons	15,844	9,644	30,000	30,000
Air control	2,521	2,521	1,250	1,250
Radar surveillance equip (adv)	13,375	13,375	7,500	7,500
Surface effect ships			45,000	
Sub tactical warfare sys (adv)	42,782	42,782	38,612	38,612
Ship development (adv)	14,219	14,219	27,419	27,419
Hydrofoil craft	442		442	442
Adv design sub nuclear prop	7,854	7,854	5,000	5,000
Combat system integration	12,054	8,692	8,054	8,054
MC grd combat/spt arms sys	1,554	6,115	6,554	6,554
Navy energy program (adv)	17,180	6,100	8,000	8,000
Avionics development/vast	5,881	4,881	4,072	4,072
AV-8B plus			5,000	5,000
P-3 modernization prog	30,626	31,684	30,626	31,684
Tac airborne adaptive ecm sys	1,845	2,395	1,845	2,395
Penguin combat dev	9,284	9,284	8,500	8,500
Air/air msl sys engr	44,711	35,711	32,000	32,000
Close-in wpn sys (Phalanx)	2,114	2,114	1,500	1,500
Point defense improvement	2,121	2,121		
5 in rolling air frame msle	19,051	18,551	19,051	19,051
Computer sys eng dev	1,126	5,000		
Radar surveillance equipment (eng)	14,993	14,993	7,993	14,993
Ship development (eng)	63,953	54,953	59,953	59,953
FCS electro optics	10,875		10,875	10,875
Jt Army/Navy semi-active laser guide proj	22,072		22,072	11,036
Gun system improvement prog	15,170	10,170	15,170	12,670
Major caliber ltwt gun			1,000	
Navy energy program (eng)	9,015	4,000	5,000	5,000
MC comd/cntrl/comm sys	26,037	25,470	26,037	26,037
A-6 squadrons	3,446	1,205	3,446	3,446
Aircraft engine component improvement		60,000		60,000
High speed collision avoidance and navigation system	1,429	2,429	1,429	1,429
Harpoon improvements	7,970	7,970		
Tactical information systems	17,819	17,819	14,519	14,519
Light carrier design			10,000	10,000
Ship systems engineering standards			8,000	8,000
APRAPS			3,100	
Aerial target fund	7,447	7,447	6,500	6,500
Navy Arctic Research Lab			6,117	6,117
Test and evaluation support	191,516	184,516	187,516	187,516
General reduction			−10,000	−10,000
General reduction, ELF communications		−15,000	−20,000	−15,000

ADVANCED COMPUTER TECHNOLOGY

The conferees agreed to provide $7,000,000 for the Advanced Computer Technology program, instead of no funds as proposed by the House and $12,000,000 as proposed by the Senate. The funds provided are for development of the new Navy computers, the UYK-43 and UYK-44. The conferees considered the $1,500,000 made available for the S-1 computer in the Command and Control Technology program, the full sum budgeted by the Navy, to be sufficient for continuing that research project.

AIRBORNE ELECTRONIC WARFARE EQUIPMENT

The conferees agreed to provide the budget request of $11,854,000 for Airborne Electronic Warfare Equipment as proposed by the Senate. This will permit the Navy to use some equipment developed in the cancelled Tactical Airborne Signals Exploitation System (TASES) in the EP-3 upgrade program. The conferees agreed, however, that this action is not to be interpreted as permitting the Navy to revive the cancelled TASES program.

30MM ANTI-ARMOR AIRCRAFT GUN POD

The conferees concur in the Senate position in providing $2,000,000 for development of the 30mm anti-armor aircraft gun pod. The conferees are also aware of the ongoing development of the 25mm aircraft gun system, and are concerned over the possible proliferation of such systems. For this reason, the conferees direct the Marine Corps to examine the desirability and feasibility of standardizing on one gun system.

P-3 MODERNIZATION PROGRAM ADVANCED SIGNAL PROCESSOR

The Navy requested procurement funds for the AN/UYS-1 advanced signal processor used on the P-3 aircraft which should have been requested in the Research, Development, Test and Evaluation account. The House recommended a reduction of $1,058,000 in Other Procurement, Navy and a corresponding add-on above the budget to the P-3 Modernization Program in the RDT&E account. The conferees agreed to a Navy request that the add-on be made instead to the Advanced Signal Processor program in the RDT&E account.

LIGHT CARRIER DESIGN

The conferees agreed to provide $10,000,000 for Light Carrier Design, with the stipulation that the $10,000,000 provided may not be used for any other purpose than Light Carrier Design.

SHIP SYSTEMS ENGINEERING STANDARDS (SSES) PROGRAM

The conferees agreed to provide $8,000,000 for the Ship Systems Engineering Standards (SSES) program. SSES is one of two elements of the former SEAMOD program, and is planned to develop and validate the surface ship support system interface standards and design criteria in parallel with the Combat Systems Architecture program. The conferees anticipate that this effort will be directly applicable to the DDX modular payload ship, as well as other future ships.

Amendment No. 54: Transfers to fiscal year 1980 from Research, Development, Test and Evaluation, Navy, 1979/1980 $15,886,000 as proposed by the House instead of $20,886,000 as proposed by the Senate.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, AIR FORCE

Amendment No. 55: Reported in technical disagreement. The Managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $4,941,943,000 instead of $4,913,012,000 as proposed by the House and $4,892,043,000 as proposed by the Senate. The Managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement on items in conference is as follows:

PROCUREMENT PROGRAM

[In thousands of dollars]

	Budget	House	Senate	Conference
RESEARCH DEVELOPMENT TEST AND EVALUATION, AIR FORCE				
Defense research sciences	113,184	107,000	110,000	110,000
Very high speed integrated circuits			30,430	30,430
TNG and simulation technology	11,400	11,400	10,500	10,500
Adv avionics for acft	12,000	8,300	12,000	8,300
Advanced simulator development			2,000	2,000
Advanced computer technology	2,700	2,700	4,200	4,200
Penetrating manned bomber	5,000	5,000		
Advanced ICBM technology	5,700		5,700	
WWMCCS architecture	9,000	7,000	9,000	8,000
KC-135 squadrons	11,000	10,500	5,000	15,000
Minuteman squadrons	30,300	30,300	40,300	35,300
SAC communications	18,000	16,000	18,000	17,000
Ballistic msl early wng system	9,000	9,000		
Defense support program	44,400	31,000	44,400	31,000
Advance warning systems			17,000	5,000
AN/ALQ-161 defense avionics system		15,000		
Classified programs	111,000	111,000	126,000	126,000
Combat acft technology	8,000	8,000	2,000	2,000
Night attack aircraft	12,800	12,800	25,300	25,300
Theatre ballistic missile	4,000	4,000	2,000	2,000
Adv attack weapons	35,800	42,000	34,800	34,800
Close air support weapons system	54,000	54,000	60,000	60,000
Tactical protective systems	18,400	16,850	18,400	18,400
Precision location strike system	24,900	24,900	15,000	15,000
F-4 squadrons	500	500	2,000	2,000
Aircraft engine component improvement		80,000		80,000
Enforcer aircraft		6,000		6,000
Adv comm sys	12,000	9,000	12,000	12,000
Special activities	353,139	337,339	349,839	346,839
Development planning	2,100	2,100	1,100	1,100
Adv aerial targets dev	17,500	16,500	17,500	16,500
Mgt HQ (Research and dev)	19,751	17,800	17,751	17,751
Public affairs	300		300	
General reduction			-17,500	-17,500

ADVANCED COMPUTER TECHNOLOGY

The Conferees agreed to provide $4,200,000 for Advanced Computer Technology, an increase of $1,500,000 over the budget request. The increased funds are to be used by the Air Force specifically for research in methods for reducing the high cost of maintaining computer software.

BALLISTIC MISSILE EARLY WARNING SYSTEM

The conferees agreed to the deletion of $9,000,000 requested for Ballistic Missile Early Warning System (BMEWS) improvements. This action delays BMEWS improvements pending review of alternatives (such as phased array radars). The Defense Department should expeditiously evaluate and develop an overall Ballistic Missile Early Warning System plan considering various options including the life cycle cost of each.

The conferees appreciate the age and problems of the computer at Thule, Greenland and, with the prior approval of the Congress, the Defense Department may acquire equipment or spare parts required to keep the current BMEWS operational until decisions on a replacement can be made. This item should in no way influence the decision on BMEWS.

NIGHT ATTACK AIRCRAFT

The House recommended $12,800,000 and the Senate recommended $25,300,000 for Night Attack Aircraft. The House receded. The addition of $12,500,000 is in consonance with authorization action taken for the purpose of a competition for the selection of a laser designator-equipped pod for the F-16 and other aircraft. The Department of Defense has stated its intention of competing ATLIS II, a French-built system already in development, and LANTIRN, a recently proposed concept not yet in development. The conferees agreed that competition is required in order to ensure the best capability at the lowest cost. In addition to the two systems named, the conferees agreed that other candidate systems either in being or in development are also to be included in the competition.

Amendment No. 56: Reported in technical disagreement. The Managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

None of the funds appropriated under this paragraph to continue development of the MX Missile may be used in a fashion which would commit the United States to only one basing mode for the MX missile system.

In addition to any other funds authorized to be appropriated under this heading, there is hereby authorized to be appropriated during fiscal year 1980 an additional amount of $5,000,000 only for research and development on the Perimeter Acquisition Radar Attack Characterization System (PARCS).

The Managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

PERIMETER ACQUISITION RADAR ATTACK CHARACTERIZATION SYSTEM

The Senate provided $5.0 million of additional research and development funds for the Perimeter Acquisition Radar Attack Characterization System (PARCS). Improvements to this warning capability are underway. The $5.0 million will provide funding to complete this effort during fiscal year 1980. No funds were included in the fiscal year 1980 Department of Defense Authorization Act. The Chairman of the Senate Committee on Armed Services requests additional authorization in the amount of $5.0 million, and the conferees so recommend. This action is not a precedent since previous emergency situations have resulted in similar actions. The conferees agreed to authorize and provide an additional $5.0 million in fiscal year 1980 because of the need to complete the current improvement program of this asset to our warning capability.

ADVANCED WARNING SYSTEMS

The conferees agreed to delete, without prejudice, the remaining $12,000,000 in this line item for Advanced Warning Systems pending completion of the Defense Systems Acquisition Review Council decisions.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE AGENCIES

Amendment No. 57: Appropriates $1,037,022,000 instead of $1,030,056,000 as proposed by the House and $1,048,322,000 as proposed by the Senate.

The conference agreement on items in conference is as follows:

PROCUREMENT PROGRAM

[In thousands of dollars]

	Budget	House	Senate	Conference
RESEARCH DEVELOPMENT TEST AND EVALUATION, DEFENSE AGENCIES				
Defense research sciences	89,200	75,000	89,200	80,000
In-house lab independent research	1,600		1,600	1,000
WWMCCS ADP-JTSA	4,694		2,614	2,614
Advanced computer networking		4,000		
WWMCCS system engineer	34,166	13,166	23,200	18,000
Laser communications experiments			5,000	5,000
Classified programs	328,015	318,515	313,315	317,015
General reduction, general support for OSO			-5,982	-5,982

RING LASER GYROS

The conferees agreed that the language of House Report No. 96–450 concerning Ring Laser Gyros is not to be construed as Congressional direction for production. The requests of the House that the Secretary of Defense study and evaluate feasibility of Ring Laser Gyro technology stand as written. Results of these studies should be transmitted to the Congress as soon as they are available.

AN/UYK–7 AND AN/UYK–20 COMPUTERS

The conferees continue to consider the expedited development of the Navy Embedded Computer (NEC) to be imperative, and agree with the Navy that NEC has priority over substantial or costly improvements to the older AN/UYK–7 and AN/UYK–20 computers in an effort to modernize them. After competitive contracts for NEC engineering developments have been awarded, if urgent operational requirements exist which can be satisfied only by a performance upgrade to the existing AN/UYK–7 or AN/UYK–20, the Navy may make or buy such upgrades. During the interim, the conferees have no objection to conducting the necessary planning and long leadtime efforts to improve the reliability and maintainability of AN/UYK–7 and AN/UYK–20 computers if urgent operational requirements so dictate when fully substantiated by cost considerations.

GUIDELINES FOR IMPLEMENTING CONGRESSIONALLY DIRECTED PROGRAM CANCELLATIONS

It is the view of the conferees that additional emphasis is required on implementing program cancellations directed by the Congress. Therefore, the following guidelines will be observed in the event of Congressional program cancellations:

Guideline No. 1: Programs which have been cancelled by either the House or Senate should be continued at the minimum feasible level pending final congressional action. Contract extensions, modifications, or changes which increase the scope of work or pace of the program should not be executed. A contract termination plan should be developed for implementation pending congressional action.

Guideline No. 2: Consistent with the termination plan, stop-work orders shall be issued immediately following final congressional action cancelling programs. It is recognized that certain contract phase-out activity will continue beyond the issuance of the stop-work orders. It is also recognized that, with prior approval of the Congressional Committees, certain elements of a program may not be terminated.

Guideline No. 3: Prior year funds for cancelled programs shall be recouped to the maximum extent possible. Prior year funds should not be used to continue programs cancelled by the Congress, but should be recouped for reprogramming or for return to the Treasury.

Guideline No. 4: The Congress shall be notified in writing of any major change in scope anticipated during close-out of a cancelled program. This restriction applies to both current and prior year funds. Such changes which increase the Government's liability should not be implemented without prior approval in writing from the appropriate Congressional Committees.

Guideline No. 5: Requests for proposal (RFP) shall not be issued for programs cancelled by the Congress. If RFP's have been issued prior to cancellation, they should be withdrawn immediately.

Guideline No. 6: The Congress shall be notified in writing in advance if the DOD plans to reactivate programs with the same or similar objectives to programs cancelled by the Congress. Such programs shall not be reactivated until explicitly approved by the appropriate Congressional Committees in writing.

Guideline No. 7: In accordance with the general provisions of the appropriations act, reprogrammings shall not be prepared in the same fiscal year as the program was cancelled. Such reprogrammings are contrary to law, and are improper.

Cancelled programs are programs expressly cancelled by the Congress in either authorization or appropriations actions. Cancelled programs should not be construed to include programs for which funds are denied for a particular year because they are not needed in that year due to availability of prior year funds, lower production rates, or other factors resulting in lower rates of expenditures in a particular fiscal year or programs for which further justification has been demanded prior to funding.

TITLE VII—GENERAL PROVISIONS

Amendment No. 58: The conferees agree to delete language proposed by the House placing certain limitations on civilian tuition assistance.

Amendment Nos. 59 to 62: Restore House language providing that transfer authority shall apply to working capital funds or funds made available in the Act and that transfers may be made during the availability of the appropriation rather than during the current fiscal year. The Senate amendments proposed less restrictive authority which was identical to the provision as it existed prior to fiscal year 1979.

Amendment No. 63: The House receded to the Senate amendment which will exclude covered services of optometrists from the requirement to have a medical doctor (physician) refer the patient. The Conferees agreed that the change in reimbursement authority for optometrists does not expand the medical services that may be provided through CHAMPUS, but allows for alternative direct treatment of vision problems by optometrists as well as by physicians.

Amendment No. 64: The House receded to the Senate amendment which deleted the word "or". This is a technical change made necessary by the insertion of amendment No. 65.

Amendment No. 65: Reported in technical disagreement. The Managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: or, for the purpose of conducting a test during fiscal year 1980, by a certified psychiatric nurse or other certified nurse practitioner,

The Managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The Conferees agreed that the reimbursement authority be extended to cover optometrists (see Amendment No. 63), but modified the Senate language pertaining to psychiatric nurses and other nurse practitioners to allow reimbursement, on a test basis only, during fiscal year 1980. This amendment will permit the Department of Defense to conduct a study to determine whether it is cost effective to allow direct, independent reimbursement to psychiatric nurses and other nurse practitioners as the Senate proposed. In order to assure that a meaningful study can be accomplished, the provision allows the Department of Defense to make direct, independent reimbursement to nurse practitioners in specified locales on a limited test basis. Since the Department has been permitted to make direct reimbursement to nurse-midwives since fiscal year 1979, data pertaining to these nurse practitioners should also be used in the cost effectiveness study. Interim results of the study should be provided to the Committees on Appropriations by August 1, 1980, with a final report provided by June 1, 1981.

Amendment No. 66: The House reduced the number of years that an ROTC unit could be below the minimum enrollment level of 17 students in the junior class from four years, as stipulated in the fiscal year 1979 Defense Appropriation Act, to three preceding academic years. The Senate deleted this section because the provision relies solely on enrollment as a guide to closing ROTC detachments without considering other factors. The amendment adopted by the conferees repeats the language in the Defense Appropriation Act for fiscal year 1979, providing that appropriated funds may not be used to support ROTC units which have not attained the minimum enrollment standard for the four preceding academic years.

Amendment Nos. 67 to 74: The Senate receded from these amendments which restore House section numbers.

Amendment No. 75: The conferees agreed to include language proposed by the Senate prohibiting implementation of the Competitive Rate Program for the transportation of household goods to or from Alaska or Hawaii. A similar provision has been contained in the previous Department of Defense Appropriation Act.

Amendment No. 76: The conferees agreed to delete language proposed by the House placing a limit of 375,000 on the number of military dependents overseas.

Amendment No. 77: The Conferees agreed to include a provision limiting funding for abortions as contained in the current Joint Resolution Making Further Continuing Appropriations for fiscal year 1980. This provision permits federal funding of abortions for victims of rape or incest when reported promptly to a law enforcement agency or public health service.

The use of funds in this bill for federally funded abortions is governed by language identical to that previously adopted by the Congress on November 16, 1979, for the Departments of Defense, and Labor and Health, Education, and Welfare in the Continuing Resolution, H.J. Res. 440, (Public Law 96–123).

SEC. 762. None of the funds provided by this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest when such rape or incest has been reported promptly to a law enforcement agency or public health service;

Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.

Amendment No. 78: The Senate receded from this amendment which restores the House section number.

Amendment No. 79: The Senate receded from its amendment which strikes section 764 from the bill. Section 764 requires the Administrator of the General Services Administration to recover a portion of the costs of care and handling of surplus property for donation to the states. Section 203(j) of the Federal Property and Administrative Services Act authorizes the recovery of such costs. The amount and application of the surcharge is left to the discretion of the Administrator, General Services Administration.

Amendment No. 80: The Senate receded from this amendment which restores the House section number.

Amendment No. 81: Reported in technical disagreement. The Managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate providing authority for funds appropriated by this Act to be available for support under sections 4 and 8 of the Central Intelligence Agency Act of 1949 to certain Department of Defense cryptologic personnel stationed overseas.

Amendment No. 82: The House receded and agreed to strike this provision which

prohibited the purchase of fresh fruits and vegetables in Japan when these items could be purchased at less cost in the United States.

Amendment No. 83: Reported in technical disagreement. The Managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows:

SEC. 766. None of the funds appropriated by this Act or any other Act appropriating funds for fiscal year 1980 or for subsequent fiscal years shall be available to pay the basic compensation of an individual employed on September 30, 1979, as a teacher or in a teaching position with the Canal Zone Government who is transferred to such a position in the Department of Defense in an amount in excess of the greater of:

(a) the amount of basic compensation an individual with comparable experience and level of education is entitled to receive pursuant to section 5(c) of the Defense Department Overseas Teachers Pay and Personnel Practices Act (20 U.S.C. 903(c)); or

(b) for fiscal year 1980—the amount to which such individual was or would have been entitled to receive based on the established rates of basic compensation in effect on September 30, 1979, for such employees of the Canal Zone Government, plus seven percent of that amount: *Provided*, That this limitation shall not preclude a proportionate adjustment in the basic compensation of such an individual to reflect an increase in the number of working days in the school year as a result of the transfer; or

(c) for fiscal year 1981 and subsequent fiscal years—the amount payable based on the rates of basic compensation in effect (including the limitations contained in this section) on September 30th of the fiscal year preceding the fiscal year for which payment is to be made, plus an amount equal to one-half of the increase in basic compensation for the school year in progress on October 1st in the fiscal year for which payment is to be made compared to the basic compensation for the previous school year, that an individual with comparable experience and level of education is entitled to receive pursuant to section 5(c) of the Defense Department Overseas Teachers Pay and Personnel Practices Act (20 U.S.C. 903(c)).

The Managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The Senate deleted section 767 (now section 766) of the House bill in order to fully discuss all aspects of this House provision which limited pay raises for teachers previously employed by the Panama Canal and transferred to the Department of Defense overseas school system on October 1, 1979. The average pay of teachers employed in Panama is about $6,000 more per year than the rest of the DOD system despite considerably lower cost of living than in Western Europe and Japan where the majority of DOD teachers are employed.

The Department of Defense reached an agreement (referred to as the Blumenfeld-Shanker agreement of May 2, 1979) with the American Federation of Teachers that provided that Canal Company teachers would transfer to the DOD at the wage scale in effect on the effective date of the Panama Canal Treaty. The agreement further provided that these transferees in ensuing years would receive one-half of the DOD teachers' annual raise until the transferees' pay rate was comparable to the DOD teachers' pay rate. Transferees reaching the top step of their grade (and therefore no longer eligible for step increases) would receive the full annual DOD increase until their retirement.

The Panama Canal Treaty Implementing Legislation (P.L. 96-70, Section 1231(c)(1)) could have the effect of rendering the above agreement moot. Therefore the conferees agreed to include a provision similar to the House passed section 767 in order to clarify this situation, move in the direction of pay comparability for DOD teachers, and to preclude Canal Zone teachers from receiving two pay raises in a single year.

The new provision provides all transferred teachers a full pay raise (seven percent) in FY 1980, but precludes their receiving two pay raises in FY 1980 as would have occurred without this provision. These teachers would have received a pay raise based on the District of Columbia school rates effective October 1, 1979 and another raise in January or February under the DOD system also retroactive to October 1, 1979.

Also, by including this section in the bill the conferees reaffirm the intent of the House report that the DOD school teachers in Panama, who were employed in the schools in the Panama Canal Zone prior to October 1, 1979, should after fiscal year 1980 receive one-half the pay raise approved for DOD school teachers until such time as the average rate of pay for Canal Zone teachers transferred to the DOD system is comparable to that of their counterparts in the Overseas Dependents Schools system.

The conferees also agreed that in view of the significant wage differential between these teachers and other teachers in the DOD system it was not equitable or reasonable to provide full pay raises for teachers at the top step of their grade, as the DOD negotiated agreement had stipulated, until pay rates are comparable.

Amendment No. 84: The House receded and agreed to the deletion of the provision which would have restricted the use of Space Available Air Mail as defined in section 3201 of title 39 U.S.C. to fifteen pounds weight and sixty inches in length and girth combined, except where adequate surface transportation is not available. The conferees expect the Department of Defense to propose legislation which will curb some of the abuses cited in the House report.

Amendment No. 85: The Senate receded and agreed to restore the House language which permits supplies purchased through working capital funds (stock funds) to be sold to contractors for use in performing contracts with the Department of Defense.

Amendment No. 86: The Senate receded from its amendment which deleted section 770 of the House passed bill and agreed to its inclusion as section 768. This section prohibits the payment of two disability retired pays (military and civil service) to the same individual when the basis for the payments is the same disability.

Amendment No. 87: The conferees agreed to delete language proposed by the House prohibiting the use of appropriated funds for severance payments for officers separated due to unfitness.

Amendment No. 88: The House receded to the Senate amendment which deleted section 772 of the House passed bill. This section would have limited pay raises to foreign national employees to seven percent during fiscal year 1980. While the conferees agreed to delete the section, the funds provided in the bill specifically for foreign national pay raises are only adequate to provide a seven percent or less increase. This was done to encourage the Department of Defense to negotiate constrained pay raises with the host governments and to encourage the host governments to absorb a portion of the pay raise, if possible.

Amendment No. 89: The conferees agreed to delete House language transferring C-130's to the Navy.

Amendment No. 90: The Senate receded from its amendment which deleted section 774 of the House passed bill and agreed to its inclusion as section 769. This section prohibits use of funds for elective surgery for minor dermatological blemishes and marks.

Amendment No. 91: The conferees agreed to delete the House language which stated there shall be no reduction in United States military capability in Guantanamo Bay, Cuba, below that in effect on September 30, 1979.

Amendment No. 92: Reported in technical disagreement. The Managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

SEC. 770. The Secretary of the Air Force shall acquire and install, with such funds as may be available to him, a civilian early warning system at each Titan II missile site to the extent found necessary or desirable by the study conducted pursuant to section 813 of the Department of Defense Authorization Act, 1980.

The Managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. Recent accidents at Titan II missile sites involving the release of toxic gas makes the installation of a warning system desirable.

INTELLIGENCE AND INTELLIGENCE RELATED ACTIVITIES

The conferees agreed to reductions of $58.8 million for intelligence activities instead of reductions of $105.6 million as proposed by the House and reductions of $113.3 million as proposed by the Senate.

For intelligence related activities, the conferees agreed to reductions of $239.5 million instead of reductions of $356.8 million as proposed by the House and reductions of $120.5 million as proposed by the Senate.

The reasons for the reductions and reclassifications, which are spread throughout various appropriations in order to maintain necessary security, are explained in detail in a classified annex to this report.

CONSOLIDATED TELECOMMUNICATIONS, COMMAND AND CONTROL PROGRAMS

For consolidated Telecommunications, Command and Control programs, which are funded in many different appropriations accounts, the conferees have agreed to a net reduction of $196,132,000 instead of reductions of $214,080,000 as proposed by the House and reductions of $134,000,000 as proposed by the Senate.

Among the more significant reductions made in the communications budget this year were the following:

Strategic satellite system	−$51,400,000
Defense satellite communications system II (DSCS II)	−52,815,000
Extremely low frequency (ELF) communications	−13,494,000
Consolidation of communications centers	−10,000,000
WWMCCS system engineering	−16,166,000

Despite the above mentioned reductions, it should be noted that a substantial increase in the procurement accounts was provided in telecommunications in the accompanying bill.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1980 recommended by the Committee of Conference, with comparisons to the fiscal year 1979 amount, the 1980 budget estimates, and the House and Senate bills for fiscal year 1980 follow:

	Amount
New budget (obligational) authority, fiscal year 1979	$120, 889, 896, 000
Transfer from other accounts, fiscal year 1979	(202, 100, 000)
Total funding available, 1979	121, 091, 996, 000
Budget estimates of new (obligational) authority, fiscal year 1980	132, 320, 565, 000
Transfer from other accounts, fiscal year 1980	(20, 100. 000)
Total funding available, 1980	132, 340, 665, 000
House bill, fiscal year 1980	129, 523, 578, 000
Proceeds from foreign sales	(106, 000, 000)
Transfer from other accounts	(344, 486, 000)
Total funding available, 1980	129, 974, 064, 000
Senate bill, fiscal year 1980	131, 660, 759, 000
Proceeds from foreign sales	(106, 000, 000)
Transfer from other accounts	(258, 986, 000)
Rescission of fiscal year 1979 funds	(−30, 000, 000)
Total funding available, 1980	132, 025, 745, 000
Conference agreement	130, 981, 290, 000
Proceeds from foreign sales	(106, 000, 000)
Transfer from other accounts	(264, 586, 000)
Rescission of fiscal year 1979 funds	
Total funding available, 1980	131, 351, 876, 000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1979	+10, 091, 394, 000
Proceeds from foreign sales	(+106, 000, 000)
Transfer from other accounts	(+62, 486, 000)
Rescission of fiscal year 1979 funds	
Total funding available	+10, 259, 880, 000
Budget estimates of new (obligational) authority, fiscal year 1980	−1, 339, 275, 000
Proceeds from foreign sales	(+106, 000, 000)
Transfer from other accounts	(+244, 486, 000)
Rescission of fiscal year 1979 funds	
Total funding available	−988, 789, 000
House bill, new (obligational) authority, fiscal year 1980	+1, 457, 712, 000
Proceeds from foreign sales	
Transfer from other accounts	−79, 900, 000
Rescission of fiscal year 1979 funds	
Total funding available	+1, 377, 812, 000
Senate bill, new (obligational) authority, fiscal year 1980	−679, 469, 000
Proceeds from foreign sales	
Transfer from other accounts	(+5, 600, 000)
Rescission of fiscal year 1979 funds	(+30, 000, 000)
Total funding available	−673, 869, 000

J. ADDABBO,
ROBERT N. GIAIMO,
BILL CHAPPELL,
BILL D. BURLISON,
J. P. MURTHA,
NORMAN D. DICKS,
JAMIE L. WHITTEN,
JACK EDWARDS,
J. K. ROBINSON,
JACK F. KEMP,
SILVIO O. CONTE,
Managers on the Part of the House

JOHN C. STENNIS,
WARREN MAGNUSON,
BILL PROXMIRE,
D. K. INOUYE,
ERNEST F. HOLLINGS,
TOM EAGLETON,
LAWTON CHILES,
WALTER D. HUDDLESTON,
BIRCH BAYH,
MILTON R. YOUNG,
TED STEVENS,
RICHARD S. SCHWEIKER (except amendment No. 77),
HENRY BELLMON,
LOWELL P. WEICKER, JR. (except amendment No. 77),
JAKE GARN,
Managers on the Part of the Senate.

CONFERENCE REPORT ON S. 1143, ENDANGERED SPECIES ACT AMENDMENTS

Mr. MURPHY of New York submitted the following conference report and statement on the Senate bill (S. 1143) to extend the authorization for appropriations for the Endangered Species Act of 1973, and for other purposes:

CONFERENCE REPORT (H. REPT. NO. 96-697)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1143) to extend the authorization for appropriations for the Endangered Species Act of 1973, and for other purposes, having met, after full, and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

That section 2(a)(5) of the Endangered Species Act of 1973 (16 U.S.C. 1531(a)(5)) is amended by striking out "fish and wildlife." and inserting in lieu thereof "fish, wildlife, and plants.".

SEC. 2. Section 3(11) of the Endangered Species Act of 1973 (16 U.S.C. 1532(11)) is amended by striking out "(A)" and all that follows thereafter and inserting in lieu thereof "violate section 7(a)(2).".

SEC. 3. Section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533) is amended—

(1) by amending subsection (b)(1) by striking out "him" and inserting in lieu thereof the following: "him after conducting a review of the status of the species";

(2) by amending subsection (f)(2)(B)(i) to read as follows:

"(i) not less than 60 days before the effective date of the regulation, shall publish—

"(I) a general notice and the complete text of the proposed regulation in the Federal Register, and

"(II) if the proposed regulation specifies any critical habitat, general notice of the regulation (including a summary of the text, and a map of the proposed critical habitat) in a newspaper of general circulation within or adjacent to such habitat;";

(3) by amending subsection (f)(2)(B)(iv)(II) by striking out "if requested," and inserting in lieu thereof "if requested within 15 days after the date on which the public meeting is conducted,";

(4) by amending that part of subsection (f)(2)(C) which precedes clause (i) by inserting ", subsection (b)(4) of this section," immediately after "Neither subparagraph (A) or (B) of this paragraph";

(5) by amending subsection (f)(2)(C)(ii)—

(A) by striking out "fish or wildlife," and inserting in lieu thereof "fish or wildlife or plants,",

(B) by striking out "fish and wildlife," and inserting in lieu thereof "fish, wildlife, and plants,",

(C) by striking out "120-day period" each place it appears therein and inserting in lieu thereof "240-day period", and

(D) by adding at the end thereof the following new sentence: "If at any time after issuing an emergency regulation the Secretary determines, on the basis of the best scientific and commercial data available to him, that substantial evidence does not exist to warrant such regulation, he shall withdraw it."; and

(6) by adding at the end thereof the following new subsection:

"(h) AGENCY GUIDELINES.—The Secretary shall establish, and publish in the Federal Register, agency guidelines to insure that the purposes of this section are achieved efficiently and effectively. Such guidelines shall include, but are not limited to—

"(1) procedures for recording the receipt and the disposition of petitions submitted under subsection (c)(2) of this section;

"(2) criteria for making the findings required under such subsection with respect to petitions;

"(3) a ranking system to assist in the identification of species that should receive priority review for listing; and

"(4) a system for developing and implementing, on a priority basis, recovery plans under subsection (g) of this section.

The Secretary shall provide to the public notice of, and opportunity to submit written comments on, any guidelines (including any amendment thereto) proposed to be established under this subsection.".

SEC. 4. Section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536) is amended—

(1) by amending subsection (a)—

(A) by striking out "(a) CONSULTATION.—" and inserting in lieu thereof "(a) FEDERAL AGENCY ACTIONS AND CONSULTATIONS.—(1)";

(B) by striking out the third sentence thereof; and

(C) by adding at the end thereof the following:

"(2) Each Federal agency shall, in consultation with and with the assistance of the Secretary, insure that any action authorized, funded, or carried out by such agency (hereinafter in this section referred to as an 'agency action') is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with affected States, to be critical, unless such agency has been granted an exemption of such action by the Committee pursuant to subsection (h) of this section. In fulfilling the requirements of this paragraph each agency shall use the best scientific and commercial data available.

"(3) Each Federal agency shall confer with the Secretary on any agency action which is likely to jeopardize the continued existence of any species proposed to be listed under section 4 or result in the destruction or adverse modification of critical habitat proposed to be designated for such species. This paragraph does not require a limitation on the commitment of resources as described in subsection (d).";

(2) by amending the last sentence of subsection (b) to read as follows: "The Secretary shall suggest those reasonable and prudent alternatives which he believes would not violate subsection (a)(2) and can be taken by the Federal agency or the permit or license applicant in implementing the agency action.";

(3) by amending each of subsections (b), (c), (d), (e)(2), (f), (g)(1) and (5), (h)(1), and (m) by striking out "subsection (a)" wherever it appears therein and inserting in lieu thereof "subsection (a)(2)";

(4) by further amending subsection (c)—

(A) by inserting "(1)" immediately after "BIOLOGICAL ASSESSMENT.—", and

(B) by adding at the end thereof the following new paragraph:

"(2) Any person who may wish to apply for an exemption under subsection (g) of this section for that action may conduct a biological assessment to identify any endangered species or threatened species which is likely to be affected by such action. Any such biological assessment must, however, be conducted in cooperation with the Secretary and under the supervision of the appropriate Federal agency.";

(5) by striking out "avoid jeopardizing" and all that follows thereafter in subsection

(d) and inserting in lieu thereof "not violate subsection (a)(2).";

(6) by further amending subsection (g)(1) by striking out "may jeopardize" and all that follows thereafter in the first sentence thereof and inserting in lieu thereof "would violate subsection (a)(2).";

(7) by amending subsection (g)(2)(A) by striking out "process." and inserting in lieu thereof "process; or, in the case of any agency action involving a permit or license applicant, not later than 90 days after the date on which the Federal agency concerned takes final agency action, for purposes of chapter 7 of title 5, United States Code, with respect to the issuance of the permit or license.";

(8) by amending subsection (g)(3) by redesignating subparagraph (B) as subparagraph (C), and by inserting immediately after subparagraph (A) the following new subparagraph:

"(B) If biological opinions of both the Secretary of the Interior and the Secretary of Commerce indicate that an agency action would violate subsection (a)(2), such Secretaries shall jointly convene a review board to consider any application for exemption filed with respect to such agency action.";

(9) by further amending subsection (g)(5)—

(A) by redesignating clauses (1) and (2) as clauses (A) and (B), respectively,

(B) by inserting "the Federal agency concerned and" immediately before "such exemption applicant" in clause (B) (as so redesignated),

(C) by redesignating subclauses (A), (B), and (C) as subclauses (i), (ii), and (iii), respectively,

(D) by striking out "will avoid jeopardizing" and all that follows thereafter in subclause (i) (as so redesignated) and inserting in lieu thereof "would not violate subsection (a)(2);", and

(E) by striking out "exemption applicant" and all that follows thereafter in the last sentence and inserting in lieu thereof "Federal agency concerned or the exemption applicant has not met its respective requirements under subclause (i), (ii), or (iii) shall be considered final agency action for purposes of chapter 7 of title 5 of the United States Code.";

(10) by amending subsection (g)(6) by striking out "subparagraphs (A), (B), and (C)" and inserting in lieu thereof "subclauses (i), (ii), and (iii)";

(11) by amending subsection (h)(2) to read as follows:

"(2)(A) Except as provided in subparagraph (B), an exemption for an agency action granted under paragraph (1) shall constitute a permanent exemption with respect to all endangered or threatened species for the purposes of completing such agency action—

"(i) regardless whether the species was identified in the biological assessment; and

"(ii) only if a biological assessment has been conducted under subsection (c) with respect to such agency action.

"(B) An exemption shall be permanent under subparagraph (A) unless—

"(i) the Secretary finds, based on the best scientific and commercial data available, that such exemption would result in the extinction of a species that was not the subject of consultation under subsection (a)(2) or was not identified in any biological assessment conducted under subsection (c), and

"(ii) the Committee determines within 60 days after the date of the Secretary's finding that the exemption should not be permanent.

If the Secretary makes a finding described in clause (i), the Committee shall meet with respect to the matter within 30 days after the date of the finding."; and

(12) by amending the first sentence of subsection (q) to read as follows: "There are authorized to be appropriated to the Secretary to assist review boards and the Committee in carrying out their functions under subsections (e), (f), (g), and (h) of this section not to exceed $600,000 for each of fiscal years 1979, 1980, 1981, and 1982.".

SEC. 5. Section 8 of the Endangered Species Act of 1973 (16 U.S.C. 1537) is amended—

(1) by inserting "and plants" immediately after "fish or wildlife" in subsection (b)(1);

(2) by inserting "or plants" immediately after "fish or wildlife" each place it appears in subsection (b)(3);

(3) by inserting "or plants" immediately after "fish or wildlife" in subsection (c)(1); and

(4) by striking out subsection (e).

SEC. 6. (a) The Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) is further amended—

(1) by adding immediately after section 8 the following new section:

"CONVENTION IMPLEMENTATION

"SEC. 8A. (a) MANAGEMENT AUTHORITY AND SCIENTIFIC AUTHORITY.—The Secretary of the Interior (hereinafter in this section referred to as the 'Secretary') is designated as the Management Authority and the Scientific Authority for purposes of the Convention and the respective functions of each such Authority shall be carried out through the United States Fish and Wildlife Service.

"(b) MANAGEMENT AUTHORITY FUNCTIONS.—The Secretary shall do all things necessary and appropriate to carry out the functions of the Management Authority under the Convention.

"(c) SCIENTIFIC AUTHORITY FUNCTIONS.—The Secretary shall do all things necessary and appropriate to carry out the functions of the Scientific Authority under the Convention.

"(d) INTERNATIONAL CONVENTION ADVISORY COMMISSION.—(1) There is hereby established the International Convention Advisory Commission (hereinafter in this section referred to as the 'Commission').

"(2) The Commission shall be composed of the following members:

"(A) One member appointed by each of the following Federal officers from his respective agency:

"(i) The Secretary.

"(ii) The Secretary of Agriculture.

"(iii) The Secretary of Commerce.

"(iv) The Director of the National Science Foundation.

"(v) The Chairman of the Council on Environmental Quality.

"(B) One member appointed by the Secretary from among officers and employees of the State agencies having fish and wildlife conservation and management responsibilities.

"(C) The Secretary of the Smithsonian Institution is invited to appoint a member.

"(3)(A) Individuals who are appointed as members of the Commission under paragraph (2) must be scientifically qualified.

"(B) The term of office of a member of the Commission appointed under paragraph (2)(B) is two years and an individual may be appointed under such paragraph for any number of terms; except that an individual may not be appointed under that paragraph for a term that would be a third consecutive term for that individual under that paragraph.

"(C) While away from his home or regular place of business in the performance of services for the Commission, a member appointed under paragraph (2)(B) or (C) shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as the expenses authorized by section 5703(b) of title 5, United States Code, for persons in the Government service employed intermittently.

"(D) Members of the Commission who are full-time officers or employees of the United States shall receive no additional compensation on account of their service on the Commission.

"(4)(A) The Commission shall elect a chairman from among its members. The term of office of the chairman is one year.

"(B) No recommendation referred to in paragraph (5) shall be deemed to be a recommendation of the Commission unless a majority of the members of the Commission vote for that recommendation.

"(5) The Commission shall make recommendations to the Secretary or his designee on all matters pertaining to the responsibilities of the Scientific Authority under the terms of the Convention. The Commission shall include with any such recommendation any written dissenting view made by any member.

"(6) In the discharge of its responsibilities, the Commission shall, to the extent practicable, ascertain the views of, and utilize the expertise of, the governmental and nongovernmental scientific communities, State agencies responsible for the conservation of wild fauna or flora, humane groups, zoological and botanical institutions, recreational and commercial interests, the conservation community and others as appropriate.

"(7) In any case in which the Scientific Authority decides not to accept a recommendation made by the Commission under paragraph (5), the Scientific Authority shall provide to the Commission a written explanation of the reasons for that decision and shall publish the explanation in the Federal Register.

"(8)(A) The Chairman of the Commission, with the concurrence of the Commission, shall appoint an Executive Secretary for the Commission. The Executive Secretary shall carry out such duties and functions as shall be prescribed by the Commission, shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"(B) The Secretary shall provide the necessary staff and administrative support for the Commission.

"(e) WILDLIFE PRESERVATION IN WESTERN HEMISPHERE.—The President shall designate those agencies of the Federal Government that shall act on behalf of, and represent, the United States in all regards as required by the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere."; and

(2) by amending the table of contents by inserting immediately after the section title for section 8 the following:

"Sec. 8A. Convention implementation.".

(b) Until such time as the Chairman, Members, and Executive Secretary of the International Convention Advisory Commission are appointed, but not later than 90 days after the date of the enactment of this Act, the functions of the Commission shall be carried out by the Endangered Species Scientific Authority as established by Executive Order Numbered 11911, with staff and administrative support being provided by the Secretary of the Interior as set forth in that Executive order.

SEC. 7. Section 10(f) of the Endangered Species Act of 1973 (16 U.S.C. 1539(f)) is amended—

(1) in paragraph (4), by inserting "unless such exemption is renewed under paragraph (8)" after "certificate" in subparagraph (C); and

(2) by adding at the end thereof the following new paragraphs:

"(8)(A) Any person to whom a certificate of exemption has been issued under paragraph (4) of this subsection may apply to

the Secretary for a renewal of such exemption for a period not to exceed three years beginning on the expiration date of such certificate. Such application shall be made in the same manner as the application for exemption was made under paragraph (3), but without regard to subparagraph (A) of such paragraph.

"(B) If the Secretary approves any application for renewal of an exemption under this paragraph, he shall issue to the applicant a certificate of renewal of such exemption which shall provide that all terms, conditions, prohibitions, and other regulations made applicable by the original certificate shall remain in effect during the period of the renewal.

"(C) No exemption or renewal of such exemption made under this subsection shall have force and effect after the expiration date of the certificate of renewal of such exemption issued under this paragraph.".

SEC. 8. Section 15 of the Endangered Species Act of 1973 (16 U.S.C. 1542) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 15. Except as authorized in sections 6, and 7 of this Act, there are authorized to be appropriated—

"(1) not to exceed $23,000,000 for each of fiscal years 1979 and 1980, not to exceed $25,000,000 for fiscal year 1981, and not to exceed $27,000,000 for fiscal year 1982 to enable the Department of the Interior to carry out such functions and responsibilities as it may have been given under this Act;

"(2) not to exceed $2,500,000 for each of fiscal years 1979 and 1980, not to exceed $3,000,000 for fiscal year 1981, and not to exceed $3,500,000 for fiscal year 1982 to enable the Department of Commerce to carry out such functions and responsibilities as it may have been given under this Act; and

"(3) not to exceed $1,500,000 for fiscal year 1980, not to exceed $1,750,000 for fiscal year 1981, and not to exceed $1,850,000 for fiscal year 1982 to enable the Department of Agriculture to carry out its functions and responsibilities with respect to the enforcement of this Act and the Convention which pertain to the importation or exportation of terrestrial plants.".

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same.

JOHN M. MURPHY,
JOHN BREAUX,
JOHN D. DINGELL,
DAVID R. BOWEN,
PAUL N. MCCLOSKEY, Jr.,
EDWIN B. FORSYTHE,
Managers on the Part of the House.

JOHN C. CULVER,
EDMUND S. MUSKIE,
GARY HART,
JOHN H. CHAFEE,
ROBERT T. STAFFORD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1143) to extend the authorization for appropriations for the Endangered Species Act of 1973, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

SECTION-BY-SECTION ANALYSIS

SECTION 1

Section 1 of the conference report adds "plants" to section 2(a)(5) of the Act to the Congressional finding that to encourage endangered species conservation programs is a key to meeting the Nation's international commitments and to better safeguarding the Nation's heritage in fish, wildlife and plants.

SECTION 2

Section 2 of the conference report adopts the House amendment to Section 3(11) of the Act. This provision conforms the definition of "irresolvable conflict" to the substantive standard of Section 7(a)(2) so that the language of the Act is consistent throughout.

SECTION 3

Section 3(1)

Section 3(1) amends Section 4(b)(1) of the Act to require the Secretary to conduct a review of the status of the species before proposing to list the species as endangered or threatened. Section 4(c)(2) of the Act already requires the Secretary to conduct a "status review" of species identified in petitions to list species. During testimony in oversight hearings, and in its written report entitled *Endangered Species—A Controversial Issue Needing Resolution*, the General Accounting Office (GAO) criticized the Department of the Interior for failing to adequately review the status of species before proposing them for the list. The GAO argued in several instances, that if the Fish and Wildlife Service had conducted status reviews to obtain adequate information on proposed species, including the development of the latest and best available scientific data as required by the Act, the species may never have been proposed in the first place.

Section 3(1) would require status reviews to determine whether enough scientific and biological data exists to warrant proposing a species for listing as endangered or threatened. These reviews may include, as appropriate, communication with experts in the field such as: regional, area and field staff, university professors in the affected area, professional organizations and journals, local citizens, state agencies, as well as concerned Federal agencies, such as the Corps of Engineers, the U.S. Geological Survey, or the Environmental Protection Agency.

Section 3(2)

Section 3(2) amends the public notice provisions of the Act to require the publication of a summary of the text of the regulation in local newspapers, rather than the complete text. The Secretary would be required to include a map of the proposed critical habitat in the newspaper notice. The maps of proposed critical habitats currently published by the Secretary in the *Federal Register* are sufficient to comply with this provision.

Although the conferees believe that it is unnecessary to publish the complete text of critical habitat proposals in local newspapers to give adequate notice to affected communities, the conferees believe that the summary should include sufficient detail to inform local residents of the major elements of the listing proposal. In most cases these elements will include the biological justification for the listing, the justification for the critical habitat designation, and a brief description of the activities that may adversely modify the critical habitat, or may be impacted by the designation of such habitat.

Section 3(3)

Section 3(3) amends Section 4(f)(2)(B)(iv)(II) of the Act to require public meetings and hearings on critical habitat proposals to be held separately. Individuals requesting a public hearing would have to communicate their request to the Secretary within 15 days after the date on which the public meeting was conducted.

The Congress enacted subsection (f)(2)(B)(iv)(II) last year to improve the flow of information on endangered species proposals to the local communities that will be most impacted by the listing and critical habitat designation. A public meeting is intended to be an informal exchange of information on the regulatory proposal. The conferees do not expect or require the Secretary to provide a court reporter at these meetings. The purpose of the public meeting is essentially to provide an opportunity for local citizens to engage in a colloquy with Departmental representatives about the reasons for the listing and critical habitat designation and the potential impact of the listing on activities in the area. The meeting should also provide an opportunity for the Departmental representatives to become more familiar with the concerns of the local community.

The purpose of a public hearing, if requested, is to provide a more formal opportunity for local residents to comment on the listing and designation proposal, after they have had an opportunity to become familiar with the proposal in the public meeting. It is intended that a verbatim transcript of such hearing be made and be available upon request.

The conferees recognize that there will be added costs as a result of the bifurcation of the meeting and hearings. The conferees do not intend to require the Secretary to republish the substance of the regulatory proposal in a local newspaper prior to the public hearing. Obviously, the Department will have to provide adequate notice of the time and place of the public hearing by publication in the Federal Register and a newspaper of general circulation in the local area if such a hearing is requested.

Section 3(4)

Section 3(4) amends the emergency regulation provision of the Act to clarify that the Secretary may list a species and designate critical habitat under this provision without first complying with Section 4(b)(4) of the Act. Section 4(b)(4) requires the Secretary to consider the economic and other relevant impacts of designating an area as critical habitat. This amendment does not absolve the Secretary from complying with Section 4(b)(4) or any other provision of the Act before the species is listed under Section 4(a) of the Act.

Section 3(5)

Section 3(5) amends the emergency listing provision to include plant species in addition to fish and wildlife. It also extends the emergency time period to 240 days. Currently, actions under this section are limited to 120 days. The conferees recognize that the 1978 Amendments added substantially to the procedural requirements of the Act. Since all of the requirements of the Act must be complied with prior to listing under Section 4(a), the time during which an emergency regulation can remain in effect must be significantly increased.

Section 3(6)

Section 3(6) requires the Secretary to establish agency guidelines to insure that the purposes of section 4 of the Act are achieved efficiently and effectively. The GAO report on the Endangered Species Act criticized the Department of Interior for failing to formulate and publish guidelines and procedures to govern the implementation and administration of the Act. The GAO

noted that petitions filed with the Department had been misplaced and that the Department failed to adequately implement any of the many listing and recovery priority systems. The conferees believe that the Department is well on its way toward resolving these problems. This amendment is intended to insure that these procedures are adequately developed and implemented. The House amendment required the development of these precedures by regulation. The conferees believe that the formal regulatory process may inhibit the effective implementation of necessary amendments to these procedures. The conference report merely requires that the procedures be developed by guidelines. It does require, however, the Secretary to make the proposed procedures public and to provide an opportunity for comment on them.

Although Section 3(6) requires the development of a listing and recovery priority system, it does not require the listing of species and the implementation of recovery efforts to be suspended pending the development of the guidelines. The conferees note that these systems have already been developed by the Department of the Interior for internal guidance. The Secretary is merely required to publish the details of the systems and solicit comment on them.

SECTION 4

Section 4(1)

The conference report adopts the language of the House amendment to Section 7(a) pertaining to consultation by Federal agencies with the Fish and Wildlife Service and the National Marine Fisheries Service. The amendment, which would require all Federal agencies to ensure that their actions are not likely to jeopardize endangered or threatened species or result in the adverse modification of critical habitat, brings the language of the statute into conformity with existing agency practice, and judicial decisions, such as the opinion in *National Wildlife Federation* v. *Coleman*.

Section 7(b) of the Act requires the Fish and Wildlife Service and the National Marine Fisheries Service to render biological opinions which advise whether or not proposed agency actions would violate section 7(a)(2). Courts have given substantial weight to these biological opinions as evidence of an agency's compliance with Section 7(a). The amendment would not alter this state of the law or lessen in any way an agency's obligation under Section 7(a)(2).

As currently written, however, the law could be interpreted to force the Fish and Wildlife Service and the National Marine Fisheries Service to issue negative biological opinions whenever the action agency cannot guarantee with certainty that the agency action will not jeopardize the continued existence of the listed species or adversely modify its critical habitat. The amendment will permit the wildlife agencies to frame their Section 7(b) opinions on the best evidence that is available or can be developed during consultation. If the biological opinion is rendered on the basis of inadequate information then the Federal agency has a continuing obligation to make a reasonable effort to develop that information.

This language continues to give the benefit of the doubt to the species, and it would continue to place the burden on the action agency to demonstrate to the consulting agency that its action will not violate Section 7(a)(2). Furthermore, the language will not absolve Federal agencies from the responsibility of cooperating with the wildlife agencies in developing adequate information upon which to base a biological opinion. If a Federal agency proceeds with the action in the face of inadequate knowledge or information, the agency does so with the risk that it has not satisfied the standard of Section 7(a)(2) and that new information might reveal that the agency has not satisfied the standard of Section 7(a)(2).

The conferees added a new paragraph (3) to Section 7(a). This provision is nearly identical to the House language and requires Federal agencies to confer with the Secretary on any agency action which is likely to jeopardize the continued existence of any species proposed to be listed as endangered or threatened. This language grew out of the recommendations of the General Accounting Office. The GAO suggested that Federal agencies be required to consult on proposed species in addition to those that are formally listed as endangered or threatened.

The intent of the provision is to require Federal agencies to begin informal discussions with the wildlife agencies of the Federal Government about the possible adverse impact of agency actions on proposed species. The informal discussions can be initiated by either the wildlife agency or the action agency.

The new provision, Section 7(a)(3), does not require Federal agencies to enter into formal Section 7 consultation under subsection (a)(1) or (2). Nor does subsection (a)(3) require Federal agencies or permit or license applicants to refrain from making irreversible or irretrievable commitments of resources which have the effect of foreclosing the formulation or implementation of reasonable and prudent alternatives to the agency action. Section 7(d) of the Act does place a limitation on the commitment of resources after the initiation of formal Section 7(a)(2) consultation on listed species, but not species proposed for listing.

The conferees note that the purpose of a listing proposal is to determine whether a species is endangered or threatened and should be listed as such. The protections of Section 7 should not apply until a species has been formally listed. The conferees also note that the Supreme Court made it abundantly clear in *Tennessee Valley Authority* v. *Hill* that the prohibitions of Section 7 apply regardless of the state of completion of the project. 11 ERC 1705, 1717 (1978). Obviously, Federal agencies irreversibly committing resources and foreclosing alternatives to an action that is likely to jeopardize a proposed species do so with the risk that the species will eventually be formally listed and the prohibitions of Section 7 will become applicable. The conferees do not believe that any Federal agency or permittee should make any irreversible or irretrievable commitments of resources for the purpose or with the intent of foreclosing otherwise reasonable alternatives or in order to secure an exemption pursuant to Section 7(h).

Section 4(2)

Section 4(2) makes a technical change in the language of Section 7(b) of the Act to insure that the language of the Act is consistent throughout.

Section 4(3)

Section 4(3) adopts the provisions of the House amendment which make technical changes in a variety of sections of the Act to insure that the language of the Act is consistent throughout.

Section 4(4)

Section 4(4) adopts provisions appearing in both the Senate bill and the House amendment. This section authorizes all persons with standing to file for an exemption to conduct a biological assessment. The conferees adopted the House language which requires the biological assessments conducted under this section to be conducted in cooperation with the Secretary and under the supervision of the appropriate Federal agency.

The existing law requires Federal agencies to conduct biological assessments on major Federal actions initiated after November 10, 1978 and designed primarily to result in the building or erection of dams, buildings, pipelines and the like. The change proposed by Section 4(4) is significant because, for the first time, it authorizes all exemption applicants to receive a permanent exemption. Section 7(h)(2) of the Act identifies the completion of a biological assessment as a prerequisite to receiving a permanent exemption. Biological assessments are designed to assist Federal agencies in determining whether Section 7(a)(2) consultation should be initiated by identifying endangered or threatened species that may be present in the area affected by their proposed project and by identifying the impacts of those projects on such species. Because the exemption may be permanent, even as to those species not identified in a biological assessment, it is important that the assessment be as complete and thorough as possible so that future conflicts can be avoided. Subjecting privately conducted assessments to the supervision and scrutiny of the Federal agency and the Secretary will assist the development of adequate assessments.

Section 4(5)

Section 4(5) makes a technical change in Section 7(d) of the Act to insure that the language of the statute is consistent throughout.

Section 4(6)

Section 4(6) amends Section 7(g)(1) of the Act to conform the language of subsection (g)(1) to the substantive standard of Section 7(a)(2).

Section 4(7)

Section 4(7) of the conference report amends Section 7(g)(2)(A) of the Act to provide that, in the case of an action involving a permit or license applicant, an application for exemption may not be filed until after final agency action for purposes of chapter 7 of title 5 of the United States Code (5 U.S.C. 701–706).

The Senate bill and the House amendment contained essentially similar provisions intended to clarify provisions of existing law with respect to the timeliness of an exemption application where a permit or license application is involved. The conferees adopted the House modification.

The term "permit or license applicant" is defined in the Act to mean any person whose permit or license application has been denied primarily because of the application of Section 7(a) to such agency action. Section 7(g)(2)(A) of the Act currently requires applications to be filed not later than 90 days after the completion of the consultation process. The existing language of the Act has resulted in confusion in those instances when a biological opinion has been issued although the Federal agency has not taken final action with respect to the permit at issue. The conference report clarifies the intent of the 1978 Amendments by providing that applications for exemptions in these circumstances should not be filed until after final agency action on the permit or license application at issue.

The exemption process was designed to resolve endangered species conflicts after other administrative remedies, including consultation have been exhausted. It makes no sense to initiate an exemption process before it has been determined that there is a need for an exemption in the first place. This provision insures exemption applications will be filed, in cases involving permit or license applicants, when the application is ripe for review.

The term "final agency action" is used in the same sense as it is employed in the judicial review provisions of the Administrative Procedure Act (5 U.S.C. 701–706). Thus, an application for an exemption can be filed at the same time that the action

becomes judicially reviewable under 5 U.S.C. 704.

The conferees retained the exemption filing period provided in existing law for agency actions other than those involving a permit or license applicant. Thus, if a Federal agency decides that it cannot comply with the requirements of Section 7 after consultation with the wildlife agency, it can file for an exemption within 90 days of that decision. The conferees retained this provision of the existing law because of the realization that there may be many agency actions not involving a "permit or license applicant". It may be difficult in these instances to determine when the final agency action occurred. The Federal agency should be permitted to file for an exemption only after it has, however, completed consultation with the wildlife agency on the action and decided that it cannot proceed in light of the requirements of Section 7(a)(2).

The conferees note that the definition of "agency action" in the Act could lead to multiple exemption applications for the same project. Federal agencies and permittees should attempt to consolidate all applications which involve substantially similar factual and legal issues.

Section 4(8)

Section 4(8) resolves the problem posed by the division of responsibility over marine and terrestrial species by the Departments of Interior and Commerce. This section requires the Secretaries of Interior and Commerce to jointly convene a review board in those instances where both Departments have issued negative biological opinions for the same agency action.

Section 4(9)

Section 4(9) adopts the House language which clarifies the application of the threshold requirements of Section 7(g)(5) of the Act to the Federal agency and the exemption applicant. Section 7(g)(5) provides that the review board shall make a determination whether the exemption application has (i) carried out its consultation responsibilities, (ii) conducted any biological assessment required of it, and (iii) refrained from making commitments of resources prohibited by Section 7(d). Section 4(9) of the conference report makes it clear that these requirements apply to the Federal agency and the exemption applicant. This is intended to insure that all of the threshold requirements are complied with regardless of the identity of the exemption applicant. The consultation requirement of Section 7(a)(2), for example, only applies to Federal agencies. Federal agencies should not be permitted to avoid their consultation responsibilities by having a permittee apply for an exemption.

The conferees note that the language of Section 4(9) is not intended to add responsibilities to exemption applicants not already required by the statute. For example, the biological assessment requirement of Section 7(c) applies only to Federal agencies. Federal permittees should not be prohibited from seeking an exemption for failing to conduct a biological assessment, although a biological assessment is required of a permittee or licensee in order to receive a permanent exemption under Section 7(h)(2).

Section 4(10)

Section 4(10) makes a technical amendment to Section 7(g)(6).

Section 4(11)

Section 4(11) amends Section 7(h)(2) of the Act to provide that exemptions granted by the Endangered Species Committee shall be permanent with respect to all endangered or threatened species for the purposes of completing such agency action, (i) regardless whether the species was identified in the biological assessment, and (ii) only if a biological assessment has been conducted on the agency action.

The section provides that the exemption will be permanent unless the Secretary finds that the exemption would result in the extinction of a species not the subject of consultation or not identified in any biological assessment, and the Endangered Species Committee determines within 60 days that the exemption should not be permanent. The provision requires the Committee to meet within 30 days of the Secretarial finding.

Section 4(11) is intended to give some certainty and predictability to those exemption applicants that have succeeded in receiving an exemption through the exemption process, if the applicant has conducted a biological assessment under the terms of Section 7(c). This section does allow, however, for a reconsideration of the permanent exemption in the limited instance where the Secretary finds that the exemption will result in the extinction of species that were not identified in a biological assessment or not identified during consultation. Even in this limited instance, however, the Committee must affirmatively vote not to continue the exemption.

The conferees recognize that this provision raises the possibility that an exemption granted for an agency action because of a conflict with one species, will also apply to the same agency action even if a subsequent species is discovered. The conferees note, however, that the language of Section 7(a)(2) will require consultation on any listed species identified in the biological assessment until the time that the Endangered Species Committee grants the agency action an exemption from the requirements of Section 7.

Section 4(12)

Section 4(12) authorizes to be appropriated $600,000 to the Secretary to assist the review boards and the Endangered Species Committee in carrying out their functions during fiscal years 1980, 1981 and 1982.

SECTION 5

Section 5 adopts the House language which authorizes the Secretary to encourage foreign nations to develop programs for the conservation of endangered and threatened plants. This section also permits the Secretary to assign Departmental personnel for the purpose of cooperating with foreign countries and international organizations in the promotion of the conservation of plant species. The conferees recognize that the conservation of endangered and threatened species worldwide often requires the United States to share its expertise in this area with other governments and institutions. The conferees intend this provision to authorize the Secretary to share staff, at his discretion, with such organizations as the International Union for the Conservation of Nature and Natural Resources.

SECTION 6

Section 6 completely repeals Section 8(e) of the Act and replaces it with a new Section 8A. This Section establishes the Secretary of the Interior as the Scientific Authority and the Management Authority for purposes of the Convention on International Trade in Endangered Species of Wild Fauna and Flora. The Secretary is required to carry out these functions through the United States Fish and Wildlife Service.

Under the existing Act, and Executive Order 11911, the Secretary is designated the Management Authority and a seven member inter-agency committee is designated the existing Scientific Authority. Section 6 removes the functions of the Scientific Authority and places them with the Secretary of the Interior acting through the Fish and Wildlife Service. The conferees believe that this arrangement will facilitate the coordinated implementation of the Endangered Species Convention without weakening the United States' important role in the conservation of endangered species worldwide.

Section 6 also establishes an independent advisory commission composed of the following:

(A) One member appointed by each of the following Federal Officers:

(i) The Secretary of the Interior,

(ii) The Secretary of Agriculture,

(iii) The Secretary of Commerce,

(iv) The Director of the National Science Foundation, and

(v) The Chairman of the Council on Environmental Quality.

(B) One member appointed by the Secretary from among officers and employees of State fish and wildlife agencies; and

(C) The Secretary of the Smithsonian Institution is invited to appoint a member.

With the exception of the State fish and wildlife representative, the agencies represented on the advisory commission are identical to the agencies represented on the existing Endangered Species Scientific Authority (ESSA). The State fish and game official essentially replaces the representative of the Department of Health, Education and Welfare on the existing ESSA. The heads of the various agencies represented on the advisory commission are free to appoint the individual now representing them on the ESSA to the Commission, although they are not required to do so.

The conferees established an independent commission to insure that the Scientific Authority receives unbiased scientific advice on those matters within the responsibility of the Scientific Authority from a multi-disciplined group. This should insure that the Scientific Authority receives scientific advice from a wide spectrum of public and private individuals with biological expertise.

Although Section 6 establishes an independent advisory commission, the Section requires the Secretary to carry out his Scientific Authority functions through the Fish and Wildlife Service. Under the existing law, the Secretary carries out his Management Authority responsibilities through the Wildlife Permit Office of the Fish and Wildlife Service. This section requires the Secretary to establish a similar arrangement within the Fish and Wildlife Service for his Scientific Authority responsibilities. The Secretary of the Interior retains the ultimate responsibility to make those decisions required of the Scientific Authority and the Management Authority by the International Convention.

The Section requires the Secretary to provide the necessary staff and administrative support for the Commission. The conferees anticipate that the staff requirements of the Commission should parallel the requirements of the existing ESSA. The conferees suggest that the Commission advise the Secretary on the staff and funding needs of the Commission.

The conferees want to emphasize that the unit of the Fish and Wildlife Service assigned to carry out the responsibilities of the Scientific Authority should not share or exchange staff with the Commission. The purpose of the Commission is to provide independent scientific advice to the Scientific Authority. This purpose would be frustrated by commingling the Commission staff with those of the Fish and Wildlife Service unit assigned by the Secretary to carry out the functions of the Scientific Authority.

Section 6 requires the Commission to make recommendations to the Secretary or his designee on all matters pertaining to the responsibilities of the Scientific Authority under the terms of the Convention. If the Scientific Authority disagrees with any recommendation made by the Commission, he is required to provide the Commission with

a written explanation of the reasons for his decision. The Secretary's explanation, along with any findings required by the Convention, should be published in the Federal Register. The Secretary's explanation should be sufficiently detailed to adequately inform the Commission of the nature of the evidence relied on by the Secretary in reaching his decision. The Secretary should provide an opportunity for public comment on all Management Authority and Scientific Authority decisions.

Section 6 designates the Secretary of the Interior as the Management Authority for purposes of the Convention. The conferees note that the Endangered Species Act of 1973 and Reorganization Plan Number 4 of 1970 vests jurisdiction in certain marine species in the Secretary of Commerce. The conferees believe that on any Management Authority action involving these marine species the Secretary should consult with the National Oceanic and Atmospheric Administration within the Department of Commerce and implement the NOAA recommendations in this area.

SECTION 7

Section 7 adopts the House amendment to Section 10(f) of the Act. This amendment will permit the extension of the so-called "scrimshaw" exemption for an additional three years. It will permit the owners of certain whale parts and products which were held in stock prior to 1973 to continue trading such products for an additional three years. The conferees wish to emphasize that this represents the last extension of Section 10(f) of the Act. Three years ago, the holders of these products, primarily scrimshaw artists in New England and the Pacific Northwest, represented to the Congress that they would be able to dispose of their pre-Act holdings within three years. They were wrong. This provision will allow these individuals an additional three years, but no longer, to dispose of these products.

SECTION 8

Section 8 adopts the authorization levels for the Departments of the Interior and Commerce recommended by the Senate. These authorization levels will permit a much needed expansion of the endangered species program budget in the 1981 and 1982 fiscal years.

Section 8 adopts the House amendment authorizing funds to the Department of Agriculture to carry out their functions and responsibilities with respect to the enforcement of the Act and the Convention which pertain to the importation or exportation of terrestrial plants. The evidence presented to the Congress suggests that the Department of Agriculture has failed to adequately regulate trade in endangered and threatened plants because of an absence of sufficient and qualified enforcement personnel. The conferees note that this authorization is limited to the Department of Agriculture's responsibilities for the enforcement of the importation and exportation of plants. It is not intended to restrict the level of funding available to the Department of Agriculture to carry out habitat acquisitions and other programs for the conservation of endangered and threatened species.

JOHN M. MURPHY,
JOHN BREAUX,
JOHN D. DINGELL,
DAVID R. BOWEN,
PAUL N. MCCLOSKEY, JR.,
EDWIN B. FORSYTHE,
Managers on the Part of the House.

JOHN C. CULVER,
EDMUND S. MUSKIE,
GARY HART,
JOHN H. CHAFEE,
ROBERT T. STAFFORD,
Managers on the Part of the Senate.

DISPUTE RESOLUTION ACT

Mr. KASTENMEIER. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the Senate bill (S. 423) to promote commerce by establishing a national goal for the development and maintenance of effective, fair, inexpensive, and expeditious mechanisms for the resolution of consumer controversies, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Wisconsin (Mr. KASTENMEIER).

The motion was agreed to.

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 Senate bill, S. 423, with Mrs. SPELLMAN in the chair.

The Clerk read the title of the Senate bill.

The CHAIRMAN. When the Committee of the Whole rose on Monday, December 10, 1979, the Clerk had read through line 17 on page 41.

Are there any amendments to section 1? If not, the Clerk will read section 2.

□ 1550

Mr. KASTENMEIER. Madam Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

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

Mr. KINDNESS. Madam Chairman, I reserve the right to object.

I would seek to address a question to the gentleman who has made the unanimous-consent request, the gentleman from Wisconsin (Mr. KASTENMEIER).

Do I understand his unanimous-consent request is to open the bill to amendment at any point?

Mr. KASTENMEIER. Madam Chairman, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. That is correct.

Mr. KINDNESS. Madam Chairman, I am constrained to object to that procedure. I would suggest that it might be read section by section, with no objection, but I would object to the unanimous-consent request to open the bill for amendment at any point.

The CHAIRMAN. Objection is heard.

The Clerk will read.

The Clerk read as follows:

SEC. 2. (a) The Congress finds and declares that—

(1) for the majority of Americans mechanisms for the resolution of minor disputes are largely unavailable, inaccessible, ineffective, expensive, or unfair;

(2) the inadequacies of dispute resolution mechanisms in the United States have resulted in dissatisfaction and many types of inadequately resolved grievances and disputes;

(3) each individual dispute, such as that between neighbors, a consumer and seller, and a landlord and tenant, for which adequate resolution mechanisms do not exist may be of relatively small social or economic magnitude, but taken collectively such disputes are of enormous social and economic consequence;

(4) there is a lack of necessary resources or expertise in many areas of the Nation to develop new or improved consumer dispute resolution mechanisms, neighborhood dispute resolution mechanisms, and other necessary dispute resolution mechanisms;

(5) the inadequacy of dispute resolution mechanisms throughout the United States is contrary to the general welfare of the people;

(6) neighborhood, local, or community based dispute resolution mechanisms can provide and promote expeditious, inexpensive, equitable, and voluntary resolution of disputes, as well as serve as models for other dispute resolution mechanisms; and

(7) the utilization of neighborhood, local, or community resources, including volunteers (and particularly senior citizens) and available building space such as space in public facilities, can provide for accessible, cost-effective resolution of minor disputes.

(b) It is the purpose of this Act to assist the States and other interested parties in providing to all persons convenient access to dispute resolution mechanisms which are effective, fair, inexpensive, and expeditious.

The CHAIRMAN. Are there any amendments to section 2?

Mr. KASTENMEIER. Madam Chairman, I move to strike the last word.

Madam Chairman, I will not take the 5 minutes, but I do think that since the rule was granted on Thursday of last week, and general debate was concluded on yesterday, that the Committee of the Whole may wish to know what the status of the bill before us is. It is our hope that we can conclude consideration of the bill this afternoon.

The gentleman from North Carolina (Mr. BROYHILL), has two or three amendments which both sides have agreed to, to make the text of the Committee on the Judiciary substitute and the Committee on Interstate and Foreign Commerce substitute conform. The Members perhaps should understand that two committees, the Committee on Interstate and Foreign Commerce and the committees concluded action was jointly held hearings and processed this bill.

The form of the bill in which each of the committees concluded action was virtually identical. The Broyhill amendment would make them even more so.

There may be several other amendments to the bill, but I think Members should know that the bill was processed last year, was passed unanimously by the other body and was again passed this year by the Senate.

Last year the Committee on Interstate and Foreign Commerce in the last week of the session brought it on the House floor, unfortunately under suspension. It failed narrowly to gain two-thirds. I think the vote was 224 to 166.

We have attempted to improve that bill this year. Both the Committee on Interstate and Foreign Commerce and the Committee on the Judiciary have scrutinized the bill before us today.

Its supporters include a long list of organizations, such as the American Bar Association, the United States Office of Consumer Affairs, the Chamber of Commerce of the United States of America, Ford Motor Co., National Association of

Automobile Dealers, and the Motor Vehicle Manufacturers Association of the United States. Unfortunately, Chrysler Motors is legislatively concerned elsewhere and has not specifically endorsed this bill, but AUTOCAP has. There is no organized opposition to the bill.

Here is a more detailed list of the bill's supporters:

SELECTED LIST OF SUPPORTERS

American Arbitration Association.
American Bar Association.
American Express Company.
American Friends Service Committee.
AUTOCAP.
Center for Community Justice.
Chamber of Commerce of the United States of America.
Cleveland (Ohio) Center for Dispute Settlement.
Columbus (Ohio) Nights Prosecutor's Program.
Community Board Program, San Francisco, California.
Conference of Mayors.
Conference of (State) Chief Justices.
Congress Watch (Public Citizen).
Consumer Electronics Group of the Electronic Industries Association.
Consumers Federation of America.
Consumers Union.
Council of Better Business Bureaus, Inc.
Department of Consumer Affairs, New York City.
Department of Consumer Affairs, State of California.
Dispute Services Project for Services and Research in Dispute Resolution (Oklahoma State University).
Dispute Settlement Program, State of Florida.
Equal Justice Foundation.
International City Management Association.
League of Cities.
Motor Vehicle Manufacturers Assoication of the United States.
National Association of Automobile Dealers.
National Association of Counties.
National Center for State Courts.
National Consumers League.
National Home Improvement Council.
National Institute for Consumer Justice.
National Manufacturers Housing Federation, Inc.
National Retail Merchants Association.
National Senior Citizens Law Center.
Neighborhood Justice Center of Atlanta, Inc.
Office of the Public Advocate, State of New Jersey.
Pound Conference Follow-up Task Force.
Santa Clara County Bar Association.
Sears, Roebuck and Co.
Small Claims Study Group.
United States Office of Consumer Affairs.

We have for the first time both consumers and business organizations supporting what should be a less expensive, more expeditious way of resolving disputes without going to court. That is what the bill is all about. I trust we can get on with the bill this afternoon.

I joint my colleagues, the gentleman from North Carolina (Mr. PREYER), who is comanaging the bill for the Committee on Interstate and Foreign Commerce; the gentleman from North Carolina (Mr. BROYHILL), who is the ranking minority member of the Committee on Interstate and Foreign Commerce; the gentleman from Illinois (Mr. RAILSBACK), who is the ranking minority member of the Committee on the Judiciary, all of whom are instrumental in processing the bill today.

Mr. RAILSBACK. Madam Chairman, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman from Illinois.

Mr. RAILSBACK. I thank the gentleman for yielding.

I simply want to say that I think that it is very significant that there is such widespread support particularly from the business community, including the National Chamber of Commerce for this bill. I do want to point out to my colleagues on the minority side that the members of the subcommittee that sat and considered the legislation are all supporting it, despite the fact that some of our good friends on the minority side, I believe, may be against it. I think there is good support, and it is bipartisan support.

Mr. KASTENMEIER. I thank my colleague and yield back the balance of my time.

Mr. KINDNESS. Madam Chairman, I move to strike the last word.

Madam Chairman, the Committee of the Whole House has before it a bill spoken about in glowing terms by many who have worked with it. And some regrettably who are not familiar enough with it.

I am not impressed by the fact that the Chamber of Commerce of the United States or some of the other parties who have been suggested as supporting this bill do so. After all, it is quite important for us to make these judgments ourselves and in the interest of our constituents, not on the basis of what the U.S. Chamber of Commerce thinks or any other group.

I believe we ought to think about this bill in terms of what it can do in the communities we represent. This bill provides for the beginning of a program to establish neighborhood kangaroo courts or other mechanisms for resolving disputes among people.

In the old days, this used to be done by the wardheeler. Remember? In the big cities, that is how you resolved disputes among people. Two neighbors had a little fight about something, where the boundary line was between their properties, or whose cat it was, or what have you. You went to the wardheeler or ward boss. He told the parties how they ought to resolve their dispute if they could not resolve it among themselves. We have a mechanism for doing that again in the future if we pass this bill.

We have a mechanism to get moneys out to the communities.

This is just the beginning of a program, of course. It can be expanded upon over the years. This is only a 4-year authorization, of course, but it will be reauthorized and extended undoubtedly in the years ahead, if it once gets in place.

□ 1600

The mechanisms you find already in place to provide for these dispute resolution procedures are community action commission type organizations that are already there, the ACTION: type programs in a lot of communities. I am sure other so-called nonprofit groups can be established to carry out these dispute resolution programs.

It is all well and good if we want to have it that way, but I think we ought to stop and realize this is the kind of mechanism that will be employed in the utilization of the funds under this bill, particularly if one of the amendments I propose to offer, which would cut out nonprofit organizations, is not adopted. The reason I would like to alert the Members of the Committee to the amendment that would eliminate nonprofit corporations from participation in this bill is that I think they ought to think very carefully about their local governments and how they are going to be able to interact with organizations that will receive funds under this bill. If they are part of the local and State governmental agencies or organizations, there are mechanisms in place to do that. If these moneys go to nonprofit organizations, those nonprofit organizations can have such scope of activity as is defined in their charter. That can be very broad. It could be limited to just the purposes of this act, but it probably would not be and very likely would be picked up by some existing community organization. This would be a new program to be funded with Federal funds under their operation.

It might work out all right, and it might work better if we limit it to State and local government organizations alone and leave out the nonprofit organizations. I certainly hope the Committee of the Whole will consider carefully and adopt such an amendment that would take out the nonprofit organizations from coverage of the bill.

We still have with us the problem which was mentioned in debate yesterday of having no definition of what a "minor dispute" is that would be covered by this bill. Consider, if you will, what could happen with an aggressive leadership of a community action commission organization or other nonprofit type of organization in conflict with the local courts and the local government, and no definition of what is a minor dispute. If we define a minor dispute more accurately, maybe we can at least keep that under control.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

(By unanimous consent Mr. KINDNESS was allowed to proceed for 3 additional minutes.)

Mr. KINDNESS. Consider, if you will, one of these nonprofit organizations. Let us say it is a community action commission which is in conflict with the local government and courts and seeks to work at odds with them. Consider minor disputes as including anything and everything that might be litigatable in the courts. There is nothing in this legislation to prohibit that or to keep it from occurring or to even assure such a program would not be funded in succeeding years. We have no protections against incursions against local government, in other words, that are contained in the bill. I think it is inviting trouble.

So I will be offering an amendment at the appropriate time to at least provide that local government get notice of these programs or program applications and have the opportunity to comment, just as would the Attorney General of the State and the chief judicial

officer of the State and the chief executive officer of the State. It is just as important that those at the local governmental level have an opportunity for some input, at least. I suggest to my colleagues that it ought to be under the control of the local governments and State governments, and that there ought to be at least a reasonably precise definition of minor disputes. I will offer an amendment to define minor disputes. Essentially it would set a level of $300 as a monetary interest involved and would exclude those disputes involving allegations of bodily injury which require complicated proof, or criminal conduct, which belong in the criminal courts, and that would otherwise occur between family members and neighbors, landlords and tenants, consumers and businesses, and buyers and sellers as set forth in the finding of the bill as the purpose of the measure.

I would hope there would be support, particularly for defining what it is we mean by a minor dispute, since that is what the whole bill rests on. If we have not defined what it is we are getting at, then there is no leash on this program and there is every likelihood of it growing that much more rapidly. I would hope we would not set up such a monster in legislative form when it is not necessary to begin with, and the States are approaching this problem, I think, with every bit as much sensibility as the Federal Government, at least as I see this bill.

I would ask the Members of the Committee of the Whole not only to consider these amendments carefully, but to consider that this bill is something we do not really need.

Mr. DANIELSON. Madam Chairman, I move to strike the last word.

Madam Chairman, it may be that this comment is not entirely necessary because, as I look about within the Committee Chamber, I see very few who will ultimately be voting except members of the Judiciary Committee and the Committee on Interstate and Foreign Commerce. I would think that most, if not all of them are already pretty well aware of the valuable purposes of this bill. But I do have the pleasure of seeing, for example, the gentleman from Pennsylvania (Mr. ERTEL) and the gentlewoman from New Jersey (Mrs. FENWICK), who is always in attendance, and a few others of the distinguished Members who may not be entirely aware of the bill. So I want to point out a couple of things.

My distinguished friend from Ohio has just pointed out some of his objections to the bill. I fully respect them. But I want to try to cast the context in which this bill is being considered into a neutral atmosphere rather than one some people might be crass enough to say would be colored by political connotations.

I thought I heard the expression "wardheeler," for example. Goodness gracious, do not tell me we still have wardheelers about in 1979, on the eve of 1980. I just cannot imagine that.

I notice the gentleman's amendment, I read ahead, and the gentleman will offer to strike, and he certainly has every right to do that, and debate in his very, very competent manner for his amendment, but he wants to strike nonprofit organizations. Well, now, what in the world are they? They are not the wardheelers. Have my colleagues ever heard of a wardheeler who did not make a profit? I did not.

I will tell my colleagues the way we used to resolve some of these disputes back in a simpler and happier stage of our society. At that time there might be a political leader. Some people, of course, would say that their political leader is an outstanding citizen, a pillar of the community; and the other fellow's political leader, of course, is a wardheeler, but the point is you might go to such a person and have him straighten out a problem that arises in the community, and that was a benefit to our society because the people did not have to go to court, and they might not erect that spite fence, and they might not get into a case of aggravated assault and battery. It is good to have an end brought to these disputes.

Mr. RAILSBACK. Madam Chairman, will the gentleman yield?

Mr. DANIELSON. I certainly do yield to the gentleman from Illinois (Mr. RAILSBACK).

Mr. RAILSBACK. In that respect, I had a chance to visit a program in San Francisco which was really not run for profit. It was probably the very best program that I saw, where they had literally volunteers and panels of five doing the mediating. Furthermore, they had so many volunteers that they actually have a waiting list of people that are willing to take $10 a month to sit and try to mediate between disputants in an effort to resolve their differences.

□ 1610

Mr. DANIELSON. Those were strictly pro bono publico, for the good of the public, is that not correct? It is correct. In these nonprofit organizations who are a few of the ones whom we would be impacting. Traditionally, if people have a problem they might go to their clergyman, their pastor, their priest, their rabbi, for a settlement of a dispute. You could not do that under this amendment, you know. You could go to him but you could not have him working in one of these dispute resolution centers because those are nonprofit organizations—those are nonprofit organizations.

How about the Salvation Army and the Community Chest, who do so much good helping people in our larger cities? They could not be brought in because they are nonprofit organizations. Take a look at it from another point of view. One of the biggest contributors to these dispute resolution mechanisms has been the Ford Foundation, hardly a "wardheeler." But, nevertheless it is an organization which has been deeply involved in trying to forward the idea of resolving these disputes someplace other than in our courts. Let us settle them in the neighborhood, in the community, by people who care and who are doing it for nothing or practically nothing—$10 a month I am going to equate with nothing. De minimis is the expression we use in court, but $10 a month is not an awful lot of money.

Mr. KINDNESS. Madam Chairman, will the gentleman yield?

Mr. DANIELSON. I will be more than pleased to yield.

The CHAIRMAN. The time of the gentleman from California has expired.

(By unanimous consent Mr. DANIELSON was allowed to proceed for 2 additional minutes.)

Mr. DANIELSON. Madam Chairman, I yield to the gentleman from Ohio (Mr. KINDNESS).

Mr. KINDNESS. I thank the gentleman for yielding. I thought surely that would be an agreeable possibility after what the gentleman had to say by way of misconstruing what I had had to say earlier. I think the gentleman might like to clarify the point that what was projected was for the future, that the wardheeler type of operation that we have known in the past could occur again under this kind of situation that would be set up under this bill. We have seen that type of occurrence with Federal funds being used in programs that are parcelled out to the communities. That was the point I was trying to make.

Mr. DANIELSON. I will reclaim my time, because the gentleman is repeating his argument made earlier.

I will say this: I do not know whether wardheeler types will or will not be involved. But if wardheeler types can resolve these disputes in our communities and spare people the need of going to court to resolve a dispute, then power to them. Of course, I want to point out, and I am sure the gentleman will agree, neither he nor I know any wardheelers within our respective political parties. Ours are civic leaders. It is only the other guy's person who is a wardheeler. We do not have them in my party anymore, and I am sure the gentleman would not be a member of a party which had them either.

Mr. KINDNESS. The gentleman seeks to obscure reason with humor, and it often works, although there are few of us here to hear it.

I think the point has to be considered as to whether we ought to at least start out with governments at the local and State level utilizing these funds, and let us see how they produce.

Mr. DANIELSON. I think that is a good situation. Let us try it out and see how it works. There is a sunset provision on this bill of 4 years. I regret that, but it is there, and if it does not work in 4 years we can put it to sleep.

Mr. SAWYER. Madam Chairman, I move to strike the last word.

Madam Chairman, I am just addressing the observations made by the gentleman from Ohio as to an inadequate definition of minor disputes. Actually, it is totally unnecessary because this is strictly a voluntary mediation-type proceeding. People should be able to go in with a $100,000 matter and attempt to work it out and come to an agreement if they want to. That is done in lawyers' offices every day without the benefit of courts. In both civil and even in criminal matters, it is a matter of voluntary mediation or negotiation. For every lawsuit that is

tried, there are probably at least 15 or 20 that are settled in lawyers' offices, with the lawyers acting as mediators or negotiators, putting an agreement together.

So, while this type of mechanism would naturally be attractive to those with minor disputes because they are the ones that cannot afford the lawyers and the use of the courts. However, I see no objection if people wanted to use it for some bigger matter. After all, a minister or anybody, is entitled to mediate any dispute the people will let him mediate. Therefore, I think the minor dispute resolution is an appropriate name because that is the area that has the crying need that is not being addressed. These other areas have choices.

I might say for those Members who may not totally appreciate the scope of this problem, that when I became prosecuting attorney I discovered a huge lobby full of people every day with minor disputes. We were assigning two young lawyers full time to do nothing but attempt to handle these disputes. They unlovingly called the arrangement, "The bitcher's bench."

It involved everything from disputes with the corner grocery, the neighbor's dog relieving itself on someone else's lawn, somebody dumping garbage on somebody's lawn, somebody's older kid hitting somebody's younger kid, to somebody persisting in parking his car in front of another house.

These things, while they are minor and petty, exist on about every block in every city, and sometimes in multiples. They can get very serious. For these minor disputes often fester and get worse, and can even lead to homicide, assaults, and other very serious crimes.

I had to stop attempting to handle minor disputes because I could not afford to tie up two young lawyers with my staff, who were always the younger lawyers, with the least experience, and the least mature. These are not legal problems. These are social, neighborhood problems. While I agree that this is totally a local matter, this is not a Federal project. This is Federal seed money to try to provide some guidance and format to develop a system to settle disputes. The program has a 4-year limit on it.

I believe that just as we have done in many, many cases of local counsel, we can go in and provide a Federal example as well as a clearinghouse so that those that are meeting with success can provide benefit to those that are not working as well in this area.

Madam Chairman, I strongly support the bill.

Mr. BUTLER. Madam Chairman, will the gentleman yield?

Mr. SAWYER. I yield to the gentleman from Virginia.

Mr. BUTLER. Madam Chairman, I thank the gentleman for yielding. Of course, we appreciate his valuable experience as a prosecuting attorney. It always shocks me to realize that people who talk about the dispute resolution actually are talking about criminal violations, which is the responsibility of a prosecuting attorney. I think our States would be a little bit surprised if they learned that we were about to set up a system of taking over the prosecuting attorney's responsibility in the various Commonwealths and States.

Mr. SAWYER. Some would be delighted, as the gentleman knows.

Mr. BUTLER. If the gentleman would yield further, I want to take note of his statement that this is seed money. We are talking about seed money, from whence trees grow. The seeding process is described on page 54 of the bill, and I would invite the Members' attention to it because 10 pages of this bill are directed to determining the seeding process. There are 10 pages of legislative description.

Now, how many disputes are we going to resolve with 10 pages of legislative description? Then, after that of course is the regulations that the Attorney General and the Department of Justice are going to issue. That, I think, points up the real problem of taking over a State and local responsibility.

The time of the gentleman from Michigan has expired.

(At the request of Mr. BUTLER and by unanimous consent, Mr. SAWYER was allowed to proceed for 3 additional minutes.)

Mr. BUTLER. Will the gentleman yield further?

Mr. SAWYER. I yield to the gentleman.

Mr. BUTLER. I thank the gentleman for yielding, because I think, if I may return to the point, this is a State and a local responsibility. When the Federal Government gets involved in it, then we get all excited and all worked up about writing legislation and regulations, and in so doing, get so far removed from the problems we do not really solve any of the problems at all. I invite the Members to take the time to read the 10 pages of this bill talking about the grant program format.

□ 1620

It starts out:

The Attorney General may provide financial assistance in the form of grants. . . .

Then on page 55:

As soon as practicable . . . the Attorney General shall prescribe—

Then we have (1), (2), (3), and (4) conditions and then (i), (ii), (iii), (iv), (v) subconditions. Then we are back to No. (5) and on the following page under (7) we have got more conditions. Then we come down to the bottom of page 57 and we tell how the States will get the money. They have got to set forth the proposed plan demonstrating the manner in which the financial assistance will be used. It never tells us what a minor dispute is, but it tells us about a new dispute mechanism.

Mr. SAWYER. If I may recapture my time, did the gentleman from Virginia support LEAA, the Law Enforcement Assistance Administration?

Mr. BUTLER. From time to time I did, and I certainly do appreciate the fine work they have done in this area. I wonder why we need to duplicate it.

Mr. SAWYER. LEAA is doing everything down to providing second-chance vests for local police.

Mr. BUTLER. Does the gentleman from Michigan subscribe to that? Does he think that is a good use of Federal time, money, talent, and regulation?

Mr. SAWYER. Here we are sowing some acorns to grow into big oaks and, hopefully, this will start them.

Mr. BUTLER. I am awfully afraid these acorns are going to be converted into fertilizer and will never get back into the air.

Mr. SAWYER. I am sure if they are exposed to the air in the chamber they will not survive very long.

The CHAIRMAN. The Clerk will read section 3.

The Clerk read as follows:

DEFINITIONS

SEC. 3. For purposes of this Act—

(1) the term "Advisory Board" means the Dispute Resolution Advisory Board established under section 7(a);

(2) the term "Attorney General" means the Attorney General of the United States (or the designee of the Attorney General of the United States);

(3) the term "Center" means the Dispute Resolution Resource Center established under section 6(a);

(4) the term "dispute resolution mechanism" means—

(A) a court with jurisdiction over minor disputes;

(B) a forum which provides for arbitration, mediation, conciliation, or a similar procedure, which is available to resolve a minor dispute; or

(C) a governmental agency or mechanism with the objective of resolving minor disputes;

(5) the term "grant recipient" means any State or local government, any State or local governmental agency, and any nonprofit organization which receives a grant under section 8;

(6) the term "local" means of or pertaining to any political subdivision of a State; and

(7) the term "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, or any of the territories and possessions of the United States.

Mr. KASTENMEIER (during the reading). Madam Chairman, I ask unanimous consent that section 3 be considered as read, printed in the RECORD, and open to amendment at any point.

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

There was no objection.

AMENDMENTS OFFERED BY MR. BUTLER

Mr. BUTLER. Madam Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. BUTLER: On page 43, strike out lines 18, 19 and 20, and remember the subsections that follow accordingly.

On page 48, beginning on line 7, strike the following: "and a Dispute Resolution Advisory Board."

On page 50, beginning on line 1, strike the following: "after consultation with the Advisory Board" and beginning on line 8, strike "after consultation with the Advisory Board", and beginning on line 13, strike "after consultation with the Advisory Board".

On page 52, beginning on line 15, strike the entire section 7 down through page 54, line 13, and renumber the sections that follow accordingly.

On page 55, beginning on line 13, strike the following: "after consultation with the Advisory Board".

On page 65, beginning on line 14, strike

the following: "in consultation with the Advisory Board".

Mr. BUTLER (during the reading). Madam Chairman, I ask unanimous consent that further reading of the amendments may be dispensed with, and that they be printed in the RECORD.

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

There was no objection.

Mr. BUTLER. Madam Chairman, I ask unanimous consent that this series of amendments may be considered en bloc, as they are addressed to the one point.

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

There was no objection.

Mr. BUTLER. Madam Chairman, this series of amendments is addressed to the Dispute Resolution Advisory Board. I do not want to mislead my friends in the committee. I do not like this bill. I think it is an inappropriate extension of Federal responsibility.

It is a new Federal program that spends $75 million of Federal money unnecessarily to meet problems which the States are undertaking to meet themselves in a very worthwhile and responsible manner. But if we are determined to have this bill, then I really see no reason to encumber it with a lot of extra factors that really do not belong in this sort of legislation.

That is the reason that I trespass on the Members' time for these few moments to ask that they strike out the Dispute Resolution Advisory Board. It appears on page 52 of the bill, if the Members have it before them.

This Dispute Resolution Advisory Board is charged with the responsibility of reporting to the Attorney General. In section 7(a) "The Attorney General shall establish a Dispute Resolution Advisory Board * * *." Then the next several paragraphs are directed to what the Board shall do.

Basically they are going to advise the Attorney General of the United States. There is nothing in the law that says the Attorney General has to have a Board to find out what he needs to know about dispute resolution mechanisms. I think the information is already present there. There is the National Center for State Courts, for example. There are many States experimenting with it, and I see no reason to put a nine-member Advisory Board in this bill to advise the Attorney General.

Nobody really seriously, strongly supported this, as far as I can tell. The Attorney General has the option, of course, of circumventing the Advisory Board if he wants to. If he needs help, he can consult anyone he wants to.

To give the Members an example of how unnecessary it is, even the Senate does not have this Board in its bill. It does not contribute anything to the objectives of the legislation that we could not accomplish without it. But it does burden it, again, with too many words, too many problems, too many areas for argument, too many people to argue about policy. It is just one of those things that we do not need in Federal legislation. If we are determined to implement this program—and I would advise against it—it seems to me we want to do the best we can to get all the money we possibly can zeroed in on the problem of resolving disputes and not waste it on a bureaucracy of creating another Board. It is the kind of Board we have heard Presidential candidates campaign against.

Every time we create a Federal agency, we do not need to have another Advisory Board which serves no useful purpose. For that reason I urge your support of this amendment which would simply strike this excess baggage from the bill.

Mr. SENSENBRENNER. Madam Chairman, will the gentleman yield?

Mr. BUTLER. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. I thank the gentleman for yielding. I would like to commend the gentleman from Virginia for introducing this amendment and urge that the committee support it.

This bill seems to start out a new Federal program in the classical manner by having a relatively small amount of Federal money authorized to establish an Advisory Board and establish an information disseminating center to pump out all kinds of credit material on what a good job this program is doing.

As we know, those kinds of programs build up a clientele so that when the time comes for the program to be authorized, the Members of this House and of the other body are inundated with mail from people who have been the beneficiaries of the largess even in small amounts. I think that the Advisory Board is going to basically become a lobbying operation for the continuation of this program when the time comes for the Sun to set on it.

We need a few less lobbyists in the Federal bureaucracy to ask for additional appropriations, and the way to put a stop to this kind of lobbying activity is to adopt the gentleman's amendment.

Mr. BUTLER. I thank the gentleman.

Madam Chairman, I yield back the remainder of my time.

Mr. MCCLORY. Madam Chairman, I move to strike the last word.

Madam Chairman, I indicated yesterday during general debate my general support of this legislation. At the same time I indicated that I am wary of new Federal initiatives, especially those that will cost money and those that might escalate into large sums of money. However, I think for us to abjure all new Federal initiatives would be a disservice and counterproductive. In this case it seems to me that what we are doing is taking a step which can alleviate a lot of the expense and a lot of the burden that is imposed on American citizens who are involved in minor disputes, such as those to which my colleague, the gentleman from Michigan (Mr. SAWYER), made reference.

It seems to me that we are failing to assume a responsibility that we have if we say that we are not going to do anything about this at the Federal level and just leave people where they are.

I think it is rather strange that the U.S. Chamber of Commerce, which is so strongly opposed to Federal regulation and to increased Federal spending, would provide its support for this legislation if it were going to have any of the horrendous implications which some of the opponents of this legislation predict. My prediction is quite the opposite.

The fact that we have imposed a sunset provision on this legislation indicates our determination that it be a temporary program, one which we hope can stimulate and provide the kind of mechanisms and the kind of forums for resolving minor disputes, that are necessary to relieve people of the burden of going to court, of hiring lawyers, and getting into all kinds of controversies that they should be assisted in avoiding.

□ 1630

I believe that we should give general support to this legislation.

The amendment offered by the gentleman from Virginia may seem not too consequential. However, it seems to me that an advisory board can be useful, in that it can be representative of a broad cross-section of people who can assist the Attorney General and I think that is the intention of it. It is not the intention to create a new bureaucracy. As a matter of fact, the advisory board members will have only their per diem. They are not salaried individuals and it is an opportunity for the people who are part of the public to contribute important information and experience which they have.

Madam Chairman, I hope the gentleman's amendment will not be agreed to and that we can get on to the passage of this legislation. Let us see if we cannot, during the next couple of years, encourage more and more communities, more and more neighborhood groups, to develop the kinds of dispute centers and forums whereby people can resolve their minor disputes in an efficient and economical way with as few financial and time burdens as possible.

Mr. KASTENMEIER. Madam Chairman, I move to strike the requisite number of words and rise in opposition to the amendment.

Madam Chairman, I do wish to compliment the gentleman from Illinois on the statement just made. I think it is ironic that the gentleman from Virginia (Mr. BUTLER) opposes the Advisory Board. The purpose of it is to provide some guidance for the Attorney General, by bringing in views of the people who really are interested and involved in the dispute mechanisms.

For example, there are nine persons from various backgrounds. These are people from State government, local government, business organizations, academic or research communities, neighborhood organizations, community organizations, consumer organizations, the legal profession, and the State courts.

Madam Chairman, I assume the makeup will be one individual from each of these areas.

Madam Chairman, they will be compensated, as the gentleman from Illinois (Mr. MCCLORY) pointed out, on the basis of per diem and travel only. They are not paid a salary. We are trying to have the Attorney General reflect on the views

of these nine people. We are attempting, through this Advisory Board, both in terms of the grants and the Resource Center, to have the input of these organizations which may be using new dispute mechanisms, and to have the advantage of their contribution of expertise. May I say, as far as the legislation itself is concerned, it is unsettled as is the Advisory Board. There is no question about it proceeding beyond 1984. The amount each year is fixed in terms of grants: 4 years at $15 million each, it does not escalate or go up and down, it remains at $15 million each year, $3 million for each of 5 years for the center.

Madam Chairman, I urge the membership to reject the amendment.

Mr. BROYHILL. Madam Chairman, will the gentleman yield?

Mr. KASTENMEIER. I will be pleased to yield to the gentleman from North Carolina.

Mr. BROYHILL. Madam Chairman, I want to agree with the statement that has just been made by the gentleman from Wisconsin. I would point out that this is an experimental program. At least on this Member's part, I had no intention, when I cosponsored this bill, to sponsor a permanent program. I think that the permanent financing of mechanisms such as these will have to be decided by the States or the local governments eventually. The purpose of this bill is to provide moneys to help States, local governments, or nonprofit organizations to establish mechanisms to improve these ways to resolve these disputes. It seems to me, the Attorney General in administering the bill, should have the advice of an advisory board that represents a very broad and balanced range of various interests which include not only States and local governments but also business and consumer organizations.

Madam Chairman, I would hope that the committee would reject this amendment so as to have the advice and counsel of people who do have an interest in making these mechanisms work and also, importantly, to make sure that the approaches developed in these experimental programs are brought to the attention of those in other States who are interested in them.

Mr. KASTENMEIER. Madam Chairman, I thank the gentleman for his contribution.

I would only say in conclusion while the gentleman from Virginia (Mr. BUTLER) mentioned the Senate that and it is true, the provision of the advisory board is not in the Senate-passed version but is in the version of the Committee on Interstate and Foreign Commerce and the version of the Commission on the Judiciary. I am confident the Senate did not turn this advisory board down, but never had an opportunity to consider it, and that they will accept it. I am so advised and I think it provides no problem at all for them.

Madam Chairman, I urge rejection of the amendment.

Mr. BUTLER. Madam Chairman, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman from Virginia.

Mr. BUTLER. Madam Chairman, I would like to take some of the gentleman's time to address myself to the question he talked about, the composition of the advisory board. It occurs to me that the responsibility of the advisory board, as the gentleman envisions it, to advise the Attorney General, cannot be carried out very well.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. KASTENMEIER was allowed to proceed for 3 additional minutes.)

Mr. BUTLER. Will the gentleman yield further?

Mr. KASTENMEIER. I do yield further to the gentleman from Virginia.

Mr. BUTLER. It cannot be carried out too well, because if you will look at the composition of the advisory board, there is no one down there on the firing line unless perhaps it is the neighborhood organizations. There are nine members of the advisory board. One comes from State government, one comes from local government, one comes from a business organization, one comes from an academic community, one comes from a neighborhood organization, one comes from a community organization, one comes from a consumer organization, one from the legal profession, and one from the State courts. Now, how are you going to learn how these mechanisms are working if there is no one involved in administering the mechanism who is going to participate on the advisory board.

Madam Chairman, I think the gentleman from Wisconsin (Mr. SENSENBRENNER) makes a very valid point. This advisory board is not going to be advising because they are not really going to be involved in the process. It is window dressing that does nothing except to waste the taxpayers' money flying the members in from California for quarterly meetings when the purpose of the legislation is to resolve disputes, not to run an advisory board around the United States.

Mr. KASTENMEIER. Madam Chairman, I would say in answer to the gentleman from Virginia, the nine people who will ultimately comprise the Advisory Board will be people who do and will know what is going on in this field. These are not just people picked at random. These are people who, as circumstances permit, are professionally aware and informed experts in the area of minor dispute resolution. These are the people the Attorney General will select to aid him in this regard.

Mr. HYDE. Madam Chairman, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman from Illinois.

Mr. HYDE. I thank the gentleman for yielding.

I support the amendment of the gentleman from Virginia (Mr. BUTLER).

I think the bar associations around the country—of which there are many—would be most qualified to lend advice and commentary on the effectiveness of these various programs which will vary from community to community as the problems of different communities, urban, rural, and suburban, exist. Nine people really are not going to be able to have their finger on the pulse of the operation of this program across America. I would think this would be a most appropriate function for the American Bar Association. Likewise, in my community, the Chicago Bar Association, the Cook County Bar Association and the Chicago Council of Lawyers, all of whom would be delighted to have some input to the Attorney General on how this is working, would be appropriate.

□ 1640

Mr. KASTENMEIER. Madam Chairman, I appreciate the gentleman's comment. Of course, as we know, the American Bar Association supports this legislation vigorously and we have provided one of the nine spots for a bar association representative.

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

I rise in support of the amendments of the gentleman from Virginia and in opposition, that is, to the concept of an advisory board being included in the bill.

I think the arguments have been well presented on both sides, but I think we ought to just add one other consideration and that is we have such a proliferation of advisory boards and commissions that spend money and do annual reports, that it is really somewhat out of bounds now.

I cannot tell from the arguments either at the committee stage or now in the Committee of the Whole that there is any screaming need for an advisory board. Nobody seems to be able to indicate that with the Justice Department and its functioning and with the Disputes Resolution Center and its functioning that there is really going to be any place for an advisory board to function. I do not note that there is anything that the advisory board is to do in the wording of the bill. For that we may feel blessed, I suppose. It apparently is not to make an annual report. It does not really have the function of advising or doing anything except traveling someplace and meeting, apparently, and that is fine. Maybe it is better that way, but I say from what I can gather in the bill the concept of an advisory board is a fillip that is thrown in there. It does not mean anything. It does not have any function in judgment. It is more waste. I think we might very well just do away with that part of it, at any rate.

If anyone can point out why the advisory board is supposed to be in the bill and what its functions are that are really absolutely necessary, I would be happy to know it, but I do not think they are even enumerated in the bill; so I would urge that the amendment be adopted.

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

Madam Chairman, last year when the bill was marked up initially, it is my recollection that the members of the so-called advisory board were to be paid at a rate of GS–18. That caused some of us some concern.

I want to point out to the Members that we offered an amendment that would strike that GS–18 salary for the board members and instead substitute simply travel and per diem and it was accepted. My understanding is that the per diem rate is not at a rate of $50 per day. The people that we have on the ad-

visory board are certainly in my opinion not going to get rich.

My feeling is that the advisory board, as has been mentioned by the chairman of the Judiciary Subcommittee is going to provide some outside input at a relatively low cost.

Madam Chairman, I hope we defeat the amendments.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Virginia (Mr. BUTLER).

The question was taken; and on a division (demanded by Mr. BUTLER) there were—ayes 10, noes 10.

Mr. KINDNESS. Madam Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

Pursuant to the provisions of clause 2 of rule XXIII, the Chair announces that she will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The Chair will announce this is a regular quorum call followed by a 5-minute vote.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 715]

Abdnor	Carr	Findley
Albosta	Carter	Fish
Alexander	Cavanaugh	Fisher
Ambro	Cheney	Fithian
Anderson, Calif.	Clausen	Florio
	Clay	Foley
Andrews, N.C.	Cleveland	Ford, Mich.
Annunzio	Clinger	Forsythe
Anthony	Coelho	Fountain
Applegate	Coleman	Fowler
Archer	Collins, Ill.	Frenzel
Ashbrook	Collins, Tex.	Frost
Ashley	Conyers	Fuqua
Aspin	Corcoran	Garcia
Atkinson	Corman	Gaydos
Badham	Cotter	Gephardt
Bafalis	Courter	Gilman
Bailey	Crane, Daniel	Ginn
Baldus	Crane, Philip	Goldwater
Barnard	D'Amours	Gonzalez
Barnes	Daniel, Dan	Goodling
Bauman	Daniel, R. W.	Gore
Beard, R.I.	Danielson	Gradison
Beard, Tenn.	Dannemeyer	Gramm
Bellenson	Daschle	Gray
Benjamin	Davis, Mich.	Green
Bennett	Davis, S.C.	Grisham
Bereuter	de la Garza	Guarini
Bevill	Deckard	Gudger
Bingham	Derrick	Guyer
Blanchard	Derwinski	Hagedorn
Boggs	Devine	Hall, Ohio
Boland	Dickinson	Hall, Tex.
Bolling	Diggs	Hamilton
Boner	Donnelly	Hammer-schmidt
Bonior	Dornan	
Bonker	Dougherty	Hansen
Bouquard	Downey	Harris
Bowen	Duncan, Tenn.	Harsha
Brademas	Early	Hawkins
Breaux	Eckhardt	Hefner
Brinkley	Edgar	Heftel
Brodhead	Edwards, Ala.	Hightower
Brooks	Emery	Hillis
Broomfield	English	Hinson
Brown, Calif.	Erdahl	Holland
Brown, Ohio	Erlenborn	Hollenbeck
Broyhill	Ertel	Holt
Buchanan	Evans, Del.	Holtzman
Burgener	Evans, Ga.	Hopkins
Burlison	Evans, Ind.	Horton
Burton, John	Fary	Howard
Burton, Phillip	Fascell	Hubbard
Butler	Fazio	Huckaby
Byron	Fenwick	Hughes
Campbell	Ferraro	Hutto
Hyde	Mineta	Sharp
Ichord	Minish	Shelby
Ireland	Mitchell, Md.	Shumway
Jacobs	Moakley	Simon
Jeffords	Mollohan	Skelton
Jeffries	Montgomery	Slack
Jenkins	Moore	Smith, Iowa
Jenrette	Moorhead, Calif.	Smith, Nebr.
Johnson, Calif.		Snowe
Johnson, Colo.	Mottl	Snyder
Jones, N.C.	Murphy, N.Y.	Solarz
Jones, Okla.	Murphy, Pa.	Solomon
Jones, Tenn.	Murtha	Spellman
Kastenmeier	Myers, Ind.	Spence
Kazen	Natcher	St Germain
Kelly	Neal	Stack
Kemp	Nedzi	Staggers
Kildee	Nelson	Stangeland
Kindness	Nichols	Stanton
Kogovsek	Nowak	Steed
Kostmayer	O'Brien	Stewart
Kramer	Oakar	Stockman
LaFalce	Oberstar	Stokes
Lagomarsino	Obey	Stratton
Latta	Panetta	Studds
Leach, La.	Pashayan	Stump
Leath, Tex.	Patten	Swift
Lederer	Patterson	Synar
Lee	Paul	Tauke
Lehman	Pease	Taylor
Lent	Petri	Thompson
Levitas	Peyser	Traxler
Lewis	Pickle	Trible
Livingston	Preyer	Van Deerlin
Lloyd	Price	Vander Jagt
Loeffler	Pursell	Vanik
Long, La.	Quayle	Vento
Long, Md.	Quillen	Volkmer
Lott	Rahall	Walgren
Lowry	Railsback	Walker
Lujan	Rangel	Wampler
Luken	Ratchford	Waxman
Lundine	Regula	Weaver
Lungren	Reuss	White
McClory	Rhodes	Whitehurst
McCloskey	Richmond	Whitley
McCormack	Rinaldo	Whittaker
McDade	Ritter	Whitten
McEwen	Robinson	Williams, Mont.
McHugh	Rodino	Williams, Ohio
McKay	Roe	Wilson, Bob
Madigan	Rose	Wilson, Tex.
Maguire	Rostenkowski	Winn
Markey	Roth	Wirth
Marks	Rousselot	Wolff
Marlenee	Roybal	Wolpe
Martin	Royer	Wright
Mathis	Rudd	Wyatt
Matsui	Sabo	Wydler
Mavroules	Satterfield	Wylie
Mazzoli	Sawyer	Yates
Mica	Schroeder	Yatron
Michel	Schulze	Young, Fla.
Mikulski	Sebelius	Young, Mo.
Miller, Calif.	Sensenbrenner	Zablocki
Miller, Ohio	Shannon	Zeferetti

□ 1700

The CHAIRMAN. Three hundred and sixty-three Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Ohio (Mr. KINDNESS) for a recorded vote.

Does the gentleman from Ohio insist on his demand?

Mr. KINDNESS. Yes, Madam Chairman.

The CHAIRMAN. Five minutes will be allowed for the vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 170, noes 208, not voting 55, as follows:

[Roll No. 716]

AYES—170

Abdnor	Beard, Tenn.	Buchanan
Alexander	Bennett	Burgener
Applegate	Bereuter	Butler
Archer	Bevill	Byron
Ashbrook	Bouquard	Campbell
Atkinson	Breaux	Cheney
Badham	Brinkley	Clausen
Bafalis	Broomfield	Cleveland
Bauman	Brown, Ohio	Clinger
Coleman	Holt	Quillen
Collins, Tex.	Hopkins	Regula
Corcoran	Hubbard	Rhodes
Coughlin	Hutto	Ritter
Courter	Hyde	Robinson
Crane, Daniel	Ichord	Roth
Crane, Philip	Ireland	Rousselot
Daniel, Dan	Jacobs	Royer
Daniel, R. W.	Jeffords	Rudd
Dannemeyer	Jeffries	Sabo
de la Garza	Johnson, Colo.	Satterfield
Deckard	Jones, N.C.	Schulze
Derwinski	Jones, Okla.	Sebelius
Devine	Kelly	Sensenbrenner
Dickinson	Kemp	Shelby
Dornan	Kindness	Shumway
Duncan, Tenn.	Kramer	Smith, Nebr.
Edwards, Ala.	Lagomarsino	Snowe
Emery	Latta	Snyder
English	Leath, Tex.	Solomon
Erdahl	Lee	Spence
Erlenborn	Lent	Stangeland
Evans, Del.	Lewis	Stanton
Evans, Ga.	Livingston	Steed
Evans, Ind.	Loeffler	Stockman
Fenwick	Lott	Stratton
Fish	Lungren	Stump
Forsythe	McEwen	Symms
Fountain	McKay	Tauke
Frenzel	Madigan	Taylor
Fuqua	Marks	Trible
Gaydos	Marlenee	Ullman
Ginn	Martin	Volkmer
Goldwater	Mathis	Walker
Goodling	Michel	Wampler
Gradison	Mollohan	White
Gramm	Montgomery	Whitehurst
Grisham	Moore	Whittaker
Guyer	Moorhead, Calif.	Whitten
Hagedorn		Wilson, Bob
Hall, Tex.	Mottl	Winn
Hammer-schmidt	Myers, Ind.	Wyatt
	Nichols	Wydler
Hansen	Pashayan	Wylie
Harsha	Paul	Yatron
Heftel	Pease	Young, Fla.
Hightower	Petri	Zeferetti
Hillis	Pickle	
Hinson	Quayle	

NOES—208

Albosta	Early	Long, La.
Ambro	Eckhardt	Long, Md.
Anderson, Calif.	Edgar	Lowry
	Ertel	Lujan
Andrews, N.C.	Fary	Luken
Annunzio	Fascell	Lundine
Anthony	Fazio	McClory
Ashley	Ferraro	McCloskey
Aspin	Findley	McCormack
AuCoin	Fisher	McDade
Baldus	Fithian	McHugh
Barnard	Florio	Maguire
Barnes	Foley	Markey
Beard, R.I.	Ford, Mich.	Matsui
Bellenson	Ford, Tenn.	Mavroules
Benjamin	Fowler	Mazzoli
Bingham	Frost	Mica
Blanchard	Garcia	Mikulski
Boggs	Gephardt	Miller, Calif.
Boland	Giaimo	Miller, Ohio
Bolling	Gilman	Mineta
Boner	Gore	Minish
Bonior	Gray	Mitchell, Md.
Bonker	Green	Moakley
Bowen	Guarini	Moorhead, Pa.
Brodhead	Gudger	Murphy, N.Y.
Brooks	Hall, Ohio	Murphy, Pa.
Brown, Calif.	Hamilton	Murtha
Broyhill	Harris	Natcher
Burlison	Hawkins	Neal
Burton, John	Heckler	Nedzi
Burton, Phillip	Hefner	Nelson
Carr	Holland	Nolan
Carter	Hollenbeck	Nowak
Cavanaugh	Holtzman	O'Brien
Clay	Horton	Oakar
Coelho	Howard	Oberstar
Collins, Ill.	Huckaby	Obey
Conte	Hughes	Ottinger
Conyers	Jenkins	Panetta
Corman	Jenrette	Patten
Cotter	Johnson, Calif.	Patterson
D'Amours	Jones, Tenn.	Pepper
Danielson	Kastenmeier	Peyser
Daschle	Kazen	Preyer
Davis, Mich.	Kildee	Price
Davis, S.C.	Kogovsek	Pursell
Diggs	Kostmayer	Rahall
Dingell	LaFalce	Railsback
Dixon	Leach, La.	Rangel
Donnelly	Lederer	Ratchford
Dougherty	Lehman	Reuss
Downey	Levitas	Richmond
Drinan	Lloyd	Rinaldo

Rodino	Solarz	Vento
Roe	Spellman	Walgren
Rose	St Germain	Waxman
Rostenkowski	Stack	Weaver
Roybal	Staggers	Whitley
Santini	Stewart	Williams, Mont.
Sawyer	Stokes	Williams, Ohio
Scheuer	Studds	Wilson, Tex.
Schroeder	Swift	Wirth
Seiberling	Synar	Wolff
Shannon	Thompson	Wolpe
Sharp	Traxler	Wright
Simon	Udall	Yates
Skelton	Van Deerlin	Young, Mo.
Slack	Vander Jagt	Zablocki
Smith, Iowa	Vanik	

NOT VOTING—55

Addabbo	Edwards, Calif.	Moffett
Akaka	Edwards, Okla.	Murphy, Ill.
Anderson, Ill.	Flippo	Myers, Pa.
Andrews, N. Dak.	Flood	Perkins
	Gibbons	Pritchard
Bailey	Gingrich	Roberts
Bedell	Glickman	Rosenthal
Bethune	Gonzalez	Runnels
Biaggi	Grassley	Russo
Brademas	Hance	Shuster
Carney	Hanley	Stark
Chappell	Harkin	Stenholm
Chisholm	Leach, Iowa	Thomas
Conable	Leland	Treen
Dellums	McDonald	Watkins
Derrick	McKinney	Weiss
Dicks	Marriott	Wilson, C. H.
Dodd	Mattox	Young, Alaska
Duncan, Oreg.	Mitchell, N.Y.	

Mr. RINALDO and Mr. SYNAR changed their votes from "aye" to "no."

□ 1710

So the amendments were rejected.

The result of the vote was announced as above recorded.

Mr. LIVINGSTON. Madam Chairman, I move to strike the last word.

(By unanimous consent, Mr. LIVINGSTON was allowed to speak out of order.)

DAVID C. TREEN, NEW GOVERNOR OF LOUISIANA

Mr. LIVINGSTON. Madam Chairman, my fellow colleagues, I take great pleasure at this time to announce that our colleague, DAVID C. TREEN, has just officially become the next Governor of Louisiana.

AMENDMENTS OFFERED BY MR. BROYHILL

Mr. BROYHILL. Madam Chairman, I offer several amendments.

The Clerk read as follows:

Amendments offered by Mr. BROYHILL: Page 41, line 20, insert a comma after "Americans".

Page 49, line 8, strike out "mechanism" and insert in lieu thereof "mechanisms".

Page 51 line 3 strike out "and"; strike out the period in line 11 on that page and insert in lieu thereof "; and"; and add after line 11 on that page the following:

(10) in awarding such grants and entering into such contracts, shall have as one of its major priorities dispute resolution mechanisms that resolve consumer disputes.

Page 56, insert "and" at the end of line 15 and add after that line the following:

(C) provide that one of the major priorities of the Attorney General shall be the funding of dispute resolution mechanisms that resolve consumer disputes;

Page 57, line 12, insert "the specific" before "criteria".

Mr. BROYHILL (during the reading). Madam Chairman, I ask unanimous consent that the amendments be considered en bloc, and that they be considered as read and printed in the RECORD.

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

There was no objection.

Mr. BROYHILL. Madam Chairman, I might point out these amendments have been made available to all of those on the two committees who have been involved in the consideration of this bill.

The first three amendments are technical in nature, correcting some spelling and correction some punctuation.

The other two amendments are clarifying in nature, to spell out and to make it conform with the bill that was reported from the Committee on Interstate and Foreign Commerce, that would spell it out a little more specifically to make sure it is clear that in awarding grants and entering into contracts one of the major priorities in this dispute resolution of consumer disputes.

Also, it would provide that one of the major priorities of the Attorney General in the funding of dispute resolution mechanisms is that it go for those that put emphasis on the resolution of consumer disputes.

I have pointed out, this does conform to the bill that has been reported from the House Committee on Interstate and Foreign Commerce, and I offer it to the bill reported from the Committee on the Judiciary.

Mr. KASTENMEIER. Madam Chairman, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. Madam Chairman, I thank the gentleman for yielding.

This will indeed serve two purposes. It will cure three technical imperfections in the bill, and second, emphasize that one of the major priorities will be the resolving of consumer disputes.

This, as the gentleman says, will in fact conform the two bills, the Committee on Interstate and Foreign Commerce bill and the Committee on the Judiciary bill.

I am pleased to accept the amendments.

Mr. BROYHILL. I thank the gentleman.

The CHAIRMAN. The question is on the amendments offered by the gentleman from North Carolina (Mr. BROYHILL).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. KINDNESS

Mr. KINDNESS. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KINDNESS: On page 44, line 22, strike the word "and" and insert in lieu thereof the following:

"(7) the term "minor disputes" means those disputes, not involving allegations of bodily injury or criminal conduct, which occur between family members, neighbors, landlords and tenants, consumers and businesses, and buyers and sellers, where the amount in controversy does not exceed $300, or such disputes as may be defined more specifically by the legislative authority of the State or local unit of general government in which such a dispute resolution mechanism operates; and"

On page 44, line 23, strike "(7)" and insert in lieu thereof "(8)".

Mr. KINDNESS. Madam Chairman, The amendment that is proposed at this point is intended to take care of a problem that this bill has. The bill has been discussed as being one dealing with ways of approaching the resolution of minor disputes.

Yet, there is no definition of minor disputes in the bill.

The purpose of this amendment then is to fill that gap.

I realize that we could have differing views as to what is a minor dispute. This definition that is proposed essentially limits it to those monetary considerations below or up to $300.

It would exclude allegations of bodily injury that are complicated to decide. It would exclude allegations of criminal conduct, and what would be left presumably is the small claims that occur as between landlord and tenant, buyer and seller or business and consumer, and between family members and neighbors, the kind of disputes that I believe are intended to be reached by the programs that would be established and funded under this bill.

If someone has a better idea of what a minor dispute should be or how it should be defined, I am certainly open to other amendments or substitutes for this amendment, but no one seems to have come up with any kind of a definition of a minor dispute.

I think the bill has to have some definition, or else we just do not know what we are dealing with. We do not know what we are spending the taxpayers' money for.

I would urge that the amendment be adopted on that basis.

I would therefore urge my colleagues to adopt the amendment, even though there is still some substantial question as to whether such a bill as this is needed at all.

Mr. PEPPER. Madam Chairman, I move to strike the last word.

Madam Chairman, and members of the committee, all of us know, especially those of us who are lawyers, that the expense of going to the courts and the delay of the law are two of the notorious characteristics of the administration of law.

□ 1720

I was very glad to receive a letter that I think indicates the highest judicial officers also favor this inexpensive and prompt method of trying to resolve minor disputes in the communities of our country.

I have a letter before me dated November 28, 1979, addressed to me:

STATE OF FLORIDA,
Tallahassee, November 28, 1979.

Congressman CLAUDE PEPPER,
Rayburn House Office Building,
Washington, D.C.

DEAR CLAUDE: I urge your support for Senate Bill 423, the Dispute Resolution Act. This legislation is important to vast numbers of Floridians, and it is a major step in the improvement of the administration of justice.

Sincerely,

ARTHUR J. ENGLAND, Jr.,
Chief Justice, Supreme Court.

I support this bill.

● Mr. DRINAN. Madam Chairman, I wish to commend Mr. MILLER, Mrs. BOGGS, and Ms. MIKULSKI who—together with the Committee on Education and Labor—have worked with so much dedication to prepare the Domestic Violence

Prevention and Services Act, H.R. 2977. They present us with a modest and fiscally responsible bill that will go a long ways toward alleviating the problem of domestic violence.

Madam Chairman, I am horrified by the statistics which I hear time and again concerning the frequency of domestic violence in American families: The nearly 5,000 women who are abused each day, the 1.8 million wives assaulted each year, the nearly 1 million families in which children are abused. There is no doubt that efforts must be made to help these victims. Yet, I hear opponents of this bill argue that it will lead to another enormous Federal aid program and that it will lead to unnecessary Federal intervention in what has traditionally been a State responsibility.

Let me emphasize one point. H.R. 2977 was carefully designed to insure that major responsibility remain at the State level. Federal funds for local projects will be channeled through States. Moreover, Federal funds will be limited to a quarter of any local shelter's yearly budget and will be limited to no more than 3 years of funding for any one shelter. Thus, provisions in this bill will insure that local programs will not become permanently dependent on Federal funds. H.R. 2977 was designed to enhance the effectiveness of State and local efforts in domestic violence by providing an opportunity for local projects to get off the ground. Such minimal intervention on the part of the Federal Government will, in the long term, be extremely cost-effective. By supporting preventive efforts to deal with domestic violence through local shelters and support services, we will be serving families when they need help. By assisting families at this critical period, we will ultimately save Federal moneys which would otherwise have to go to pay for hospitalization, institutionalization, foster care, and so forth—services which are far more expensive and certainly far less responsive to the needs of our American families .

I strongly urge my colleagues' support of the Domestic Violence Prevention and Services Act.●

Mr. KASTENMEIER. Madam Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. GIAIMO) having assumed the chair, Mrs. SPELLMAN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the Senate bill (S. 423)—to promote commerce by establishing a national goal for the development and maintenance of effective, fair, inexpensive, and expeditious mechanisms for the resolution of consumer controversies, and for other purposes, had come to no resolution thereon.

NATIONAL UNITY DAY

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from the further consideration of the joint resolution (H.J. Res. 458) to authorize and request the President to issue a proclamation designating December 7, 1979, "National Unity Day"; and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

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

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 458

Whereas an Iranian mob has violated international law by illegally seizing the American Embassy in Tehran; and

Whereas American flags prominently displayed on National Unity Day will symbolize our unity and opposition to international terrorism and blackmail; and

Whereas a nationwide demonstration of public support for the hostages is the only way to counter the student demonstrations that are being orchestrated in Tehran for television audiences around the world: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That December 7, 1979, is designated as "National Unity Day", and the President of the United States is authorized and requested to issue a proclamation calling upon all United States citizens and organizations to observe that day by prominently displaying American flags.

AMENDMENT OFFERED BY MR. GARCIA

Mr. GARCIA. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GARCIA: Page 2, line 3, strike out "December 7, 1979," and insert "December 18, 1979," in lieu thereof.

Mr. RINALDO. Mr. Speaker, will the gentleman yield?

Mr. GARCIA. I yield to the gentleman from New Jersey.

Mr. RINALDO. Mr. Speaker, I rise in support of House Joint Resolution 458, which calls upon the President of the United States to designate December 18, 1979, as National Unity Day. The resolution further requests the President to urge all U.S. citizens to prominently display American flags on that day in a show of support for the release of the American hostages in Iran.

It has been over a month since the illegal seizure of our Embassy in Tehran. Fifty American citizens are still being held hostage at our Embassy. This action violates every principle of international law, which requires the protection and immunity of diplomatic personnel.

The American people have shown remarkable restraint in the face of this grave situation. They have stood behind the President in his efforts to secure the captives' freedom through diplomacy rather than military action. We must make clear to those holding the hostages, however, that our restraint is not to be interpreted as weakness or lack of national will.

Flying the flag as a nationwide display of public support will show the world that the American people are united in their opposition to international terrorism and blackmail. Thousands of Americans do not march every day outside the Embassy of Iran, but this does not mean we do not care. We do care. We are deeply distressed and disturbed by the mistreatment and abuse of our fellow Americans in Tehran. A national day of unity, with millions of flags flying, will symbolize to the world the American people's solidarity and unyielding commitment to the freeing of the hostages.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from New York (Mr. GARCIA).

The amendment was agreed to.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "Joint resolution to authorize and request the President to issue a proclamation designating December 18, 1979, 'National Unity Day'."

A motion to reconsider was laid on the table.

PRIVILEGES OF THE HOUSE—SUBPENA DUCES TECUM IN THE CASE ON DONALD GASQUE

Mr. MITCHELL of Maryland. Mr. Speaker, I rise to a question of the privileges of the House.

The SPEAKER pro tempore. The gentleman will state it.

Mr. MITCHELL of Maryland. Mr. Speaker, I have been served with a subpena duces tecum for the circuit court of Anne Arundel County, Md., to appear Thursday, December 13, 1979, in the case of Donald Gasque.

Under the precedents I am unable to respond without the permission of the House and the privileges of the House being involved.

I send the subpena to the desk for such action as the House may take.

The SPEAKER pro tempore. The Clerk will read the subpena.

The Clerk read as follows:

SUMMONS DUCES TECUM

Defendant: Donald Gasque.

Case No. 22,854.

State of Maryland, Anne Arundel County, Sct:

To: Parren J. Mitchell, 1018 Federal Office Building, 31 Hopkins Plaza, Baltimore, Maryland 21201.

You are hereby summonsed to appear before the Judges of the Circuit Court for Anne Arundel County, Court House, Church Circle, Annapolis, Maryland, on Thursday, the 13th day of December 1979, at 1:30 PM, to testify for the Defendant, and to bring with you a report which you have in your possession which outlines and discusses the conditions at the Maryland House of Correction, Jessup, Maryland.

Failure to attend, may result in your arrest.

Witness the Honorable Judges of the Circuit Court for Anne Arundel County, Maryland.

W. Garrett Larrimore, Clerk.

By Donna Heins, Deputy.

Date issued: December 6, 1979.

Requested by:

Name: James D. McCarthy, Jr.

Address: Assistant Public Defender, 60 West Street, Suite 203, Annapolis, Maryland 21401.

□ 1730

SOME QUESTIONS ON AMERICAN SELF-FLAGELLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. PAUL) is recognized for 15 minutes.

Mr. PAUL. Mr. Speaker, most of us saw, on television, the Iranians marching on one of their holy days and flagellating themselves with chains to the point of drawing blood. I am sure everyone who witnessed this masochistic fanaticism was astounded as I was. It emphasized the bizarre nature of the people we are dealing with in Iran, and the difficulty we have in finding a common ground.

As I thought more about the spectacle, however, I realized that our country is not immune from self-flagellation. For instance:

Why do we encourage the notion that a no-growth economy is necessary and that lowering our expectations is a rational alternative to new ideas and new production?

Why do we spend $12 billion a year, through the Department of Energy's budget, creating shortages, when the free market could provide all the energy we need?

Why do we destroy the value of our dollar by running the printing presses 24 hours a day, then cry foul when oil prices go up in reaction to this monetary fraud?

Why do we heavily tax those companies that succeed in serving the consumer effectively, and reward the failures with subsidies and guaranteed loans?

Why do we intervene all over the world, pouring billions down foreign ratholes, then skulk away when our people and property are threatened?

Why do we give away strategic waterways and negotiate away use of our defense capability, then purchase the votes to ratify the limitations with more spending on weapons we do not need?

Why do we pretend to help the poor with welfare programs, then allow those programs to sink in a mire of corruption, waste, and fraud?

Why do we make believe that we care about the little guy, promise him everything, and then present him with the bill for higher taxes, more inflation, and less freedom?

Why do we do everything conceivable to increase our dependency on the Arabs by destroying incentives to produce energy in this country?

Why do we orchestrate hostility and envy toward any oil company making 5 percent on its sales, and then deliberately debase our money at a rate of 15 percent?

Why do we print up massive quantities of paper dollars, exchanging a barrel of dollars for a barrel of oil, and then dump our real money, gold, at lower than market prices claiming we do it to support the dollar?

Why do we get involved in supposedly noble wars, squandering our young people's lives and our wealth, with no intention of trying to win?

Why do we pretend to care for the elderly with an insurance program that is not insurance and penalize the retired with a vicious inflation tax?

Why do conservatives and liberals talk of individual freedom while conniving to institute compulsory service, military or civilian?

Why do we allow the Congress to create inflation, then protect ourselves with pay raises?

Why do we talk about freedom as we attempt to control the personal and economic lives of every American?

Why do we watch as politicians and bureaucrats undermine the market and the money with excessive Government, then ask the same people for more Government as a solution?

Why do we ignore the benefits that have flowed from deregulation of the airlines, while pushing for increased regulation of medicine and energy?

Why do we create great prosperity with a free market and individual liberty, then dismantle them and bring on poverty, unemployment, anxiety, inflation, hunger, and domestic strife?

Why do we ignore 4,000 years of experience showing that price controls always produce shortages, by causing shortages in energy with price controls?

Why do we get upset at extinction of the snail darter, while allowing a million unborn children to be killed each year in our own country?

Why do we meddle in the internal affairs of other nations, receiving only condemnation for our sacrifices, and never learn a lesson?

Why do we give foreign aid to our enemies and the OPEC countries, thus increasing the suffering of our own people?

Why do we succumb to the threats of a Torrijos, give away our canal, and then pay the Panamanians to take it?

Why do we engage in wars like Korea and Vietnam on the other side of the world, and allow a Communist conquest 90 miles from our shores?

Why do we put up with the Iranian takeover of our Embassy while continuing to subsidize Iranian students here, train Iranian pilots, allow Iranians to receive welfare, and then watch as our guests condemn America in daily demonstrations?

Why do some of those who create energy shortages—through price controls, allocations, and regulations—claim a 5-percent profit is sinful and hurts the poor, and then turn around and support a 50-cents-per-gallon tax on gasoline?

Why do we build unwieldy offensive weapons like the MX, while ignoring the need to defend American cities?

Why do we tax achievement and productivity at exorbitant rates, while decrying the lack of investment?

Why do we talk about the need for a military petroleum reserve, and then plan to pump oil out of such a reserve in California, transport it at great expense through the Panama Canal, and pour it in the ground again in Texas, without the proven technology to get it out?

In comparison with all of this, beating yourself with chains seems rather benign.

MTN TARIFF RATES ON LEAD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. FRENZEL) is recognized for 5 minutes.

● Mr. FRENZEL. Mr. Speaker, today I introduced a bill which would delay the conversion of the rates of duty on unwrought lead other than lead bullion to ad valorem equivalents until January 1, 1982. As you know, during the MTN, many conversions to ad valorem equivalents were made in an effort to further simplify and equalize duty assessments under the U.S. tariff schedules.

Currently, the duty on unwrought lead is 1.0625 cents per pound, which I believe is adequate protection to the U.S. lead-producing industry. I have no problem with the conversion to ad valorem duty equivalents in most cases, but due to the soaring price of lead in the last couple of years, the change to ad valorem equivalent will result in nearly doubled tariff rates on unwrought lead, which to me is contrary to the spirit of the MTN which was to lower tariffs, not raise them. Since the United States is a net importer of lead, this situation will only serve to drive up the price of lead even further.

I believe this 2-year delay would give us enough time to examine the effect of ad valorem conversion with respect to rapidly-escalating prices in the lead, and possibly other commodity markets. It would also provide time for us to discuss with our U.S. trade representatives the need to negotiate lower rates which would correspond to present rates of duty.

I repeat that we are not initiating any kind of tariff cut which would harm the domestic lead producing industry. We are merely insuring that our lead consumers have the opportunity to purchase that portion of their lead needs which cannot be satisfied domestically at the same duty currently paid.●

THE POLYGRAPH IN EMPLOYMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. MCKINNEY) is recognized for 5 minutes.

● Mr. MCKINNEY. Mr. Speaker, last week I again sponsored legislation (H.R. 6034) which prohibits the use of polygraphs (lie detectors) in employment. This bill differs from polygraph legislation which I introduced this year in two important ways. First, I am joined today by the distinguished chairman of the House Judiciary Committee's Subcommittee on Civil and Constitutional Rights, Representative DON EDWARDS of California. It is my hope and expectation that his influential support will encourage serious consideration of this matter in the 96th Congress. Second, this bill covers only private employers. I should make it clear, therefore, that I believe the prohibition of polygraph use should extend to public employers as well, and that I hope this issue will be addressed by the committee or in separate legislation.

For further information on this subject, I urge my colleagues to refer to my statement on page H1655 of the March 26 CONGRESSIONAL RECORD. In addition, I have inserted the following issue brief on

the subject which has been prepared by my office:

THE POLYGRAPH IN EMPLOYMENT

ISSUE DEFINITION

In both the 95th and 96th Congresses, legislation has been introduced in the House and Senate to prohibit the use of polygraphs —or "lie detectors"—in connection with employment. Interest in this issue has been stimulated by (1) reports that such polygraph use constitutes an unwarranted invasion of privacy, and (2) serious questions which have been raised regarding the validity and reliability of such devices.

BACKGROUND

Congress first addressed the issue of polygraphs in 1965, when the House Government Operations Committee issued a report entitled "Use of Polygraphs as 'Lie Detectors' by the Federal Government" (House Report 89–198). It concluded that "There is no 'lie detector,' neither machine nor human" and recommended the prohibition of polygraph use by federal agencies in all but the most serious national security and criminal cases.

In 1976, after further study, the Government Operations Committee recommended that "the use of polygraphs and similar devices be discontinued by all government agencies for all purposes." The Committee concurred with the Department of Justice position that the results of polygraph examinations would not be admitted as evidence in the Federal courts. Finally, the committee report (House Report 94–795) noted "the inherent chilling effect upon individuals subjected to such examinations clearly outweighs any purported benefit to the investigative function of the agency." With regard to the last point, the report referred to the testimony of several witnesses who argued that the polygraph test violated a number of the Bill of Rights amendments to the Constitution, and pointed out that some European countries have long rejected the polygraph as an impermissible police technique.

In July, 1977, the bi-partisan Privacy Protection Study Commission, created by the Privacy Act of 1974, recommended that "Federal law be enacted or amended to forbid an employer from using the polygraph or other truth-verification equipment to gather information from an applicant or employee." The Commission explained that "the main objections to the use of the polygraph in the employment context are (1) that it deprives individuals of any control over divulging information about themselves; and (2) that it is unreliable."

More recently, President Carter endorsed legislation introduced in the House to limit the use of lie detectors in employment. Carter made this statement in his privacy message of April 2, 1979.

Polygraph use was considered again this year by Dr. Alan Westin of Columbia University and Louis Harris and Associates in *The Dimensions of Privacy*, the most comprehensive national opinion research survey conducted to date on privacy in America. The survey yielded the following results: By a 65–30 percent majority, employees believe that asking a job applicant to take a lie detector test should be forbidden by law. A majority of business employers (55 percent) and Congressional respondents (60 percent) shared this judgment.

ARGUMENTS FOR POLYGRAPH LEGISLATION

1. Polygraphs violate civil liberties: Rather than detecting truth or falsehood, the polygraph often serves as a means of intimidation which gives the polygraph examiner the ability to elicit personal and intimate information from the subject. It was reported in 1977 that approximately 90 percent of job applicants rejected after having taken a preemployment polygraph examination were rejected on the basis of their own admissions, not on the basis of the results obtained from the polygraph test itself (see Barland, G. H. Sceening Utah job applicants: Preliminary results. *Polygraph*, 1977, *6*, 318–324). Job applicants have been questioned on highly personal topics ranging from sexual conduct to religious beliefs to emotional well-being. This is considered to be a violation of the rights to privacy and civil liberties.

2. Polygraphs are of questionable accuracy: There is no scientific data with regard to the accuracy of pre-employment polygraph examinations. Studies conducted to date have aimed to evaluate only the accuracy of polygraphs techniques with criminal suspects. The results of these studies range from almost perfect accuracy (reported by the American Polygraph Association) to no better than chance (reported by the American Civil Liberties Union). Further, proponents of this position concur with the Justice Department opinion that there is no specific physiological reaction indicative of deception. This theory clearly undermines the polygraph concept, which presumes that an identifiable physical reaction can be attributed to a specific emotional stimulus.

3. State laws must be reinforced: At least 16 states have already passed measures prohibiting or restricting polygraph use in employment. A federal statute is needed to establish a uniform code and to prevent employers in states with prohibitions from polygraphing job applicants in states which do not.

BUSINESS AND THE POLYGRAPH

A recently conducted survey, the Dimensions of Privacy, concluded that 55 percent of business employers believe that asking a job applicant to take a lie detector test should be forbidden by law. The Business Roundtable stated in December, 1978, that employers should "ban the use of truth verification devices in the employment process." Nevertheless, some individual businessmen oppose a ban on polygraph testing, arguing that the polygraph is necessary to control employee theft. This issue was raised in the 95th Congress before the Senate Judiciary Committee's Subcommittee on the Constitution. Estimates of employee theft ranged widely from $5 billion to $40 billion per year in the United States.

While this is a subject of great concern, it has been noted by Sen. Birch Bayh (D-Ind.), chairman of the Senate Constitution Subcommittee, that a vast majority of businesses do not use polygraphs, and indications are that they have not been any more hard-hit by pilferage than other businesses. Further, supporters of polygraph legislation emphasize that, when considering the issue, Congress must explore what other methods of management and security are employed that offer reasonable alternatives to the business community. Estimates of the number of polygraph tests administered to employees annually range from 300,000 to 500,000.●

SECOND CAREER TRAINING FOR AIR TRAFFIC CONTROLLERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. CORCORAN) is recognized for 5 minutes.

● Mr. CORCORAN. Mr. Speaker, I would like to express my support for H.R. 5870, Congressman HANLEY's bill strengthening the second career training program for air traffic controllers, which is being voted on today under a suspension of the rules.

In the past, the air traffic controllers' second career training program has been poorly administered and subject to abuse. Consequently, Congress prohibited the use of appropriated funds for fiscal year 1979 for new entries into the second career training program. After extensive hearings and careful review, the Committee on Post Office and Civil Service, of which I am a member, determined that while there is need for improvement in the system of second career training, the program should not be abandoned.

In fact, our committee found that such an alternative career program is more than ever necessary as more and more people take to the skies and air traffic volume increases daily. Air traffic control work carries awesome responsibility for human life and requires the ability at all times to make quick life and death decisions. Error in such a job can have devastating consequences and, for the sake of the flying public as well as the controller who works under this stress, we can only afford to have controllers who are capable of working at peak efficiency at all times.

For this reason, we desperately need an effective, fully operational second career training program for air traffic controllers. H.R. 5870 will correct a number of weaknesses in the original legislation creating second career training for air controllers and make this a viable program again.

These necessary changes include: Limiting eligibility to only certain employees; establishing a review board to set eligibility criteria and review applications and ongoing programs; requiring medical certification of ability to complete the program; increasing minimum eligibility to eight years of service as a controller; and creating a qualification standard for career training programs.

I believe that these changes in the structure of the program will solve the problems that led to the lack of financial support this year, and I urge my colleagues to support this bill.●

A TRIBUTE TO DOROTHY S. ROSENBERG

The SPEAKFR pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. LEVITAS) is recognized for 5 minutes.

● Mr. LEVITAS. Mr. Speaker, a distinguished public servant, a lovely lady and a dynamic part of the operations of the Smithsonian Institution will be leaving Government shortly.

Dorothy S. Rosenberg, who has spent some 20 years with the Smithsonian after previous service with the Department of the Interior, will give up her position as Executive Assistant to the Secretary of the Smithsonian Institution, S. Dillon Ripley.

The Committee on Public Works and Transportation, and in particular its Subcommittee on Public Buildings and Grounds, has worked throughout the years with the Smithsonian Institution on many pieces of legislation that have helped develop and make even more effective a very great Institution which is a landmark on the American scene and which yearly serves millions of visitors who come not only from all over the United States but from all over the world.

No small part of the successful operation of the Smithsonian has been the

quiet and effective work of Dorothy S. Rosenberg. She has played a major role in the Office of the Secretary whether it involved internal matters and operations of the Institution or whether it concerned legislation that needed attention on the Hill.

On behalf of all of the members of the Committee on Public Works and Transportation and the Members of the House, I salute Dorothy Rosenberg for her great service and wish her happiness and peace in her well-earned retirement.

I include a pertinent article from the Smithsonian Torch, December 1979 issue:

FOND WORDS AS FRIEND LEAVES

Charles Blitzer calls her the unsung "Terry Bradshaw of the Smithsonian."

John James refers to her as "my friend, confidant and advisor for 21 years."

James Bradley says, "She has the ability to anticipate problems and to propose alternative solutions."

Dorothy Rosenberg, the subject of these accolades, disagrees: "It has been my good fortune to associate with people who carried heavy responsibilities and who gave me an opportunity to participate while learning." Typically, she makes no reference to the responsibilities she has carried.

After 21 years at the Smithsonian, the last 6 as executive assistant to Secretary Ripley, Dorothy Rosenberg will retire Jan. 11 and turn more of her attention to her son and daughter and her three grandchildren, one of whom, born recently in California, she has yet to see.

Most of Rosenberg's contributions to the Smithsonian will remain unlisted and unchronicled, but around the Institution she is known as the person "who gets things done and done right," as one admirer said.

The Board of Regents, at its meeting Sept. 17, took note of this quality in a resolution commending Rosenberg for her "exceptional soundness of judgment, resourcefulness, devotion to the ideals of the Institution and, above all, unfailing graciousness."

The resolution came as a surprise to Rosenberg, since her responsibilities normally include the preparation of the Regents' agenda.

Blitzer's comparison of Rosenberg with Terry Bradshaw, the quarterback of the successful Pittsburgh Steelers, was echoed, in a fashion, by Betty Morgan, former assistant treasurer of the Smithsonian and a longtime friend.

"She is a low-keyed dynamo," Morgan said. "She is stubborn but never unreasonable." Morgan spoke of Rosenberg's attention to detail, her ability to forge consensus from disagreement and her dedication to principle. "There have been times when a lesser person would have given in to the pressures, but Dorothy won't," Morgan said.

Dorothy Rosenberg came to the Smithsonian in 1959 from the Department of the Interior where she worked in the Office of the Secretary. At the Smithsonian, she was office manager for Under Secretary Bradley and his successor Robert A. Brooks. In 1973, she assumed her current position as executive assistant.

"I simply can't imagine what the place will be without her," Blitzer said, "but I do know that my life will be more difficult and less pleasant."

"Her perceptive understanding of the unique qualities of the Smithsonian and how its functions have enabled the Institution to achieve many of its objectives," said David Challinor.

Rosenberg, however, speaks of herself as a member of a team. "I'm just one of the many who have contributed," she said. "Because it's a group effort, you feel part of it, even though you don't get your name on anything."

Secretary Ripley simply said, "How do you bestow encomiums on someone who deserves them all? She will be very much missed." ●

GASOHOL USAGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. ADDABBO) is recognized for 15 minutes.

● Mr. ADDABBO. Mr. Speaker, it would seem that gasohol usage can be accelerated much more rapidly, with great advantages to the program to reduce the use of imported oil. It is a well known alternative for automobile use, and there are great quantities of wastes in the farm areas that can be readily converted to alcohol. Also, the mash that is left after corn has been used for alcohol can be fed to livestock with very little change in its food value.

As a generality, each region of the United States needs to make the most of its local energy opportunities. This can avoid needless use of transportation with possible savings, but the population will feel a lot more secure if there are local sources of alternate fuels using local materials, rather than to be excessively dependent on far away sources. The farm areas are particularly fortunate in having large amounts of waste that can be converted into alcohol. In a sense, the alcohol program should go far to make gasoline rationing much less necessary, since the States which have the alcohol alternative readily available will not need as much gasoline. As sources of alcohol there is opportunity to distill various farm wastes, timber waste, municipal garbage, waste paper, and so forth.

The 10-percent alcohol mixture can be used in any ordinary car without modification. The gasohol octane rating is 89, compared with an octane rating of 87 for unleaded gas. It is claimed to give increased mileage—4.5 more miles to a gallon—and better engine performance, and reduced engine deposits. It is estimated by the Department of Energy that present financial incentives could increase this gasohol usage to about 3 percent of the Nation's gasoline consumption within 3 years.

While the Department of Energy reports gasohol to be selling in 800 to 1,000 outlets in 28 States, the concentration is in Mideast with about 500 outlets in Iowa, with additional concentrations in Nebraska and Illinois. Outlets in Iowa alone are selling 6 million gallons per month. The Federal tax exemption to encourage gasohol is due to expire in 1984, and early extension would remove uncertainty with regard to plant construction. There are similar tax exemptions in some States, but those exemptions are probably temporarily due to need to finance road maintenance.

Is there a Federal loan guarantee and rapid amortization of plant cost in existence now, or is that proposed?

Alcohol for gasohol has no "depletion allowance" such as Federal or State income tax law provides for petroleum, nor for crops that go into gasohol through alcohol. A "depletion allowance" approach involves an exemption of part of the sales revenues from taxation. It is possible that the tax approach for gasohol should be similar to the tax approach for petroleum and petroleum-derived products, so that the economics of competitive products can be realistically compared. The alcohol approach to extend liquid fuels has the over-riding advantage of involving renewable resources. It is economically perverse to give more tax breaks to production of nonrenewable resources than to the production from renewable resources. In an agricultural area there is very little shipping cost for either the raw materials or the alcohol product available for local energy uses.

Since gasohol is less polluting than gasoline, wider use of gasohol may enable electric generation to take place with less restriction. The reduction of carbon monoxide emissions from gasohol usage may be as much as 30 percent, a major factor since the auto is the major air polluter. This should also cause the Environmental Protection Agency to be promotional rather than restrictive, since the output of the alcohol plant will enable cleaner auto fuel that can outweigh any pollution that an alcohol plant itself might involve in operation and alcohol plants are of relatively small size whose environmental disturbance would seem to be de minimus. Many communities which resist oil refineries can welcome an alcohol plant, particularly one that can provide waste disposal at the same time.

Recent figures indicate that a rather large gasohol alcohol plant of about 200 million gallons a year capacity, can be built in 18 to 24 months at a cost of approximately $50 million, with a production cost of approximately $1 a gallon of gasohol. Considering the added plant cost that can result from mere delay, it pays to beat the inflation by moving into plant construction as quickly as possible. For gasohol, the alcohol is 200 proof, to avoid water content. To avoid the Treasury alcohol tax, the ethyl or grain alcohol is made unfit to drink, but in any event alcohol for gasohol need not be processed as expensively as alcohol for drinking purposes, thereby saving processing-fuel. In fact, the possibility of incorporating solar-heat for fermentation seems an ideal combination of circumstance. Agricultural areas notably have a good supply of Sun.

Alcohol is an easier form in which to store surplus crops, and this may improve the economics of storage of farm surpluses and this can facilitate acreage control programs. This can apply to various farm crops readily available for alcohol production, such as corn, potatoes, sugar cane and sugar beets, wood wastes, cottage cheese whey, et cetera. Alcohol plants also make good garbage-disposal units. There can also be by-products from an alcohol plant, such as protein feed for livestock, protein flour for human consumption, et cetera. It is reported that after corn is processed for alcohol, the by-product mash has almost all its original value for cattle feed.

Companies that already process crops have been readily attracted to produce

alcohol for gasohol, as an added product. The current output of alcohol for gasohol in the United States is about 60 million gallons annually, which is used to provide the autofuel market with about 600 million gallons of gasohol a year.

So, let us look at the possibility of expanding the function of the Rural Electrification Administration (REA) to include a loan program for the production and distribution of alcohol—and possibly of gasohol. The REA is active in 46 of the 50 States, and since there is opportunity to make alcohol from garbage, there are urban areas where an REA alcohol program can provide a major contribution to get rid of mountains of garbage through constructive action that would benefit the Nation's fuel supply at the same time. The REA is a complete ongoing Federal program that already was expanded into rural telephone in 1949. Its function can be readily broadened by adding a rural alcohol program. It could be financing rural plants for turning farm wastes and surpluses into alcohol, for mixtures to be sold as gasohol and perhaps as other waste-and-surplus derived fuels. The REA administrative machinery has the experience to enable results to show much faster than merely waiting for "things to happen." The fast usage of gasohol in rural areas would enable existing gasoline supplies to meet existing demands elsewhere with increased possibility of avoiding gasoline rationing entirely in the Nation.

A brief review of the Rural Electrification Administration is in order in this connection. In the Department of Agriculture, REA is one of the activities under the Assistant Secretary for Rural Development. Also under this Assistant Secretary are the Farmers Home Administration, and the Rural Development Service. The REA was established originally as an emergency program in 1935. Congress enacted the Rural Electrification Act of 1936 (49 Stat. 1363; 7 U.S.C. 901–902) for a lending agency with responsibility to develop a program for rural electrification. In 1949 the act was amended authorizing REA to make loans to improve and extend telephone service in rural areas. In 1973 REA was given authority to guarantee loans made by non-REA lenders. The REA Administrator is appointed by the President, and is subject to Senate confirmation. The REA has been lending from a revolving fund in the U.S. Treasury, generally at 5-percent interest with interest at 2 percent for borrowers meeting specified criteria. The revolving fund is financed through collections on outstanding and future REA loans; through borrowings from the Secretary of Treasury; and through sales of beneficial ownership-interests in borrowers' notes held in trust by REA.

The REA loan guarantees facilitate the obtaining of non-REA financing for large-scale electric and telephone facilities. Such guaranteed loans may be made concurrently with an REA loan, but in any event guaranteed loans are considered if it could have been made by REA under the act. A guaranteed loan may be obtained from any legally organized lending agency qualified to make, hold, and service the loan. All policies and procedures of REA are applicable to a guaranteed loan. In 1974 REA entered into an agreement with the Federal Financing Bank, whereby FFB agreed to purchase obligations guaranteed by REA. All these purchases by FFB are arranged with REA acting as agent for the Federal Financing Bank.

There is a provision for supplemental financing which borrowers meeting specified criteria may be required to arrange from non-REA sources. A substantial portion of such supplemental financing is provided by the National Rural Utilities Cooperative Finance Corporation, Banks for Cooperatives, and other financial institutions.

For electrification, REA is empowered to make loans to qualified borrowers, with preference to nonprofit and cooperative associations and to public bodies. This is for intitial and continued adequate electric service to persons in rural areas.

With regard to the telephone program authorized in 1949, about two-thirds of the telephone systems financed by REA are commercial companies, and about one-third are subscriber-owned cooperatives. The Rural Telephone Bank established in 1971 is a Federal agency, using bank loans in preference to REA loans. The bank is managed by the REA Administrator and a board of directors, six of whom are elected by the bank's stockholders. The bank loans are for the same telephone purposes as loans made by REA but the interest rate is at a rate consistent with the bank's cost of money. In addition, loans may be made to purchase stock in the bank as a condition of obtaining a loan. The bank uses the facilities and services of REA and other Department of Agriculture agencies.

At the REA the Deputy Administrator heads the administrative operations, which comprise the Accounting and Auditing Division, the Management Services Division, and the Personnel Division. There is an Assistant Administrator for Electric, and there is an Assistant Administrator for Telephone. If the alcohol program is added to REA functions, there would presumably be an Assistant Administrator for Alcohol, or perhaps an Assistant Administrator for Alcohol and Solar—if REA handles solar also.

Serving the rural population with alcohol or gasohol from plants processing local wastes and surpluses, would be addressed generally to those already being served with REA-financed power and telephone. At the close of 1977, REA borrowers were serving electric energy to 8.6 million consumers, including 144,000 consumers served by former REA borrowers at the time their loans were repaid in full. During 1977, REA has a net increase in consumers for electric power of 320,000. At the year-end there were 49 borrowers operating generation and transmission facilities exclusively, and 934 borrowers engaging primarily in operating distribution systems. These REA-financed electric systems were in operation in 46 States, Puerto Rico and Virgin Islands. The power supply borrowers sold 87 million megawatt-hours, and the distributor borrowers sold 128 million megawatt-hours.

In summary, I would like to see the Rural Electrification Agency broadened to include co-op and nonco-op plants for converting surpluses and wastes to alcohol. Many of the existing electric plants under REA could be expanded for that purpose, and there is opportunity for new plants to be placed where there is no electric plant. Since there are loads of waste and garbage in urban areas and suburban areas, in some States REA need not be confined for this purpose to the farm wastes. The REA subsidy system seems ideal for such alcohol-producing plants. The output of the plant can also be sold to the same REA customers in each area, since it would be one of their own co-ops in those instances. I think that the population will feel a lot more secure if there are local plants producing alternate fuels using local materials, rather than to be dependent on far away sources.

If the farm areas are in a position to make the most of the alcohol alternative, mixing it with gasoline, et cetera, that would release gasoline for use elsewhere. The alcohol program should go far to make gasoline rationing unnecessary in the United States, since the States which have the alcohol alternative due to REA will not need as much gasoline.

Alcohol mixtures are less polluting also, and in urban centers that might enable more use of coal while maintaining air quality. Any urban area that has substantial use of an alcohol mixture would need less limitation on the electric utilities in the area. The biggest air polluter by far is the auto.

I prefer to see the primary responsibility for the alcohol program shifted to REA—Agriculture Department, REA can also be instrumental in furthering solar applications in rural areas.

TESTIMONY OF TOM McCALL, FORMER GOVERNOR OF OREGON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. AuCoin) is recognized for 60 minutes.

● Mr. AuCOIN. Mr. Speaker, today before the Banking Subcommittee on the City, I had the honor of introducing the Honorable Tom McCall, Oregon's forward looking Governor. It was a particular pleasure for me because the Governor was here to testify about a State policy that is the heart of the Oregon story—its progressive land use plans and guidelines.

It was during Tom McCall's term as Governor—and during my tenure in the State House of Representatives that the State legislature first adopted statewide land use policies designed to contain urban sprawl and to conserve farmland. More than anyone else in the State, Tom McCall is responsible for the adoption of those policies.

The purpose of the hearings, which continue tomorrow, is to explore how sprawl can be contained to minimize service costs and save energy. Without objection, I would like to have Gover-

nor McCall's statement printed in the RECORD and I commend it to the attention of my colleagues.

TESTIMONY OF TOM MCCALL OF PORTLAND, OREG. (GOVERNOR OF OREGON, 1967–75)

Chairman Reuss and members of the Subcommittee:

You couldn't be engaged in a more meaningful activity, as far as I am concerned, than the hearings you are conducting here today and tomorrow.

Nor would it have been possible to get a more germane and cheering picture of effective sprawl control than Oregon is able to speak to from actual experience.

You might lay that enthusiasm at the doorstep of an excusable bias on the part of a governor who signed Oregon's present land use planning program into law in 1973 and who has battled to implement it as both public official and television commentator since that time.

The word "battle" is used advisedly, for three ballot measures have been aimed at emasculation or repeal of the program (Senate Bill 100), and, in as many statewide elections these attacks have been repelled by ever-increasing margins. One such statewide measure was defeated, 61–39, November 8, 1978. However, the recall of two county commissioners over land use planning is at stake today in a special election in Oregon's fastest growing county, Deschutes.

Thus far, every attack—whether at the polls, in the courts or before the State Land Conservation and Development Commission—has left the program stronger than before.

That this maturing program is growing in effectiveness—and fame—is hardly beyond dispute when you consider:

1. Its evaluation by legal scholars as the "most advanced" land use planning act in operation anywhere in the U.S.

2. Its drawing power in bringing here, not only American land planning analysts, but those from foreign countries, i.e., a September tour by 31 members of the West German Farm Federation who, beginning to experience urban sprawl at home, came to see how Oregon, finally, was beginning to apply brakes to it.

3. Its evaluation in a soon-to-be-published analysis by the National Academy of Public Administration that "there are pitfalls that may undermine the effort, but the prospects seem bright that Oregon's SB 100 goals can and will mature into the nation's most complete and effective state urban strategy."

The trouble with talking about it around the country, however, is that our program was beyond ordinary perceptions when it was enacted—and the comprehension gap is widening as most other jurisdictions fiddle and fret over sprawl antidotes that never will work.

The saddest aspect of the whole dilemma is that when the light dawns, "the ruination of our cities and countryside"—mourned by Chairman Reuss—may be almost total. And the late-starters will be where Oregon was 12 hard-fought years ago when the State Senate Interim Committee on Agriculture began examining the idea of land use planning done at the local level but homogenized and upgraded by state guidelines which every local comprehensive plan was required to meet.

That was Senate Bill 10, which was improved on with money and technical advice (which SB 10 had lacked) by passage of Senate Bill 100 in 1973, and by adoption of the first 19 state goals by the newly created State Land Conservation and Development Commission in 1974.

Fifty of the 277 counties, cities and other jurisdictions have completed comprehensive plans that have met the state guidelines. That leaves an uphill 227 to go before the 1981 deadline for securing compliance statewide.

Even so, Senate Bill 100 is taking hold everywhere to a degree that allows us to give a confident affirmative answer to Chairman Reuss's topic for Panel 1 of these four-panel hearings, "Has Sprawl Been Tamed."

Yes, it has in Oregon—more effectively than in any other state.

You see, 42 states have farm-use taxation (as versus market or development value taxation), but it is relatively puny against sprawl except in Oregon alone where it is combined with exclusive farm use zoning to keep millions of acres at work in crop and livestock production.

4. Another question in Chairman Reuss's hearing outline was, "Can we afford the drain on prime agricultural land and the added consumption of energy caused by sprawl?"

A rhetorical question, obviously, perhaps calculated to stir up the troops, for America's farmland reserve is less than half the amount thought to be available only a few years ago and America is losing farmland five times more rapidly than we believed we were earlier in the 1970's.

Chairman asks, "Do containment policies boost costs of land and housing?"

The whole question of the effect of urban growth boundaries in Oregon (UGB's are Oregon's line of containment) has been debated in our state ever since the mechanism was propounded in the legislature.

No question, though, that it is key to a process at the heart of Oregon's program. The process involves classification of land in three categories:

URBAN: existing built-up areas.

URBANIZABLE: land surrounding the existing built-up areas—land needed for projected development over the next 20 years and which is eligible to be provided with services.

RURAL: land with no public services and not needed for urban use during the life of the long-term projection—essentially all cultivable lands for farming which the counties are required to preserve by means of exclusive farm use zoning (EFU).

5. The UGB describes the outer limits of the urbanizable land, separating it from rural land and holding against sprawl by requiring all new urban growth to occur inside the boundary, on urban and urbanizable, not rural, lands.

Even some experts are tempted to conclude on the basis of rudimentary economics that by making land for development scarcer the process increases focused demand and drives up prices.

Oregon's experience scotches that conclusion. The reason why is that the Urban Growth Boundary is not the villain in escalating costs of housing lots; rather, the UGB helps ensure that a city does not have to spend more than is necessary for development services.

This is so because the UGB causes development to happen compactly, keeping it from fanning out, haphazardly, destroying farmland and requiring cities to install twice as much infrastructure.

It is not how much empty land there is, but how much *serviced* vacant building land is available. There is the meat of the coconut.

This is a point that must be labored to be understood. Within the urban growth boundary of the Portland area, there are 75,000 acres of vacant land. Most of it is planned or zoned for residential use, but land use maps show that most of this land is unsewered.

6. If you doubled the vacant land to 150,000 acres, piecemealing additional valuable farmland, the price of lots wouldn't come down one penny because the lots, being unserviced, would not be "active" in the housing market.

However, there is a way to get nearly twice the present mileage out of *sewered* lots within the UGB. Since the average minimum lot size on vacant land in the Portland area is 12,000 square feet, the obvious answer is to reduce the lot size.

By upzoning that land to 7,000-square-foot minimum lot sizes, local governments can nearly double the potential reservoir of lots in the urban area.

Of course, I am not recommending that this be done because variety is desirable. But research by 1,000 Friends of Oregon, a land use monitoring public interest law firm, does show graphically that smaller minimum lot sizes can cut high housing costs resulting from inadequate lot supply.

Nearly 83% of all vacant land in the 32-city Portland metropolitan area zoned for single family dwellings is zoned for 10,000-square-foot lots or larger, compared with the average size of a developed single family lot in Portland today of 5,500 square feet.

There is an $8,000 to $10,000 difference for the cost of the lot alone, between the two sizes.

A May 1978 HUD study of why housing costs are rising so fast concluded that outmoded land use practices are a major cause. This is confirmed in spades by the 1,000 Friends Portland-area study.

7. Oregon's answer to this problem speaks dramatically to Chairman Reuss's concern that "the poor and minorities (might be) further disadvantaged by growth-management strategies." Not only does SB 100 and the associated goals work to keep costs down, but they regard housing construction as a social plus.

LCDC's Goal 10, Housing, far from condoning exclusionary zoning, requires local officials to ascertain the housing needs in their communities and, if indicated, to change their plan and zoning ordinances to effectuate a mix that better meets housing needs.

8. In sum, a major explanation for the national significance of Oregon's land use program is that Oregon was the first state to pass laws prohibiting zoning that "frustrates needed levels of housing and zoning that needlessly raises the cost of housing."

The reason those thoughts are in quotes is that they came from the lips of Henry Richmond, executive director of 1000 Friends of Oregon who ought to be introduced to you now as a co-founder with me of that unique organization in 1974.

One Thousand Friends is so singular because it is the only public-interest law firm I know of that rides herd on just one law. Their body, soul and bounden duty belong to the complete appropriate implementation of Senate Bill 100.

One Thousand Friends has been responsible for nearly all the major land use rulings to come from Oregon courts and the State Land Conservation and Development Commission in the last five years. The nonprofit corporation provides attorneys at no cost to handle land issues of statewide importance. Its attorneys also work to ensure that local officials comply with statewide goals covering everything from saving deer habitat to rescuing pressured close-in urban area farmlands from the bulldozer.

9. "Without 1000 Friends' vigilance," says Henry Richmond, "Oregon's land use program would have been 'interpreted' quietly into oblivion."

(The story of the existence of 1000 Friends is quite literally the story of land use planning evolvement in Oregon, and is told in the green booklet, "1000 Friends of Oregon" which I have distributed to members of the subcommittee. I respectfully urge you to give it careful study.)

9a. Moving on, what you, Mr. Chairman, refer to as "creeping suburbanization" does affect industrial patterns. In our older cities—and even in Portland—elderly industrial plants are jammed together. Their easiest recourse as they expand is to flee

to the suburbs, draining the city of its tax-and-job base and resulting in energy-transportation waste as many employees continue to live in the city and drive to their new plants in suburbia.

Oregon's Energy Conservation Goal (Goal 13) was one of the original statewide planning goals adopted by the State Land Conservation and Development Commission in 1974. It runs to Chairman Reuss's concern that urban sprawl, besides hiking building costs, is energy-inefficient.

Goal 13 requires that "land and uses of the land shall be managed or controlled so as to maximize the conservation of all forms of energy based on sound economic principles."

Examples of implementation are energy conservation standards for new housing, provisions for solar orientation, requirements for urban densities, allowances for mixed uses and encouragement of mass transportation.

9b. You ask, "To what extent does land speculation prevent in-fill in cities and towns?"

I believe, Mr. Chairman, you posed this with the thought of getting opinions on whether too-low property taxation rates allowed speculators to hold on to developable land, waiting for an inflated market and a killing that would be bound to be reflected in even higher lot prices.

We have this problem in Oregon as well. Regrettably, our property taxation laws are not fully coordinated with our land use laws. A 1978 study of industrially zoned vacant land in Oregon's second largest city, Eugene, showed that a significant percentage of such land is being taxed for its present use—farming—rather than the industrial use for which it is zoned and being held.

Such subsidies should be ended. But I recommend caution in the use of punitive tax rates, particularly when applied to residentially zoned. The "flushing out" of such speculators through this mechanism would seem to me to add to their cost of doing business, hence to the price tag on their lots. Moreover, I am not sure that many localities have the expertise to evolve such a mechanism or accurately monitor its effects on the land market.

9c. As to why speculation is more prevalent in some areas than others, it's obvious, looking from Oregon, that some areas encourage speculation by having no restrictions on where development might occur.

You also ask, Mr. Chairman, "What is the best mix of incentives and market forces to contain sprawl?"

Our incentives include upzoning land from the existing low-density residential designations found in most suburban zoning codes, to allow vacant, serviced land to be used more efficiently. Further, Oregon's planning policies prohibit the use of excessive red tape in the housing development approval process. Cities are required to estimate their needs for all housing types, and to zone enough vacant land to meet those needs—in advance of a specific application. Cities are prohibited from using vague standards and unnecessary hearings to slow a project or reduce its density. Inside the UGB's, we try to facilitate the land development market. Outside the boundary, of course, it's an entirely different story.

10. Still another important question raised in the tentative hearing outline is, "What are the political, institutional and legal barriers that impede implementation of effective growth controls?"

There are no constitutional barriers to the firm, comprehensive land use planning laws that are needed—Oregon is proving that. But imagined legal barriers are kept in place by anachronistic thinking that is nurtured as a negative factor by political and institutional forces.

The May 1978 HUD study I mentioned recommended that minimum standards be set to serve as guides for local governments to reform outdated housing and zoning policies. Setting such standards is precisely what Oregon—but no other state—has done.

This merges into another outline question, "What federal, state and local actions are needed?"

For 10 years now, I have pushed for a sandwich approach to land use—treating with it the federal, state and local government levels, with a fourth layer constituted of citizen involvement, both group and individual.

It has to be a "fluid sandwich" because responses of all levels are so unpredictable.

11. My last previous appearance before Congress on land use planning was in the heyday of Representative Sam Steiger of Arizona. I was testifying before an Interior subcommittee on the need for a muscular federal land use planning act, and Mr. Steiger stopped me, asking, "Why, if Oregon's law is so good, are you seeking federal legislation?"

The answer I gave was that if only five or six states follow Oregon's lead, then it's only a matter of time in our nomadic society before the five or six are inundated by fugitives from all the other states that let their great land bases go to pot.

I simply have assumed always that the job has to be done, and, to the degree one level fails to do it, then another level must take responsibility.

Now that we're in the top half of the tenth of a nine-inning game, I'm more than ever convinced that such a format has to become operative.

Now, I don't mean that this nation go to compensatory zoning. It would cost trillions of dollars and put the government further into our lives. I do mean that the only effective course is to pursue Oregon's legal approach—a balanced approach to land use which the state requires to localities, and one that supports necessary development just as energetically as it prevents sprawl and protects farm and forest lands.

12. We of 1000 Friends are puzzled. As Henry Richmond stated it in The Oregonian the other day,

"In the face of the obvious problems caused by poor local performance in the area of housing, it is surprising that neither Congress nor any other state has ever created standards to limit the wide open discretion that local officials have traditionally enjoyed in the area of land use and housing.

"All federal programs are voluntary, and the states generally have left undisturbed the nearly total delegation of authority state legislatures gave to local governments several decades ago.

"Coupled with this inaction by legislative branch, the courts have ruled almost uniformly that local zoning policies (even those discriminating against the poor) cannot be challenged in court.

"Local officials all over the country have adopted a kind of we-know-best law for housing. Why, then, aren't local officials being thrown out of office? Because the home-buying public hasn't yet made the connection between local zoning and high housing prices."

In summary, then, a presidential candidate once had as a strong campaign plank the conservation of our most precious resource, our farmland. The candidate urged, therefore, that Congress stop muddling on the problem and get to mending. That was Alf Landon speaking . . . in 1936 . . . and, thank heaven, Mr. Chairman and members, you're making another great effort, as belated as it is, to achieve this long, long overdue mending.●

AGRICULTURAL TRANSPORTATION AND DISTRIBUTION OF AGRICULTURAL COMMODITIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Dakota (Mr. DASCHLE) is recognized for 5 minutes.

● Mr. DASCHLE. Mr. Speaker, I am today introducing a bill on the subject of agricultural transportation and distribution of agricultural commodities.

Agriculture is the most basic and the largest industry in this country; and if agriculture is the lifeblood of the country, transportation is its circulatory system.

American consumers spend about $218 billion annually for food. Of this total, less than a third goes to producers, with two-thirds going for marketing and distribution. Transportation alone constitutes the third largest component of this cost spread between producers and consumers, now approaching 10 percent or more than $11 billion a year.

Our modern agriculture requires the use of every means of transportation to move large volumes of commodities economically, while at the same time allowing for considerable flexibility and ready response to market demands. Agriculture is one of the biggest customers of the transportation industry, shipping about 425 million tons each year—the equivalent of 7 million railcars; plus transportation to farms and ranches of about 100 million tons of production inputs—an equivalent to another 2 million railcars.

Agriculture's demand for transportation service has been increasing rapidly, and is expected to be more than 428 million tons from production sites by next year, which is about 21 percent over the average for 1970–71. The Agricultural Marketing Service, USDA, has projected an even more rapid increase in the years ahead. Some predict a doubling of transportation demand by the year 2000.

Agriculture depends upon all of the modes of transportation. Farm commodities make up some 17 percent of all rail tonnage, producing more than 20 percent of rail freight revenues. When farm input items are included, nearly 23 percent of total rail traffic is agriculturally related. Barges moving on the inland waterways are primarily haulers of grain and other bulk commodities, with nearly 20 percent of all grain moving on the waterways.

In recent years, agricultural freight has made a dramatic shift to trucks, now hauling some 80 percent of all agricultural tonnage and some 65 percent of ton/miles moved.

Unfortunately, Mr. Speaker, at a time when agriculture's need for transportation services is increasing at a rapid rate, the Nation's transportation system is experiencing increasing difficulties. Congress is currently taking an in-depth look at the economic regulation of the railroads and motor carriers, and it is important that we consider as part of that effort ways of improving the transportation situation for agriculture.

The Agricultural Transportation Improvement and Regulatory Reform Act of 1979 is concerned with motor carrier transportation, particularly with the transportation of agricultural commodities. The proposed amendments to the Interstate Commerce Act provide a logical approach to gradual deregulation of the trucking industry by further expansion of existing exemptions now provided in the act for agricultural trucking.

First, the bill deletes a subparagraph in section 10526(a)(5)(A) of the act to remove the present restrictions on farmer-owned trucking cooperatives, which provides that such cooperatives shall not conduct more than 15 percent of their annual business with nonmembers. The deletion of this restriction would leave farmer-owned trucking cooperatives under the same Federal laws as all other cooperatives, such as the Agricultural Marketing Act and the Capper-Volstead Act, both of which require that an agricultural cooperative may not conduct more than half of its annual business with nonmembers. The removal of the 15 percent restriction in the Interstate Commerce Act will reduce empty backhauls and make it easier for such cooperatives to arrange for backhaul movements.

Second, the bill expands the present agricultural commodity exemption in the act to include "uncooked meat" and bananas. Poultry meat has been exempt from ICC regulation for many years due to a favorable court ruling, and bananas are about the only fresh fruit not now exempt.

Third, the bill expands the agricultural exemption to include the major farm inputs purchased by farmers and used in agricultural production. This would make it possible for the independent, unregulated truckers to return-haul these items that generally move in the opposite direction of farm-produced commodities, and would greatly assist owner-operators in finding backhaul traffic.

Fourth, the bill provides that after an agricultural motor carrier has transported an unregulated agricultural commodity, he may, within a week, make a subsequent haul of any commodity at any rate satisfactory to a shipper and trucker. To participate in such traffic, however, an agricultural motor carrier would be required to file an annual notice with the Interstate Commerce Commission, agree that no more than half of such carrier's annual tonnage would consist of regulated commodities, and make an annual report to the Commission for purposes of enforcing the restriction.

This section of the bill will make it possible for the independent owner-operators to find return hauls without having to resort to trip leases from truck brokers or certified carriers who normally retain at least 20 percent of the freight bill. Agricultural shippers believe they are now paying more than their fair share of the round trips because of the present ICC restrictions on return-hauls.

Mr. Speaker, some 55 percent of the truck tonnage is already deregulated through the agricultural exemption. It is estimated that the provisions of this bill, in expanding the present exemptions, will deregulate at least another 10 percent of the total tonnage. This can be accomplished in an orderly manner without any major disruption of the motor carrier industry.

Mr. Speaker, I insert the text of the bill in the RECORD:

H.R. 6087

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this act may be cited as the "Agricultural Transportation Improvement and Regulatory Reform Act of 1979".

SEC. 2. (a) Section 10102 of title 49, United States Code, is amended by adding at the end thereof the following new paragraph:

"(29) 'motor agricultural carrier' means a person providing motor vehicle transportation, other than—

"(A) a motor carrier which holds a certificate, permit, or license issued under subchapter II of chapter 105 of this title, and

"(B) a motor private carrier which is not a farmer, a cooperative association (as defined in section 1141j(a) of title 12), or a federation of cooperative associations if the federation has no greater power or purposes than a cooperative association.".

(b) Section 10526(a)(5)(A) of title 49, United States Code, is amended—

(1) in clause (i) by inserting "and" after the semicolon,

(2) by striking out clause (ii), and

(3) by redesignating clause (iii) as clause (ii).

(c) Section 10526(a)(6) of title 49, United States Code, is amended—

(1) in subparagraph (A) by inserting "or the uncooked meat of ordinary livestock" before the semicolon,

(2) in subparagraph (C)—

(A) by striking out "bananas,", and

(B) by striking out "and" the last place it appears therein, and

(3) by adding at the end thereof the following new subparagraphs:

"(E) feed for ordinary livestock or for poultry, agricultural or horticultural implements, or agricultural or horticultural machinery;

"(F) seeds, plants, chemicals, soil conditioners, or petroleum products, for use in agricultural or horticultural production; or

"(G) parts, supplies, or accessories for agricultural or horticultural implements, for agricultural or horticultural machinery, or for motor vehicles operated primarily in agricultural or horticultural production;".

(d) Section 10526(a) of title 49, United States Code, is amended—

(1) in paragraph (8) by striking out "or",

(2) in paragraph (9) by striking out the period and inserting in lieu thereof "; or", and

(3) by adding at the end thereof the following new paragraph:

"(10) transportation by a motor agricultural carrier if the transportation commences not later than 7 days after the motor agricultural carrier transported property as provided in paragraph (6) and occurs from the place to which and to the place from which the property was so transported, except that—

"(A) the total of the transportation in each fiscal year may not exceed 50 percent of the total transportation, measured by tonnage, by the motor agricultural carrier during that fiscal year; and

"(B) the motor agricultural carrier shall, if the Commission so requires, notify the Commission annually of its intent to provide the transportation.".

SEC. 3. (a) The first sentence of section 11144(c) of title 49, United States Code, is amended to read as follows: "The Commission, or an employee designated by the Commission, may, during normal business hours, inspect and copy—

"(1) any record related to motor vehicle transportation of a cooperative association or federation of cooperative associations required to notify the Commission under section 10526(a)(5) of this title; and

"(2) any record related to the tonnage of property transported by a motor agricultural carrier required to notify the Commission under section 10526(a)(10) of this title.".

(b) The last sentence of section 11144(c) of title 49, United States Code, is amended by inserting "or by a motor agricultural carrier" before the period.

SEC. 4. The amendments made by this Act shall take effect 90 days after the date of the enactment of this Act.

SECTION-BY-SECTION ANALYSIS

Sections 2(b). This subsection deletes from the Interstate Commerce Act the subsection which prohibits an agricultural cooperative from transporting more than 15 percent of its total transport tonnage for persons who are not members of such cooperative. This would have the effect of placing agricultural transportation cooperatives on the same basis as other agricultural cooperatives, which are subject to a rule that no agricultural cooperative shall conduct more than half its business with nonmembers.

Sections 2(c)(1) and 2(c)(2). These subsections add uncooked meat and bananas to the list of exempt agricultural commodities presently contained in the Interstate Commerce Act. These amendments would eliminate two of the many anomalies contained in the exempt agricultural commodity list, adn provide better service at a lower cost for the transportation of meat and bananas. Poultry meat has been exempt for many years due to court interpretation. Most fresh fruits and vegetables have always been exempt from ICC regulation.

Section 2(c)(3). This subsection provides for the expansion of the list of agricultural commodities exempt from ICC regulation by adding major agricultural production input items, such as feeds, seeds, fertilizers, chemicals, fuels, farm tractors, implements and other farm machinery parts, supplies and accessories for such machinery and motor vehicles used in farming operations. This provision will not only reduce the cost of transporting such goods by motor carrier, but will permit noncertificated truckers to transport such goods on backhaul movements.

Section 2(d). This subsection provides authority for nonregulated motor carriers to backhaul any commodity, subsequent to the movement of an exempt argicultural commodity no more than half of such carrier's annual tonnage transported may consist of ICC-regulated freight.

This subsection will provide much greater freedom for nonregulated agricultural motor carriers, who now face the problem of arranging for backhauls to agricultural production areas usually through lease arrangements with certificated carriers.

Section 3. This section provides for reasonable enforcement procedures by the ICC and extends the definition of "motor private carrier" in the Act to include unregulated carriers of exempt agricultural commodities.

Section 4. Provides that the effective date of the Act shall be 90 days after enactment.●

POLYGRAPH CONTROL AND PRIVACY PROTECTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. EDWARDS) is recognized for 5 minutes.

● Mr. EDWARDS of California. Mr. Speaker, the President, on April 2, 1979, transmitted to the Congress his message on privacy. I was pleased to introduce, along with Congressman STEWART MCKINNEY, H.R. 6034, legislation that would implement the President's recommendation regarding polygraphs and other truth verification devices. This bill would not affect any segment of the intelligence community or any Federal, State, or municipal agency. This legislation, as introduced, would prohibit employers from requiring, as a condition of employment, continuing employment or promotion, any polygraph or similar honesty test of any employee. Experts place the number of examinations given each year at about 500,000.

The most fundamental question in this controversy is its effect on the individual's rights and privacy. Clearly, lie detectors attack one of our most precious legal tenets, innocent until proven guilty. Just as clearly, the use of lie detectors raises some very substantial constitutional rights questions regarding self-incrimination, unreasonable search and seizure, and the right to confront one's accusers. These rights are fundamental to basic human dignity.

The requirement that an individual submit to this privacy invasion and the results, as Business Week accurately points out:

> . . . range from loss of privacy to loss of a job. Decline, and you could get fired from a job or turned down as an applicant.

The polygraph's psychological effect on applicants is best demonstrated by the fact that fully 90 percent of the recommendations by examiners not to hire an applicant come from information the person revealed during pre-test questioning; not what the polygraph or lie detector test tells the examiner. People were so intimidated by the polygraph examination that they revealed irrelevant but prejudicial information and this information was used to disqualify them from job consideration.

Perhaps the most glaring abuse of polygraph examinations was exposed in testimony in 1978 before the Subcommittee on the Constitution of the Committee on the Judiciary, U.S. Senate, where a former manager of a retail chain testified that a preemployment polygraph test was used as a means of discriminating against black applicants for employment. The chain did not hire blacks and used the polygraph to "legitimize" this practice. While this is a blatant misuse of the polygraph, it is by no means an isolated case. Workers are frequently questioned on extremely personal matters. They are quizzed on their feeling toward their parents, spouses, and children, their religious and political beliefs, union activities, and sexual behavior. Surely, Mr. Speaker, there exist many less intrusive and more reliable means of checking applicants for employment other than subjecting them to the indignities of a polygraph test.

While "honesty tests" take a variety of forms, the polygraph is by far the most common. Very simply, the polygraph measures certain physiological changes that are assumed to constitute evidence of dishonesty.

These physiological changes, shown as a graph by the machine, are then interpreted for dishonesty by the operator or examiner. The assumption of the existence of a direct relationship between physiological changes and dishonesty is fundamental to the polygraph, as well as all "honesty tests," although the existence of any direct relationship between physiological changes and dishonesty has never been firmly established.

The most definitive study of the reliability of "truth" verification" devices was commissioned by the U.S. Army Land Warfare Laboratory. This study, conducted by Dr. Joseph Kubis of Fordham University and released to the public in 1974, reported that experienced polygraph examiners achieved 76-percent accuracy. When other examiners rated the same polygraph charts, without having seen the subjects being tested, accuracy dropped to between 50 and 60 percent.

It should be noted that virtually every study on polygraph accuracy was conducted in a criminal context. The irony of using studies on polygraph accuracy conducted in the criminal context to substantiate accuracy claims in the employment sector is that criminals cannot be convicted with a polygraph yet workers can be denied employment by this same device.

I have talked mostly about polygraphs but there are other more intrusive "honesty tests,"—the psychological stress evaluator (PSE) and the voice stress analyser (VSA), both of which measure microtremors in the human voice. Without comparing accuracy, the only difference between these "honesty tests" and the polygraph is that the PSE and VSA can be used without the subject's knowledge or consent. As one manufacturer of the VSA noted in Esquire magazine,

> Pretty soon people are going to be afraid to open their mouths.

The important point to remember is that there are firms that require "honesty tests" as a condition of employment. The applicant has committed no crime, nor is he accused of a crime, but in order to secure employment he must submit to this fishing expedition. The securing of employment should not rest on the ability to pass an "honesty test" regardless of its accuracy.

There are enough pieces of contradictory evidence to cast substantial doubt as to the accuracy of these devices, and as they are used in the employment sector today, they are obviously a threat to individual rights and a blatant invasion of employees' privacy.

The Subcommittee on Civil and Constitutional Rights will make a serious effort in the upcoming session to help resolve the troubling questions raised by these devices.●

REMARKS OF THE HONORABLE CLAUDE PEPPER ON SALT II

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. PEPPER) is recognized for 5 minutes.

● Mr. PEPPER. Mr. Speaker, recent events around the world have demonstrated the great disservice and ill effects produced when important issues that require calm and careful analysis are exploited for political ends through the rhetoric of alarmist militancy and all forms of immoderate speech. While we, in the United States, may consider ourselves immune to the forms of public hysteria witnessed in some other countries, yet we have allowed ourselves to be drawn into unreasonable positions on some very sensitive issues. In the instance of the Panama Canal Treaty the Senate in its vote of ratification, and the House in its support for the implementing legislation firmly resisted the tide of exaggerated claims of threat to national security. I am beginning to wonder if that unique quality, the strength to resist jingoistic excitation, will prevail in the national debate on the ratification of SALT II.

What is perhaps most disillusioning is the effort some ad hoc organizations are now launching to convince an unsuspecting public that the proposed treaty requires the United States to abandon its commitment to the national defense and to trust the Soviet Union in matters of our national security. The SALT II treaty includes no clause that requires the United States to accept the Russians' say-so on anything. Even those Senators on the Committee on Foreign Relations who have traditionally opposed improving relations with Moscow did not voice that argument. Mr. Paul Nitze, the most ardent skeptic of all, rejected that approach as irrelevant.

Another more explicit fanning of irrationality comes in the form of a mailer under the label, "National Security Information Enclosed." The enclosed instructions direct the recipient to indicate his/her opposition to the SALT II treaty by pasting an enclosed label in the configuration of an American flag on a response card to be mailed to the Senate. Those who believe that the treaty is a crucial step toward limiting the possibility of nuclear holocaust are also provided with a stick-on label. It is the flag of the Soviet Communist state. This suggestion of treason is the affront reasonable Americans are being sent through the orchestrated efforts of a very well-funded organization, The Conservative Caucus, Inc. which hopes to stampede the citizens of our country through sensationalist misinformation toward a future with no achievable arms restraint.

I sincerely hope that the levelheaded majority of Americans will resist such attempts to turn legitimate concerns about national defense into a panicked rejection of a treaty that will enhance the military security of our beloved country. I am confident that when SALT II has been ratified we will be able to look back with pride to a time when calm judgment finally prevailed and a secure peace was maintained.

I wish to commend my colleague, the chairman of the Members of Congress for Peace Through Law SALT II Task Force, DON PEASE of Ohio, who has done much to foster a climate in which the treaty can be discussed in a calm manner. If the MCPL effort is successful our national interests will have been well served.●

REPEALING INCREMENTAL PRICING PROVISIONS OF NATURAL GAS POLICY ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. PREYER) is recognized for 5 minutes.

● Mr. PREYER. Mr. Speaker, an important bill has recently been introduced by Mr. STOCKMAN and myself. That bill, which has been referred to the House Committee on Interstate and Foreign Commerce, is H.R. 5862.

In our view, the enactment of H.R. 5862 would make a major contribution toward the alleviation of our Nation's energy problems. It would do so by repealing the incremental pricing provisions of the Natural Gas Policy Act of 1978 (NGPA).

These incremental pricing provisions, which are embodied in title II of the NGPA, were enacted in an effort to protect residential energy consumers from the impact of rising natural gas prices at the wellhead. Under incremental pricing, the costs of purchasing numerous categories of relatively expensive natural gas are singled out for processing in a complicated regulatory mechanism. All of the money which an interstate pipeline pays for such gas—above certain specified "threshold" price levels, which vary from gas category to gas category and change from month to month—must be assigned to a special account. Then, when the interstate pipeline bills its customers, all of the costs assigned to this account must be added together to form a special incremental pricing surcharge.

Following this step, the surcharge is divided among the pipeline's distribution company customers—through a formula which takes the size of each distributor's industrial load into account. A gas distributor is then required to allocate its share of the pipeline's incremental pricing surcharge among certain industrial gas users which are served by that distributor.

However, the allocation of this surcharge cannot operate to bring an industrial user's monthly gas bill above parity with the cost of fuel oil. At the moment, under current Federal Energy Regulatory Commission (FERC) regulations, the average regional price of high-sulfur No. 6 fuel oil subject to a slight downward adjustment factor, is the standard for determining when price parity has been reached.

The range of industrial users which are subject to incremental pricing is designed to expand in two stages. Under the first incremental pricing regulation (rule 1), only industrial boilers are subject to incremental pricing. This regulation is now in effect. By May 9 of 1980, the FERC must issue a second rule (rule 2) which covers other industrial users—and, at the same time, the FERC is required to narrow some of the exemptions which are now available. The FERC has recently proposed that rule 2 should extend incremental pricing to all industry users which are not specifically exempted.

The incremental pricing mechanism is indeed complex, but in theory it is designed to insure that residential and commercial gas users are sheltered from bearing the costs of relatively expensive categories of natural gas. Unfortunately, if incremental pricing is judged in light of the objective which it was designed to serve, its retention cannot be justified. The evidence is mounting that incremental pricing is not merely ineffective—but actually counterproductive—in protecting consumers from the inflation of energy prices. The evidence is also mounting that incremental pricing is encouraging an increase in the Nation's demand for oil—at a time when the reduction of oil consumption has become not merely a national priority but a national necessity.

Let me cite briefly some of the problems associated with incremental pricing:

First. As incremental pricing reduces—and finally eliminates—the industrial market price gap between natural gas and oil, natural gas will lose much of its attractiveness to industrial energy users. As a result, many industrial users will shift from natural gas to oil contrary to national energy policy.

Some observers might expect that, if price neutrality is established between natural gas and oil, most industrial gas users will still prefer to retain their reliance upon natural gas for reasons of supply security and environmental concern. However, since industrial gas users are assigned a low priority under the current curtailment system, and since the oil allocation system does not place comparable restrictions upon industrial oil use, oil is—ironically—a more secure fuel for industry than natural gas. In this regard, it should be noted that the upgraded curtailment priority for agricultural users—under section 401 of the NGPA—has recently resulted in a further downgrading of the curtailment priority status of industrial users. In numerous instances, particularly in the case of boilers, a technical capability to use either fuel already exists—with the result that conversions from gas to oil would be swift and uncomplicated for many industrial energy users.

At a time when the Federal Government is utilizing a variety of mechanisms to encourage the displacement of oil with natural gas, a policy which encourages reverse oil displacement stands in conflict with both governmental policy and the national interest. In addition to the obvious negative effects of increased industrial oil demand—such as the impact on national security and America's balance of payments—it should also be noted that increased competition for scarce oil supplies will surely bid up the already high price of home heating oil. In addition, industrial user shifts from natural gas to oil will have an adverse impact upon air pollution levels in many areas of the country.

Second. Although incremental pricing is intended to protect residential gas users from inflated energy prices, in practice it will actually result in higher costs for all consumers.

To cite one factor, the rationale for incremental pricing overlooks the effect of declining industrial gas use upon residential gas bills. Since the fixed operating costs of the natural gas industry are high, residential gas users benefit when large-volume industrial users share the burden of these fixed costs. As incremental pricing encourages such industrial gas users to convert to oil, there will be an inevitable increase in the proportion of fixed operating costs which is borne by residential gas consumers. In some cases, this increase in the allocation of fixed costs can erode significantly—or even overshadow—the reduction of the rates which residential users would, in the absence of incremental pricing pay for the gas itself. The regulated gas industry calls this effect the erosion of load balancing benefits.

To cite another factor, the rationale for incremental pricing overlooks the impact of artificially increased industrial energy costs upon the price of goods produced by industry. Industrial users cannot escape these artificially increased energy costs. If incrementally priced users shift to oil, their energy prices are tied to the whims of OPEC. If the same industrial energy users retain their reliance upon natural gas, their energy prices are still tied to the whims of OPEC—since incremental pricing indexes maximum industrial gas costs to whatever heights may be reached by fuel oil.

Obviously, these increased operating costs for industry will not simply disappear. They will be borne, in the form of higher product prices, by all consumers—not only those consumers who are theoretically protected by incremental pricing.

In this regard, it is contemplated that the passthrough of industrial gas price increases could be up to 50 percent or more—with even larger increases ahead as industrial gas prices follow the steep upward curve of fuel oil prices. Bear in mind as well that the hidden costs of incremental pricing will be borne by all consumers, including the oil and electricity consumers who do not enjoy the modest offsetting benefits that are provided for residential and commercial gas users.

A recent study by the Wharton Economic Forecasting Associates (WEFA) sheds some disturbing light upon the true cost of incremental pricing to the residential energy consumer. This study was performed under contract to the American Gas Association (AGA) but conducted under the independent auspices of WEFA. In its study, WEFA focused upon the different impacts of relatively narrow incremental pricing (limited to boilers) under rule 1 versus comprehensive incremental pricing (covering 90 percent of all industry) under rule 2.

The WEFA study found that rule 2 incremental pricing would result in smaller residental gas price increases than would occur under rule 1. However, the study also found that this reduction in potential residential gas prices would not be large enough to offset the large increase in prices paid by consumers for nonenergy goods. Those consumers who live on fixed incomes would be affected to the greatest extent by this adverse development, but even the average household would face a loss

of purchasing power. The study estimates that, by 1990, average household purchasing power would decline by $92—in constant 1972 dollars. Households that do not consume natural gas would face an even larger decline, while households which use natural gas—the supposed "beneficiaries" of incremental pricing—would still suffer a net decline of $65.

Third. Other adverse consequences of incremental pricing also merit careful consideration. As even the hardiest supporters of incremental pricing will admit, incremental pricing is an enormously complicated mechanism. It imposes massive administrative burdens upon interstate pipelines, local gas distribution companies and industrial gas users; the costs of compliance with this mechanism along with the costs generated by increased industrial gas prices, will ultimately be borne by the Nation's consumers.

The impact of this artificially created cost burden will extend beyond the inflationary effects that I have mentioned. The negative impact will include further erosion of the already endangered ability of American industry to compete with foreign corporations. The negative impact will also include increased unemployment, since the additional dollars which industry must devote to energy costs will be paid with dollars which—in many cases—would have been devoted to capital investment and payrolls.

The WEFA study has estimated the size of this negative impact upon industry. In another comparison between narrow incremental pricing (under rule 1) and broad incremental pricing (under rule 2), the WEFA study concluded that broadly based incremental pricing will have the following effects:

The cumulative GNP deflator (that is, inflation) would be 2 percent higher in 1989 than would be the case under narrowly based incremental pricing;

The real dollar GNP (in 1979 dollars) would be $22 billion lower; 600,000 fewer workers would be employed; and gross private investment would be $4.7 billion less (in 1979 dollars).

WEFA has not yet conducted a study comparing broad and narrow incremental pricing to no incremental pricing at all but such a study is in progress. Based upon both commonsense and the economic analysis conducted to date, I can speculate that the results will not be supportive of incremental pricing retention.

In the meantime, Mr. Speaker, I urge prompt and favorable action upon H.R. 5862. Every day that we delay is a day on which a cumbersome and unjustified regulatory mechanism is contributing to inflation, a sluggish economy and increasing dependence upon foreign oil.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. AKAKA (at the request of Mr. WRIGHT), for today, on account of official business.

Mr. DELLUMS (at the request of Mr. WRIGHT), for today, on account of illness.

Mr. WEISS (at the request of Mr. WRIGHT), after 4 p.m. today, through Friday, December 14, on account of illness in the family.

Mr. YOUNG of Alaska (at the request of Mr. RHODES), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. CLINGER) to revise and extend their remarks and include extraneous material:)

Mr. PAUL, for 15 minutes, today.
Mr. FRENZEL, for 5 minutes, today.
Mr. MCKINNEY, for 5 minutes, today.
Mr. CORCORAN, for 5 minutes, today.

(The following Members (at the request of Mr. FAZIO) to revise and extend their remarks and include extraneous material:)

Mr. GONZALEZ, for 15 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. LEVITAS, for 5 minutes, today.
Mr. ADDABBO, for 15 minutes, today.
Mr. AUCOIN, for 60 minutes, today.
Mr. DASCHLE, for 5 minutes, today.
Mr. VAN DEERLIN, for 5 minutes, today.
Mr. EDWARDS of California, for 5 minutes, today.
Mr. PEPPER, for 5 minutes, today.
Mr. MAVROULES, for 60 minutes, on December 18, 1979.
Mr. ALBOSTA, for 5 minutes, today.
Mr. PREYER, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. CLINGER) and to include extraneous matter:)

Mr. BROWN of Ohio.
Mr. COLLINS of Texas in three instances.
Mr. ROBINSON.
Mr. ROUSSELOT.
Mr. GREEN in two instances.
Mr. FRENZEL in five instances.
Mr. EVANS of Delaware.
Mr. CLAUSEN.
Mr. WYDLER.
Mr. DORNAN.
Mr. DANNEMEYER.
Mr. YOUNG of Florida.
Mr. DERWINSKI in two instances.
Mr. ASHBROOK in three instances.
Mr. LAGOMARSINO.
Mr. MOORE.
Mr. LEWIS.
Mr. FINDLEY in two instances.

(The following Members (at the request of Mr. FAZIO) and to include extraneous material:)

Mr. HOWARD in two instances.
Mr. GUDGER.
Mr. COELHO in two instances.
Mr. MAZZOLI.
Mr. VENTO.
Mr. HAMILTON.
Mr. MCDONALD.
Mr. MINETA.
Mr. WOLFF.
Mr. HANCE.
Mr. SANTINI
Mr. ERTEL.
Mr. DODD in two instances.
Mr. BONKER.
Mr. DASCHLE.
Mr. PEASE.
Mr. LAFALCE.
Mr. MAGUIRE in two instances.
Mr. MARKEY in two instances.
Mr. ROSENTHAL.
Mr. AMBRO.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 2076. An act to require the President to terminate sanctions against Zimbabwe-Rhodesia under certain circumstances; to the Committee on Foreign Affairs.

A BILL PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on December 10, 1979, present to the President, for his approval, a bill of the House of the following title:

H.R. 3892. To amend title 38, United States code, to extend the authorizations of appropriations for certain grant programs and to revise certain provisions regarding such programs, to revise and clarify eligibility for certain health-care benefits, to revise certain provisions relating to the personnel system of the Department of Medicine and Surgery, and to assure that personnel ceilings are allocated to the Veterans' Administration to employ the health-care staff for which funds are appropriated; to require the Veterans' Administration to conduct an epidemiological study regarding veterans exposed to agent orange; and for other purposes.

ADJOURNMENT

Mr. FAZIO. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 38 minutes p.m.) the House adjourned until tomorrow, Wednesday, December 12, 1979, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2992. A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting a cumulative report on rescissions and deferrals of budget authority as of December 1, 1979, pursuant to section 1014(e) of Public Law 93-344 (H. Doc. 96-240); to the Committee on Appropriations and ordered to be printed.

2993. A letter from the Director, Defense Assistance Agency, transmitting a report on the impact on U.S. readiness of the Air Force's proposed sale of certain military equipment to Saudi Arabia (Transmittal No. 80-24), pursuant to section 813 of Public Law 94-106, as amended; to the Committee on Armed Services.

2994. A letter from the Executive Director, Presidential Commission on World Hunger, transmitting the commission's preliminary report on world hunger; to the Committee on Foreign Affairs.

2995. A letter from the Secretary, U.S. Consumer Product Safety Commission, transmitting notice of a proposed new records system,

pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2996. A letter from the Administrator, National Aeronautics and Space Administration, transmitting the semiannual report of the Inspector General of NASA for the period ended September 30, 1979, pursuant to section 5(b) of Public Law 95–452; to the Committee on Government Operations.

2997. A letter from the General Counsel, Department of Energy, transmitting notice of a meeting relating to the international energy program to be held on December 18, 1979, in Paris, France; to the Committee on Interstate and Foreign Commerce.

2998. A letter from the Director, Office of Hearings and Appeals, Department of Energy, transmitting the quarterly reports on private grievances and redress for the second, third and fourth quarters of fiscal year 1979, pursuant to section 21(c) of Public Law 93–275; to the Committee on Interstate and Foreign Commerce.

2999. A letter from the Secreary, Interstate Commerce Commission, transmitting notice that the Commission will be unable to render a final decision in Investigation and Suspension Docket No 9222, ConRail Surcharge on Pulpboard, within the specified 7-month time limit, pursuant to 49 USC 10707(b)(1); to the Committee on Interstate and Foreign Commerce.

3000. A letter from the Acting Secretary of the Interior, transmitting the annual report of the Fish and Wildlife Service on the administration of the Marine Mammal Protection Act of 1972, covering the year ended March 31, 1979, pursuant to section 103(f) of the act; to the Committee on Merchant Marine and Fisheries.

3001. A letter from the Administrator of Veterans Affairs, transmitting the annual report for fiscal year 1979 on the nature and disposition of all cases in which an institution approved for veterans benefits utilizes advertising, sales or enrollment practices which are erroneous, deceptive, or misleading, either by actual statement, omission, or intimation, pursuant to 38 USC 1796(d); to the Committee on Veterans' Affairs.

3002. A letter from the President of the United States, transmitting his determination that import relief for the U.S. anhydrous ammonia industry is not in the national economic interest, pursuant to section 203(b)(2) of the Trade Act of 1974; to the Committee on Ways and Means and ordered to be printed.

3003. A letter from the Chairman, National Transportation Safety Board, transmitting a copy of the Board's letter appealing the Office of Management and Budget's budget allowance for fiscal year 1981, pursuant to section 304(b)(7) of Public Law 93–633; jointly, to the Committees on Appropriations, and Public Works and Transportation.

3004. A letter from the Comptroller General of the United States, transmitting a report on the management of the process for participation in the Fulbright-Hays exchange program (ID–80–3, December 10, 1979); jointly, to the Committees on Government Operations, and Foreign Affairs.

3005. A letter from the Comptroller General of the United States, transmitting a report on needed reforms of the social security minimum benefit provision (HRD–80–29, December 10, 1979); jointly, to the Committees on Government Operations, and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. NICHOLS: Committee on Armed Services. S. 1454. An act to amend the Act of August 10, 1956, as amended; section 716 of title 10, United States Code; section 1006 of title 37, United States Code; and sections 8501(1)(B) and 8521(a)(1) of title 5, United States Code; with amendments (Rept. No. 96–539, pt. 3). Referred to the Committee of the Whole House on the State of the Union.

Mr. ADDABBO: Committee of conference. Conference report on H.R. 5359 (Rept. No. 96–696). Ordered to be printed.

Mr. MURPHY of New York: Committee of conference. Conference report on S. 1143 (Rept. No. 96–697). Ordered to be printed.

Mr. BROOKS: Committee on Government Operations. H.R. 5980. A bill to authorize a program of fiscal assistance during economic recessions and to authorize a program of targeted fiscal assistance, and for other purposes; with an amendment (Rept. No. 96–698). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. SANTINI (for himself, Mr. UDALL, Mr. SYMMS, Mr. RUNNELS, Mr. YOUNG of Alaska, Mr. MURPHY of Pennsylvania, Mr. MARRIOTT, Mr. RAHALL, Mr. WHITTAKER, and Mr. HUCKABY):

H.R. 6080. A bill to amend the Geothermal Steam Act of 1970 to accelerate the priority development of geothermal energy in the United States; to the Committee on Interior and Insular Affairs.

By Mr. ZABLOCKI (for himself, Mr. FASCELL, Mr. HAMILTON, Mr. BINGHAM, Mrs. COLLINS of Illinois, Mr. SOLARZ, Mr. STUDDS, Mr. WOLPE, and Mrs. FENWICK):

H.R. 6081. A bill to amend the Foreign Assistance Act of 1961 to authorize assistance in support of peaceful and democratic processes of development in Central America; to the Committee on Foreign Affairs.

By Mr. JOHN L. BURTON:

H.R. 6082. A bill to amend section 5702 of title 5, United States Code, to increase the maximum rates for per deim and actual subsistence expenses of Government employees on official travel; to the Committee on Government Operations.

By Mr. ALBOSTA:

H.R. 6083. A bill to discontinue or amend certain requirements for agency reports to Congress; to the Committee on Government Operations.

By Mr. BOLAND (for himself, Mr. QUAYLE, Mr. DERWINSKI, Mr. LUNGREN, Mr. WOLFF, and Mr. HUTTO):

H.R. 6084. A bill to amend the National Security Act of 1947 to prohibit the unauthorized disclosure of information identifying certain U.S. intelligence officers, agents, informants, and sources; to the Permanent Select Committee on Intelligence.

By Mr. PHILIP M. CRANE:

H.R. 6085. A bill to amend the Internal Revenue Code of 1954 with respect to the deduction of charitable contributions to organizations from which the taxpayer or a member of his family receives services; to the Committee on Ways and Means.

By Mr. DANIELSON (for himself and Mr. MOORHEAD of California):

H.R. 6086. A bill to provide for the settlement and payment of claims of civilian and military personnel against the United States for losses in connection with the evacuation of such personnel from a foreign country; to the Committee on the Judiciary.

By Mr. DASCHLE:

H.R. 6087. A bill to amend title 49, United States Code, to exclude from the jurisdiction of the Interstate Commerce Commission certain transportation of property used in agricultural or horticultural production, in connection with the transportation of exempt property; to the Committee on Public Works and Transportation.

By Mr. DOWNEY:

H.R. 6088. A bill to amend the Federal Water Pollution Act to require the United States to pay for certain lateral sewer connections for low-income elderly persons; to the Committee on Public Works and Transportation.

By Mr. FRENZEL (for himself, Mr. GIBBONS, Mr. MOORE, and Mr. VENTO):

H.R. 6089. A bill to prohibit until January 1, 1982, the conversion of the rates of duty on certain unwrought lead to ad valorem equivalents; to the Committee on Ways and Means.

By Mr. GRAMM:

H.R. 6090. A bill to amend the Safe Drinking Water Act, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. GUDGER:

H.R. 6091. A bill to call for multi-agency cooperation in developing a plan for a Mountain Experience Center in Western North Carolina to serve as a model for similar tourist information projects nationwide; jointly, to the Committees on Agriculture, Interior and Insular Affairs, and Public Works and Transportation.

By Mr. HILLIS:

H.R. 6092. A bill to amend the Internal Revenue Code of 1954 to allow members of the Armed Forces who are stationed overseas without their families a deduction for travel expenses back to the United States; to the Committee on Ways and Means.

By Mr. HOLLENBECK:

H.R. 6093. A bill to amend the Internal Revenue Code of 1954 to allow certain elderly or disabled individuals a refundable income tax credit for a certain portion of the property taxes paid by them on their principal residences; to the Committee on Ways and Means.

By Mr. LUKEN (for himself and Mr. GRAMM):

H.R. 6094. A bill to amend the Safe Drinking Water Act to provide that the underground injection of natural gas for purposes of storage will not be regulated by the act; to the Committee on Interstate and Foreign Commerce.

By Mr. MARLENEE:

H.R. 6095. A bill to amend title II of the Social Security Act to make it clear that social security benefits are and will continue to be exempt from all taxation; to the Committee on Ways and Means.

By Mr. MOTTL:

H.R. 6096. A bill to amend the Immigration and Nationality Act to make certain nonimmigrant aliens subject to deportation if convicted of a crime; to the Committee on the Judiciary.

By Mr. PRICE (for himself and Mr. BOB WILSON) (by request):

H.R. 6097. A bill to amend title 10, United States Code, to establish a nutritionally adequate, consumer-acceptable ration for the Armed Forces, to authorize the issuance and sale of rations, to prescribe special rations, and for other purposes; to the Committee on Armed Services.

H.R. 6098. A bill to amend title 10, United States Code, to authorize training of personnel of the armed forces of NATO member countries; to the Committee on Armed Services.

By Mr. RODINO (by request):

H.R. 6099. A bill to amend the Military Personnel and Civilian Employees' Claims Act of 1964, as amended, with respect to the settlement of claims against the United States by members of the uniformed services and civilian officers and employees for damage to, or loss of, personal property incident to their service; to the Committee on the Judiciary.

By Mr. ST GERMAIN (for himself, Mr. REUSS, Mr. ANNUNZIO, Mr. BARNARD, Mr. STANTON, and Mr. WYLIE):

H.R. 6100. A bill to authorize automatic transfer accounts at commercial banks, remote service units at Federal savings and loan associations, and share draft accounts at Federal credit unions during the period beginning on December 31, 1979, and ending on April 1, 1980; to the Committee on Banking, Finance and Urban Affairs.

By Mr. SAWYER:

H.R. 6101. A bill to amend the Internal Revenue Code of 1954 to provide that certain restrictions applicable to industrial development bonds shall not apply to bonds the proceeds of which are to be used in any trade or business carried on by any person certified as being a financially distressed person; to the Committee on Ways and Means.

By Mr. STAGGERS:

H.R. 6102. A bill to amend the Internal Revenue Code of 1954 to reduce individual income taxes; to the Committee on Ways and Means.

By Mr. VAN DEERLIN:

H.R. 6103. A bill to amend the Communications Act of 1934 to provide that any use of a broadcasting station by candidates for the office of President or Vice President without the payment of any charge shall not be subject to the requirements of section 315 of such act relating to equal broadcasting opportunities for political candidates; to the Committee on Interstate and Foreign Commerce.

MEMORIALS

Under clause 4 of rule XXII, a memorial of the following title was presented and referred, as follows:

327. By the SPEAKER: A memorial of the Legislature of the State of Wisconsin, relative to ratifying an amendment to the U.S. Constitution, relating to treating the District of Columbia as a State for the purpose of congressional representation; to the Committee on the Judiciary.

328. By the SPEAKER: A memorial of the Legislature of the Commonwealth of Pennsylvania, relative to tax deductions and/or credits to industrial users of oil or natural gas who convert their boilers to coal; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. HEFTEL:

H.R. 6104. A bill for the relief of George A. Albert; to the Committee on the Judiciary.

By Mr. NELSON:

H.R. 6105. A bill for the relief of Lee R. Gilbert; to the Committee on the Judiciary.

By Mr. ST GERMAIN:

H.R. 6106. A bill for the relief of Mrs. Samuel (Edys) Markovitz; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 294: Mr. PEPPER.

H.R. 2279: Mr. MCCLOSKEY, Mr. DUNCAN of Tennessee, Mr. DIXON, Mr. LLOYD, Mr. YOUNG of Alaska, Mr. DAVIS of Michigan, Mr. CLEVELAND, Mr. ROBERT W. DANIEL, JR., and Mr. ROYER.

H.R. 3427. Mr. WALGREN, Mr. MCCORMACK, and Mr. GILMAN.

H.R. 3986: Mr. BARNES, Mr. FRENZEL, Mr. HOWARD, Mr. MURPHY of New York, Mr. YATRON, Mr. MAGUIRE, and Mr. WEAVER.

H.R. 4025: Mr. STACK.

H.R. 4359: Mr. LEACH of Louisiana, Mr. WYATT, Mr. ROE, Mr. MONTGOMERY, Mr. DAVIS of South Carolina, and Mr. COELHO.

H.R. 4647: Mr. LEACH of Louisiana, Mr. BALDUS, Mr. KAZEN, Mr. PEPPER, Mr. BUCHANAN, Mr. HARRIS, and Mr. DAVIS of South Carolina.

H.R. 5165: Mr. ROUSSELOT, Mr. DORNAN, Mr. BAFALIS, Mr. GRASSLEY, and Mr. ATKINSON.

H.R. 5222: Mr. DERWINSKI, Mr. PEPPER, Mr. FLORIO, Mr. SANTINI, Mr. WEAVER, Mr. HUGHES, Mr. CHARLES H. WILSON of California, Mr. FAZIO, Mr. CORCORAN, Mr. GRAY, Mr. COURTER, Mr. KRAMER, Mr. LLOYD, Mr. ZABLOCKI, Mr. CONTE, Mr. LUNGREN, and Mr. GRASSLEY.

H.R. 5409: Mr. ABDNOR, Mr. ANDERSON of Illinois, Mr. BARNES, Mr. BEDELL, Mr. BIAGGI, Mr. BLANCHARD, Mr. BUCHANAN, Mrs. BYRON, Mr. CARR, Mr. COELHO, Mr. CONYERS, Mr. CORRADA, Mr. DAN DANIEL, Mr. DASCHLE, Mr. DIGGS, Mr. FISHER, Mr. FORSYTHE, Mr. FRENZEL, Mr. GLICKMAN, Mr. GOLDWATER, Mr. GRASSLEY, Mr. GRAY, Mr. GRISHAM, Mr. GUARINI, Mr. HARKIN, Mr. HARRIS, Mr. HAWKINS, Mr. HEFTEL, Mr. HOLLAND, Mrs. HOLT, Mr. HOWARD, Mr. HUGHES, Mr. HYDE, Mr. JEFFORDS, Mr. KILDEE, Mr. KRAMER, Mr. LAFALCE, Mr. LAGOMARSINO, Mr. LEDERER, Mr. LLOYD, Mr. LONG of Maryland, Mr. LUJAN, Mr. MAZZOLI, Mr. MCDADE, Mr. MCKINNEY, Mr. MILLER of California, Mr. MINETA, Mr. MITCHELL of Maryland, Mr. MOAKLEY, Mr. MOTTI, Mr. MURPHY of Pennsylvania, Mr. MYERS of Pennsylvania, Mr. NEAL, Mr. NOLAN, Ms. OAKAR, Mr. OTTINGER, Mr. PANETTA, Mr. PATTEN, Mr. PEPPER, Mr. RAHALL, Mr. REGULA, Mr. RICHMOND, Mr. RODINO, Mr. ROE, Mr. ROUSSELOT, Mr. SCHEUER, Mr. SEIBERLING, Mrs. SNOWE, Mr. SOLARZ, Mr. STACK, Mr. STOCKMAN, Mr. TAUKE, Mr. WALGREN, Mr. WHITTAKER, Mr. FORD of Tennessee, Mr. WILLIAMS of Montana, Mr. WINN, Mr. YATRON, Mr. YOUNG of Florida, Mr. DOWNEY, Mr. DUNCAN of Tennessee, Mr. EDGAR, Mr. ERDAHL, Mr. ERTEL, and Mr. FAZIO.

H.R. 5571: Mr. CORCORAN and Mr. OTTINGER.

H.R. 5715: Mr. BROWN of California and Mr. LUNDINE.

H.R. 5752: Mr. NEAL and Mr. NOLAN.

H.R. 6006: Mr. ATKINSON.

H.R. 6008: Mr. MARKEY, Mr. OTTINGER, Mr. WHITEHURST, Mr. FLORIO, Mr. CHARLES WILSON of Texas, Mr. PEPPER, Mr. ANTHONY, and Mr. MCHUGH.

H.J. Res. 161: Mr. HUTTO, Mr. CORCORAN, Mr. ROYBAL, Mr. ROE, and Mr. STARK.

H.J. Res. 307: Mr. GUYER, Mr. WHITEHURST, Mr. DAVIS of South Carolina, Mr. WHITE, Mr. FLOOD, Mr. YOUNG of Alaska, and Mr. MURPHY of New York.

H. Con. Res. 71: Mr. BEARD of Rhode Island.

H. Con. Res. 98: Mr. GRASSLEY, Mr. BEARD of Rhode Island, and Mr. OTTINGER.

H. Con. Res. 219: Mr. WOLPE, Mr. LUNDINE, Mr. WILLIAMS of Montana, Mrs. SCHROEDER, Mr. MINETA, Mr. BINGHAM, Mr. DASCHLE, and Mr. MITCHELL of Maryland.

H. Res. 446: Mr. ROSE.

PETITIONS, ETC.

Under clause 1 of rule XXII, the following petition and papers were presented and referred as follows:

246. By the SPEAKER: Petition of the Chinese Culture Association, Kowloon, Hong Kong, relative to the imprisonment by the People's Republic of China of Wei Chingsheng; to the Committee on Foreign Affairs.

247. By the SPEAKER: Petition of Paul Axel-Lute, South Orange, N.J., and others, relative to nuclear power; to the Committee on Interior and Insular Affairs.

248. By the SPEAKER: Petition of City Council, Jersey City, N.J., relative to the proposed creation of an Oil Utilities Commission; to the Committee on Interstate and Foreign Commerce.

249. By the SPEAKER: Petition of Medford School Committee, Medford, Mass., relative to flying all flags in the Medford Public School system at half mast until all hostages in Iran have been released; to the Committee on the Judiciary.

250. By the SPEAKER: Petition of Bernard Meade, Baltimore, Md., relative to redress of grievances; to the Committee on Ways and Means.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 5860

By Mr. MAGUIRE:

—On page 32, section 10, insert after line 14, to following,

(c) The Secretary of Transportation shall conduct a study to determine the feasibility of federal, state, and local governments, and private corporations contracting over the next three to five years with the Chrysler Corporation or any other manufacturer or group of manufacturers for the purchase of advanced alternatives to existing automobiles which can be manufactured at reasonable cost with the best conservation, safety, and environmental characteristics of the experimental motor vehicles designed by the National Highway Traffic Safety Administration. The purpose of the study would be to assess the feasibility of manufacturing advanced automobiles which would be available for a broad market beginning with Federal, state, and local government procurement and corporate fleet purchase in order to:

1. Substantially advance innovative automobile safety technology and fuel efficiency;

2. Reduce the Nation's dependence on imported oil;

3. Protect the Nation against trade and balance of payments deficits incurred by excessive domestic sales of imported automobiles;

4. Enhance and facilitate competition in advanced development and production techniques, including the use of quality control circles, in the automotive industry;

5. Provide increased opportunities for employment within the United States; and

6. Assure that safety needs are met at the same time that automobiles become smaller and lighter to assure fuel efficiency.

The Secretary shall report the results of his study to Congress, with his recommendations, not later than six months after the date of enactment of this Act.

(d) The Secretary of Transportation, after consultation with the Secretary of Energy, shall submit to the Secretary of the Treasury and to the Congress as soon as practicable, but not later than six months after the date of enactment of this Act, an assessment of the long-term viability of the Corporation's viability of the Corporation's involvement in the automobile industry. The study shall assess the impact of likely energy trends and events on the automobile industry, including long-term capital requirements, rate of technological change, shifting market characteristics the capability of the industry as a whole to respond to the requirements of the 1980's, and shall evaluate the adequacy of the industry's existing structure to make necessary technological and corporate adjustments.

(e) The Secretary of Transportation shall prepare and transmit to the Congress annual comprehensive assessments of the state of the automobile industry and its interaction in an integrated economy. Each annual assessment shall include, but not be limited to, issues pertaining to personal mobility, capital and material requirements and availability, national and regional employment, trade and the balance of payments, the industry's

competitive structure, and the effects of utilization of other modes of transportation.

(f) The Secretary shall take the results of the study and each annual assessment into account when examining and evaluating the Corporation's financing plan and operating plan.

By Mr. PATTERSON:

—Page 32, after line 14, insert the following new subsection:

(c) The Secretary of the Treasury in consultation with the Secretary of Defense shall conduct a study regarding the possibility of establishing the Tank Division of the Chrysler Corporation as an independent corporation which is not financially dependent upon the Chrysler Corporation. Such study shall consider the potential advantages and disadvantages which establishing such a corporation would have on the tank production of the United States Army and the operation of the Chrysler Corporation. Not later than 180 days after the date of the enactment of this Act, a report shall be transmitted to the Congress containing the findings and conclusions of such study and such recommendations regarding the establishment of such corporation as the Secretary of the Treasury and the Secretary of Defense consider appropriate.

EXTENSIONS OF REMARKS

VETERANS PROGRAMS EXTENSION AND IMPROVEMENT ACT

HON. THOMAS A. DASCHLE

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1979

● Mr. DASCHLE. Mr. Speaker, I would like to address the following comments on the House and Senate passage of H.R. 3892, the Veterans Programs Extension and Improvement Act of 1979.

I am pleased to support this legislation which addressed some of the more pressing medical and health care issues facing our veterans today. The conference report the House passed last week was an acceptable compromise that incorporates many of the better positions of each legislative body.

One of the more significant provisions in this legislation is one that assists our World War I veterans. These veterans have for too long been ignored in their claim for more comprehensive health care coverage in the VA system. H.R. 3892 will now authorize outpatient care for any World War I veteran in need, similar to the same benefits accorded Spanish-American War veterans. Most importantly, this outpatient care can also be contracted out. This is a very important clause. Many of our World War I veterans are increasingly immobile and unable to obtain transportation to VA facilities. Now, in many cases, this outpatient care can be obtained in a private health facility right in their own community. This provision will especially benefit many of the World War I veterans in South Dakota where the population is relatively dispersed, often times many miles from the nearest VA facility.

I am also very satisfied that the conferees adopted a provision requiring the Director of the Office of Management and Budget to comply with congressional intent with regard to appropriations for staffing levels. With strict oversight provided by the Comptroller General, future problems relating to funds appropriated by the Congress for staffing levels and OMB's interpretation of how those funds will be used should be eliminated.

The continuation of Federal/State matching grants to State veterans homes for construction or remodeling is a wise move that will enable those institutions to stay abreast of the increasing patient load most veterans hospital facilities are now facing. Considering the present backlog of $33 million in construction projects, this funding is urgently needed. A 15 percent per diem increase in payments to State homes remains a cost-effective program that is also continued in this legislation.

The conferees have taken a step in the right direction by directing the VA to do an epidemiology study concerning the biological effects of agent orange exposure on our Vietnam veterans. Up to this point, very little concrete evidence is available. Hopefully, this study can open up the mysteries of agent orange so the thousands of Vietnam veterans who may have been exposed to agent orange can rest assured that their Government is really trying to help and not brush them aside.

Finally, Mr. Speaker, I wish to congratulate the subcommittee chairman, Mr. SATTERFIELD, for his work and efforts on this legislation and the other distinguished Members of the House and Senate who combined to make these significant medical and health care improvements.●

NUCLEAR MORATORIUM

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1979

● Mr. FRENZEL. Mr. Speaker, during the debate on the authorization for the NRC, Congressman MARKEY of Massachusetts presented an amendment instituting a temporary moratorium on the licensing of new nuclear powerplants. I was not able to vote on that amendment. Had I been present, I would have voted against the Markey amendment.

America cannot foreclose on the nuclear alternative. My home State of Minnesota relies on nuclear power for 35 percent of its electricity. Nuclear power must play a significant role in a broad based energy program. It is part of our defense against the policies of the oil cartel.

The Kemeny Commission in its report on the accident at Three Mile Island did not recommend abandoning nuclear power. The Markey amendment is only a symbolic gesture which is the first step in process aimed at stopping the development of nuclear power. There already is a de facto moratorium on the licensing on new plants imposed by the Nuclear Regulatory Commission. We do not need a blanket moratorium, but a more careful analysis of each application.

Safety, quite obviously, must be our first priority. The Markey amendment, however, does not make nuclear power any safer. Worse, it does not even address the issue of safety at existing plants.

The Kemeny Commission has presented its recommendations. Many of its proposals should be put into effect. Stronger and tougher guidelines are needed both when licensing new plants, and for regulating operating plants. The nuclear industry, however, has a history of safety as good as any other industry in the country. It causes no black lung disease, no acid rain, and no oil spills. It is, in fact, safer than any form of energy now widely used.

At some time the hazards of nuclear power may require a moratorium. For the present, however, this country should proceed with nuclear development, but with great care.●

THE RUSSIANS ARE COMING ON THE ENERGY FRONT

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1979

● Mr. WYDLER. Mr. Speaker, I recently received an interesting document from the Institute of Gas Technology which contains energy statistics for the various nations. There are two interesting aspects of these statistics which I thought should be brought to the attention of my colleagues. Both of these items touch on the comparative energy production capability of the United States and the Soviet Union.

First. U.S. oil and gas production has remained nearly level and, in the case of natural gas, U.S. production is still almost twice that of the U.S.S.R. and nearly 15 percent greater than all the European countries combined, including the United Kingdom contribution. The news is not as encouraging in the case of crude oil production where the U.S. production has dropped by roughly 5 percent since 1973 whereas the U.S.S.R. has increased production nearly 40 percent since 1973, that is, to 35 percent greater than U.S. production level now whereas in 1973 the U.S. actually produced 10 percent more crude oil than the U.S.S.R.

Second. In the electrical sector the U.S.S.R./U.S. comparison is also very interesting In the period 1973–76—no figures for 1977 and 1978 for U.S.S.R.—the electrical production in the Soviet Union jumped by 22 percent; over the same period U.S. electrical production

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