AA61-2 PDR

October 15, 1982

MEMORANDUM

TO: Guy Cunningham
Jim Murray
Bill Parler
Joanna Becker

FROM: Anna Fotias, Legislative Specialist
Location: 8717 MNBB
ext. 2-7910

RE: STATUS OF APPROPRIATIONS AND AUTHORIZATION LEGISLATION

End of the fiscal year legislative activity is outlined below--specifically Congressional action on Continuing Appropriations Resolution (H.J.Res. 599) and NRC Authorization legislation (H.R. 2330).

The Legislative Library is completely operational at this time. I am in the process of compiling LEGISLATIVE HISTORIES on current legislation of interest to NRC. If you have questions concerning particular legislation or require any legislative research, please contact me.

OUTLINE:

CONGRESSIONAL RECORD - CHRONOLOGY - H.J.Res. 599
Continuing Appropriations FY'83

Wed., Sept. 29, 1982-Pt. I
Senate debate on H.J. Res. 599
(Senate rejected amend. to terminate funding for CRBR) - pg. S 12447.
See.pg. S 12456-12469

Thurs., Sept. 30, 1982-Pt. I
H.J. Res. 599 CONFERENCE REPORT (H. Rept. 97-914) filed.
See. pg. H 8245-8254

Fri., October 1, 1982-Pt. II
House debate on Conf. Rept. on H.J.Res. 599
See. pg. H 8359-8374
pg. H 8374-8392 -Conf. Rept. AGREED TO by House.

Fri., October 1, 1982-Pt. III
Senate debate on Conf. Rept. on H.J.Res. 599
See. pg.S 13208-13216-Cong. Rept. AGREED TO by Senate.

OCT. 2, 1982, H.J.RES. 599 approved (signed into law) - P.L. 97-276 - CONTINUES APPROPRIATIONS TO DEC. 17, 1982.

CONGRESS WILL CONSIDER ENERGY AND WATER DEVELOPMENT APPROPRIATIONS FY 1983 when reconvenes NOVEMBER 29, 1982.

Fri., October 1, 1982-Pt. IV
Rep. Stark opposes CRBR - FY'83 Energy & Water Dev. Approp.
See. pg. E 4640

STATUS OF APPROPRIATIONS AND AUTHORIZATION LEGISLATION (CONT.)

OUTLINE:

CONGRESSIONAL RECORD - CHRONOLOGY - H.R. 2330
NRC Authorization FY '82-83

Fri., Oct. 1, 1982 - Pt. II
Senate ADOPTED Conf. Rept. on H.R. 2330, FY '82-83 NRC Auth.
(Conf. Rept. - H. Rept. 97-884)
See. pg. S 13051-13056

Fri., Oct. 1, 1982 - Pt. III
Senators Hart and Mitchell--colloquy re. NRC/EPA regulation of mill tailings and "Sholly" amend. in NRC FY '82-83 Auth.
See. pg. S 13292

Senator Schmitt speaks in favor of import restriction amend. in NRC Auth.
See. pg. S 13292-13293

HOUSE DID NOT CONSIDER Conf. Rept. on H.R. 2330, FY 82-83 NRC Authorization.

Fri., Oct. 1, 1982 - Pt. IV
Rep. Kogovsek refers to Conf. action on NRC Auth. bill and Colorado uranium industry.
See. pg. E 4671-4672

of the issue until we get into the bills themselves, rather than on the continuing resolution.

I shall do everything I can possibly do to help him in getting this issue raised at that time that he selects on that bill in order for there to be full and open discussion on it. He has that right and I shall certainly do everything I can to help him secure that right.

Mr. PROXMIRE. Mr. President, I thank the distinguished Senator from Oregon. With that assurance, I shall not press the amendment on the resolution today, but I do intend to offer it when we come back in December.

FOUR PERCENT CAP ON BLUE-COLLAR PAY

Mr. ABDNOR. I would like to make absolutely clear that the withdrawal of the committee's amendment merely restores the provision of the House-passed joint resolution applying a 4-percent pay cap to Federal blue-collar workers.

Mr. HATFIELD. Yes, this action would restore to the joint resolution a provision in the House-passed version. This language, which has appeared in similar form in previous continuing resolutions, and was included in the President's budget, would simply insure that the budget target of a 4-percent Federal pay raise would apply equitably to all Federal employees. I might add that, as you know, this provision is identical to one which is in both the House and Senate reported Treasury-Postal Service appropriations bills for fiscal year 1983.

Mr. ABDNOR. And it is my understanding that this provision for a 4-percent cap specifies that Federal blue-collar employees would not receive an amount, due to wage survey adjustments, that exceeds the overall average percentage of the Federal white-collar adjustment for fiscal year 1983?

Mr. HATFIELD. The Senator is absolutely correct.

EXCEPTED COMMITTEE AMENDMENT WITHDRAWN

Mr. HATFIELD. Mr. President, I ask unanimous consent, with the approval of the ranking minority member, that the committee amendment beginning on page 13, line 5, through page 14, line 25 be withdrawn.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. HATFIELD. Mr. President, let me explain that.

The House had placed in the continuing resolution a 4-percent cap on certain employees in the Federal Government, and we had deleted that in the committee until we could seek and obtain further information. That was only the reason the committee deleted that provision. We deleted it, and we have since received additional information. Therefore, we feel that we can concur with the House and withdraw that deletion, thereby restoring the House language.

I thank the Chair, and I thank the Senator from Wisconsin for handling that matter.

That leaves us with about four committee amendments that are still excepted on the basis of requests from individual Senators.

Mr. President, on behalf of the leadership we will set aside the remaining committee amendments in order that Senators may offer amendments.

Mr. President, at this point, with the concurrence of the Senators on the floor, Senator HUMPHREY and Senator BUMPERS, I ask unanimous consent that we have a modified time agreement on the Clinch River breeder reactor amendment to one-half hour time equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1309

(Purpose: To terminate funding of the Clinch River breeder reactor project)

Mr. HUMPHREY. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from New Hampshire (Mr. HUMPHREY) for himself and Mr. BUMPERS, proposes an unprinted amendment numbered 1309.

At an appropriate place, add the following section:

SEC. ——. Notwithstanding any other provision of this joint resolution, no funds made available by this joint resolution shall be available for the Clinch River Breeder Reactor Project.

Mr. HUMPHREY. Mr. President, in the interest of time, and I am aware as is Senator BUMPERS that time is of the essence this morning, I will be brief in my remarks. I think Senators have heard the arguments before, but the high points bear reiteration.

First of all, this is not an antinuclear amendment. The Senator from New Hampshire supports nuclear power. The issue under discussion and consideration this morning is the issue of waste. I am not talking about nuclear waste; I am talking about waste of money, waste of taxpayer's money.

The Clinch River breeder demonstration project is involved in a stupendous cost overrun. It was originally estimated to cost $600 million, which is no small piece of change in itself, but today after six reestimates on the part of the Department of Energy and predecessor agencies, the cost is estimated to be $3.6 billion, an additional $3 billion. To make matters worse, the General Accounting Office in a report issued just last week indicates that the true costs, including interest expense to the taxpayers, are really much closer to $9 billion—$9 billion for one plant.

It is bad enough that the program has suffered such a huge cost overrun, but to make matters worse we do not even need it. We do not need this demonstration project for the reason that we have something better in the way of nuclear technology. And just what is that? Namely, light water reactors of the kind being used today.

Even by the Department of Energy's own studies, breeder reactors will be unable to compete economically with light water reactors for decades to come, in other words, until well after the turn of the century, the time frame of 2020 to 2030.

The chief advantage of breeder reactors, of course, is that they create their own fuel. But it happens that fuel costs are a very small part of the lifetime cost of the nuclear plant. The capital costs of breeder reactors are very much higher and because uranium is relatively inexpensive and abundant and is forecast to be abundant and relatively inexpensive for several more decades, light water reactors, the kind of reactors we are using today, are much more economical.

Mr. President, no utility in this country is going to commercialize breeder reactors in this century; therefore, it makes no sense for us to be building a demonstration project.

Historically, demonstration projects have been built when a technology is on the threshold of commercialization. But this one is not. It is decades away from commercialization and it makes no sense for us to continue with this project. Even the utilities themselves in a way have acknowledged this. Originally, they agreed to participate and to share the cost with the taxpayers 50-50. They long ago pulled out of that agreement. Their total participation so far has been something on the order of 4 or 5 percent and they intend to make no further contribution.

So they are not willing to invest their money. Why should Congress invest the money of our taxpayers in this project which makes no economic sense and which has suffered such a huge cost overrun?

Mr. President, I believe at this point I will yield to my colleague from Arkansas and I may wish to raise a few other points after he has spoken but if he is ready I will yield the floor at this time.

Mr. BUMPERS. Mr. President, I ask the distinguished floor manager, are there any speakers here or coming on the other side of this issue?

Mr. HATFIELD. The majority leader is on his way to the floor to speak for at least part of his 15 minutes.

Mr. BUMPERS. Fine.

Mr. President, I have been opposed to the Clinch River breeder ever since I have been in Congress. I think I voted for it for the first year I was here. But since that time the whole idea for the project has degenerated unbelievably.

First, the CRBR represents an obsolete technology. The best physicists in this country say that if we go through with the project the earliest possible completion date will be 1990, and by that time the technology will be 16

years out of date. Any Senator who votes for this ought to vote for it in the certain knowledge that it is not going to be completed until 1990, that the cost almost certainly will be what GAO said last week it will be, $8.8 billion or more, and we will have a technological turkey on our hands when it is completed.

Second, a lot is said about the French, the Japanese, the English, the German, and the Soviet breeder programs. Every one of those nations has put their breeder reactors on the back burner. They all have them. The French were going to develop three breeder commercial projects immediately after they finished the Super Phoenix, and all three of them have been postponed and put on the back burner for very good reasons. Why should we emulate the worst of what other countries do? If we are going to emulate something, let us emulate something that has been successful.

Third, we are starting down the road of a plutonium economy. The Clinch River breeder, if completed during its lifetime, will manufacture enough plutonium to make 1 million nuclear weapons the size of the ones we dropped on Japan in World War II.

Fourth, one of the main claims initially made for the breeder was that we were going to need the plutonium to fuel our light water reactors, that uranium was running out. Now enriched uranium has dropped from $40 a gram to $17. There is a glut on the market. There have been new finds in Australia and big new finds in Canada. We have more than enough uranium to run us well past the year 2025, and yet this reactor cannot possibly be commercialized effectively before the year 2020 according to every sensible person who has examined it.

Fifth, the GAO says that the DOE has grossly overstated the amount of electricity they are going to sell from this reactor.

Sixth, the promise in 1971 from the nuclear power industry and the utilities of this country was, "We will put up half the money," but the utilities signed a firm contract that they would not put up more than $257 million. That was back when we were expecting this thing to cost about $500 million. Now they have put up about $150 million. The cost has gone from $500 million to $8.8 billion and the nuclear power industry and utilities of this country say, "Count us out; we are not putting another dime in it."

And I ask my colleagues, if they do not think any more of the Clinch River project than that, why should we?

Seven. Other projects are a better use of money. For example, I have been trying to get money to retrofit the dams on the Arkansas River. It is a travesty that those 17 dams were not outfitted with generators when they were built. But even today you can outfit every dam on the Arkansas River with generators at a cost of $2,200 per megawatt, and with virtually no annual operating costs. Just open the floodgates and let the water through. Providing the facilities to generate this electricity at a cost of $2,200 per megawatt, or 1,000 kilowatts, will cost $20,000 in capital costs.

Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BUMPERS. We are trying to keep this total debate to 30 minutes, but there has been no agreement to that effect, has there?

The PRESIDING OFFICER. There has been an agreement to that effect.

Mr. BUMPERS. How much time do the proponents of the amendment have?

The PRESIDING OFFICER. The proponents have 15 minutes.

Mr. BUMPERS. How much time do we have remaining?

The PRESIDING OFFICER. Six minutes and 15 seconds.

Mr. BUMPERS. Mr. President, it is a fine thing to support pork barrel projects on occasion. I do not have any objection to politicians around here getting something for their home districts—within limits. But this goes far beyond the bounds of reason, far beyond the bounds of anything that you can explain to your constituents back home.

Just yesterday the generators for this reactor were tested and failed. It is an outmoded technology. So I am pleading with my colleagues to listen to what the physicists in this country say: "Do not build this outmoded technology."

I am agreeing with the National Taxpayers' Union—the Heritage Foundation, the Hoover Institute, and many other groups in opposing this project. The coalition opposing the CRBR is one of the most prevasive across-the-board coalitions I have ever been associated with. Almost everybody in America is opposed to this, and I hope my colleagues will be, too.

I yield the floor, Mr. President.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. Mr. President, I yield myself—I ask the manager to yield me 5 minutes.

Mr. HATFIELD. I would be very happy to yield the Senator 5 minutes.

Mr. McCLURE. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLURE. Under the unanimous-consent agreement who controls the time?

The PRESIDING OFFICER. The proponents of the amendment and the manager of the bill.

Mr. McCLURE. In this instance the manager of the bill supports the amendment, does he not?

Mr. HATFIELD. Mr. President, I will be very happy to yield whatever time—if the Senator from Idaho is concerned——

Mr. McCLURE. I might make an inquiry of the Senator from Oregon.

Mr. BAKER. Mr. President, the manager of the bill is the chairman of the committee, and I think that is a good way to leave it. I wonder if he will yield me 5 minutes?

Mr. HATFIELD. I would be happy to yield 5 minutes.

Mr. BAKER. Mr. President, I can recall back in the days of the Joint Committee on Atomic Energy when a decision was made to go forward with the prototype breeder reactor, and there was a great debate at that time on whether it was going to be a thermal breeder or a fast neutron breeder, to tell you the truth, my preference at that time was that it should be a thermal breeder.

One of the reasons for my view was that I thought a thermal breeder would be in Tennessee and the fast breeder would not. But I was convinced even then, as I am now, that the United States must explore the avenues for the production of power in the next century. I believed that advanced reactors and breeder reactors must be demonstrated as feasible or unfeasible, not only in terms of their technical experience, but also in terms of their desirability from the commercial standpoint, well in advance of the time that we might need them. And I gave way in that debate and supported the sodium-cooled breeder.

My point, Mr. President, is this: That project was not conceived as a Tennessee project. Indeed at that time it was assumed that the plant would be built some place else, because the development work had not been done in my State, and it certainly was not a boon to the State of Tennessee when the decision was made to go forward with the prototype fast neutron breeder.

Later, Mr. President, after that decision had been made by Congress, a decision was made on the basis of many other factors, one of which involved me. The considerations were that a demonstration project ought to be in a location not only where it could have access to the high technology that was necessary to build the system, but also where it could demonstrate the economic feasibility of the plant itself by feeding that power into a nearby major power grid. The planners also wanted to find a way, I believe, to locate the facility in a manner that would demonstrate the licenseability of the facility.

I suspect that other factors included proximity of the plant to hydroelectric power, to steam-generated electricity, and to nuclear power from conventional reactors. Finally, however, the object was a demonstration of the feasibility of a breeder system.

But I did not make that decision. As I recall, I had nothing to do with making that decision. I was delighted

when the choice was made, and the location chosen was in Tennessee. But my point, Mr. President, is it certainly was not conceived as a Tennessee project; it is not a Tennessee project. It is a national project of major importance and, indeed, most of the money that has been appropriated by Congress and spent has been spent outside of Tennessee in the procurement of equipment and fabrification of the elements that will go into construction of this facility.

So much for pork. I have always been amazed at those who say that this is a Tennessee project, because while components will be shipped to my State and assembled there and the construction of the demonstration plant will occur there, the major portion of the benefit will go to areas outside Tennessee, many of them very distant from Tennessee.

Mr. President, as you and my distinguished colleagues know, I would have greatly preferred that not only this, but many other similar amendments which our distinguished colleagues fervently want to offer on this interim funding measure, be deferred and handled in the normal, regular appropriations process. But that has not been possible, and I would say to my distinguished colleagues, the Senators from Arkansas (Mr. BUMPERS) and from New Hampshire (Mr. HUMPHREY), it is no fault of theirs that the Senate was not prepared to deal with the issue of the Clinch River project in the normal order of an Energy and Water Appropriations bill. The plain fact is, the House of Representatives has still, to this day, only given us four appropriations bills of any kind. The fact that we are here, at this late date, now having to deal with one or another measure that almost every Member of this body feels is vital and essential in one way or another is testimony to an appropriations process that has broken down.

So, Mr. President, my plea has been that this measure is better dealt with not on this interim funding measure, but on the regular Energy and Water Appropriations bill which the distinguished chairman of the Appropriations Committee, Mr. HATFIELD, assures me will be available for our consideration a little over 2 months from now. But since my pleas have thus far fallen on deaf ears, and because of the urgency which I understand my distinguished colleagues who have offered this amendment feel, I am prepared to dispose of this issue, I trust once and for all, at this time. I would only add then a few comments, and I will be brief.

Mr. President, I am convinced that we need to go forward with this project not only because we have persisted in the development of it for such a long time, and invested a great deal of money. That is a consideration. I wonder what we are going to do about the $1 billion plus we have already spent.

Are we just going to apologize and say we made a mistake, and we should not do that, or are we going to go ahead and finish it? Mr. President, it will take an expenditure, by the U.S. Government, to finish the Clinch River breeder reactor, this first-of-a-kind, engineering development facility. That investment, by any remotely normal cost accounting procedure, will be an additional $2.3 to $2.6 billion, depending on whether you care to believe the latest estimate of the Department of Energy, or the estimate of the General Accounting Office. The most conservative profit and loss assumptions for an operating, electricity-producing powerplant insure at least half that amount will be recovered by the $8 billion minimum sales of electricity over the project lifetime.

But that, Mr. President, is not the final determinant, in my judgment. The final decision ought to be made on the same basis as the original decision: Does the United States of America need to demonstrate the feasibility by a prototype breeder reactor to be available to this country and to the world, to the free world, if we need it at the turn of the century? That is the real issue.

Mr. President, if we were deciding at this time that we are going to elect, we are going to opt for a plutonium cycle power system fueled by a series of breeder reactors around the country. If we were called to make that decision at this time, I would, perhaps, vote no. We should not make that decision at this time. But that is not what we are doing. What we are doing is making one entry in that sweepstake. We are making one bet on the necessity for having this system at the turn of the century.

The Soviet Union has three, the Germans, the Japanese, and the British are entered, the French have two—almost every advanced nation in the world has some prototype entry into the breeder technology. I think it would be foolhardy in the exteme, Mr. President, for the United States to withdraw from that competition and cancel its hedge against the necessity for this system in the future.

Mr. President, I for one do not believe that any government or any private entity has ever regretted an investment in long-term, high technology research and development. There is almost universal agreement in this country that failure to keep pace with technology in basic industries is at the root of many of our economic problems today. And yet here we are, once again, considering the wisdom of throwing away the single, proven technology that we know today can put a ceiling on the price of electricity forever at a price that is less than half the current cost of generating electricity from oil. No other inexhaustible energy system is yet close to that achievement.

Many of my colleagues therefore agree with those of us who believe the advanced breeder reactor technology must be preserved, but question whether this reactor, the Clinch River breeder reactor, is technologically adequate. My distinguished colleagues, I for one am not equipped to make that final judgment, and I suspect that few of us here today are. I do not believe the GAO even is necessarily equipped to make that judgment, but they have asked that question of a good many experts who are. And the General Accounting Office, which has had much to say about CRBR, some good, some not so good, simply says:

> No one we talked with was able to provide us with any specific facts indicating that components or design features were obsolete.

Mr. President, we lost 5 years in a construction and licensing hiatus on this project, a hiatus which was finally broken by the favorable August 5 decision by the NRC. We are ready to proceed, and I would urge my distinguished colleagues to finish what we have begun. Let us not leave the landscape strewn with the relics of incomplete ideas. Let us have the courage today to say, once and for all, we will put a ceiling on the price of one form of energy, electrical energy, for the indefinite future.

I urge my colleagues to reject the amendment before us.

Mr. BUMPERS. Mr. President, how much time remains?

The PRESIDING OFFICER. Four minutes, 47 seconds.

Mr. BUMPERS. First of all, I want to say there is not a man in this body for whom I have more respect than the distinguished majority leader, nor is there a State with which I have a closer affinity than my own State of Arkansas with the exception of Tennessee.

I am happy to see any project go in Tennessee, except this one. I have absolutely no quarrel with Tennessee being the location for our first fusion commercial demonstration.

But I want everybody to bear in mind that we have spent more than $1 billion already, and just last week they took a bulldozer down there and started clearing a site. That billion dollars was mostly for R&D and we have gotten the benefit of that, but most of what we have gotten are things that will not work, rather than the things that will work.

I want to quote what Edward Teller said. He does not happen to be one of my favorite people. But he has called the project "inconsistent with badly needed economy in the Government" and "technically obsolescent."

David Stockman—maybe not the best fellow in the world to quote anymore—when he was in the House of Representatives, sent out a "Dear Colleague" letter that says Clinch River is "incompatible" with the free enterprise system.

Secretary Edwards testified before the Energy Committee, on which I sit,

that this administration's energy policy will be only to put Federal dollars in long-term, high-risk technology. There is nothing high risk about this. The French and the British and the Japanese and the Soviets have them. Every one of them have put their technology on the back burner because of cost overruns and inefficiencies.

This technology is not long term, and it is not going to ever be competitive with light water reactors, coal-fired reactors, hydropower, or any other power I know anything about.

This project was started because we thought we were going to need the technology to meet a 7-percent annual increase in energy demand. That demand is now between 1 and 2 percent, where it has been for 3 years. We do not need the Clinch River project, and we certainly do not need it at a cost of $8 billion and $20 million per megawatt.

I plead with my colleagues to do your duty and do the sensible thing and stop this project before it gets started.

I yield the floor.

Mr. McCLURE. Mr. President, will the Senator from Oregon yield 5 minutes to the Senator from Idaho?

Mr. HATFIELD. Yes.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. McCLURE. I thank the Senator for yielding this time. I appreciate the statement by my colleague from Tennessee, because I am afraid the opponents of the Clinch River breeder have succeeded in erecting a number of factual barriers—and I use that term loosely—by talking about—obsolete technology. As a matter of fact, that is simply not supported by the evidence. As a matter of fact, repeated assessments by the General Accounting Office and most recently supported by their July 12 report—that is July 12, 1982, have found that:

> Among a wide range of knowledgeable industry, Government, and private individuals. No one we talked with was able to provide us with any specific facts indicating the components or design features were obsolete.

That is from the GAO and not from JIM McCLURE.

I would suggest, also, that the cost overrun questions are greatly inflated. Again, the opponents of the Clinch River breeder reactor have come up with false and phony and rigged figures and then repeat them. The fact of the matter is that if you look at the design costs of the plant at the time they were designed, what they were intended to do, and apply the inflation factor to it that is inherent in society generally, the Clinch River breeder has suffered no more than any other and, as a matter of fact, it is lower than the inflated costs that are attached to general construction activity. So that the cost overrun question simply is not supported by the facts.

Those who have talked about an $8 billion cost are using inflated and phony figures and I do not think they know that. I am sorry that they do not know about it, but they have included such matters as including the cost of plutonium fuel—I wonder if the Senator from Arkansas knew that—when, as a matter of fact, we already own it. We do not have to buy any. We already own it.

They have ignored the fact that there will be $200 billion worth of fuel produced by this plant during its operation and that is not credited at all. So they use a phony fuel cost and ignore a real fuel benefit in the assessment of the economic value of the cost of this program.

Mr. President, I do not know exactly how to compete with the kinds of accusations that have been made in the very limited time available to us this morning.

Before turning to the substance of the amendment, I want to state at the outset that I fully respect the good intentions of the cosponsors and declared supporters of this amendment. The Clinch River project has remained a controversial project ever since President Carter publicly targeted it for termination less than 1 month after his inauguration in 1977. Despite the best efforts of the Carter administration and its congressional supporters over the succeeding 4 years, the project is proceeding apace today. I am sure that thousands of Americans, as well as this Senator, took great pride in the newspaper pictures in the last few days of construction work finally underway at the site in Tennessee. Perhaps a few others, including the supporters of this amendment, were saddened by those pictures. In any event, I want to assure my possibly disappointed colleagues as we begin this debate, that this Senator approaches the debate as a legitimate and healthy exercise of the legislative process in fashioning our Nation's energy policy and future. Needless to say, I am convinced that our energy policy and future will be best served and assured by defeat of the amendment and continuation of the Clinch River project. Let me now turn to the substance of the amendment.

Mr. President, this amendment deletes funding for the Clinch River breeder reactor project. The liquid metal fast breeder reactor represents the only known technology capable of supplying our electrical energy needs for the indefinite future at a cost which approaches the current cost of electricity generation. We therefore believe it is essential that such amendments be defeated in order to preserve the advanced breeder reactor option for this country.

For 5 years, the Clinch River breeder project has been attacked with a variety of arguments for its termination. Each year, Congress has repulsed these arguments, and the plant today stands with 70 percent of components completed or on order and onsite construction finally begun, pursuant to the favorable August 5 decision of the Nuclear Regulatory Commission. The arguments against completing this essential research and development facility are no more valid today than they have been in previous years. The American breeder reactor program is today at the point where the sensible next step is the engineering demonstration of a first large-scale breeder reactor electric powerplant. The CRBR is therefore appropriate and prudent in a carefully timed, conservatively paced engineering development program.

The Clinch River breeder reactor is not technologically outmoded or inherently unsafe, as some have argued. Repeated assessments by the General Accounting Office, most recently supported by their July 12 report, have found that among "a wide range of knowledgeable industry, government, and private individuals * * *. No one we talked with was able to provide us with any specific facts indicating that components or design features were obsolete."

The continued keen interest of French, British, Japanese, and German breeder experts in aspects of the CRBR design makes clear that the technology is current, with a number of important design refinements and a fundamental advance in the core configuration developed in the past 4 years. In short, the Clinch River reactor is meant to be a technology development and demonstration facility, and the current design achieves that objective.

Those who attack the project costs often do not mention that the final cost estimate for CRBR in early 1974, before contracts were let, was $1.7 billion. Inflation has doubled all prices since 1974, so it is quite remarkable that the most recent cost estimate of $3.6 billion exceeds inflation by only a few percentage points. Terminating the CRBR project today would leave us with nothing to show for a $1.3 billion investment. The completion costs, on the other hand, will be substantially recovered, even under the most conservative profit-and-loss assumptions, by the $8 billion revenues from the sale of electricity over the life of the project. Meanwhile, in the shorter term, the project objectives as a research, development, and demonstration activity will be fulfilled.

The recent GAO interim report on project costs, contrary to impressions created in the media, substantially confirms and supports the $3.6 billion DOE cost estimate. Exaggerated claims of project costs exceeding $8 billion can be largely attributed to imputed interest on Federal debt, a factor which GAO notes is not normally associated with cost estimates for this or any other Federal expenditure.

To those who argue that the nuclear industry should fund this project beyond their already substantial contributions, it must be pointed out that

CRBR is subject to a licensing process which has never been completed for a breeder reactor, and which will undoubtedly be longer than that for conventional light-water reactors. With the confused Federal policies of the last few years, the evolutionary licensing procedure that attaches to this new technology, and the precommercial scale of this technology demonstration facility, the private sector should not be expected to increase its contributions to this project. It is clearly a proper role for the Federal Government to complete the development of such new technologies to the point where a commercialization decision can be made by the utilities.

The suggestion that the United States might purchase French breeder technology does not recognize the problems that would be incurred in licensing the French breeder, which at this time would not meet U.S. standards. It is questionable whether the French would want to subject their technology to U.S. licensing standards because of potential upgrading and disruption in their own licensing and construction schedule that could result from U.S. scrutiny.

The international community has made its position clear on breeder reactor technology development. The international fuel cycle evaluation program in 1980 strongly supported rapid development of breeder technology, citing lower radiation exposure, less thermal pollution, and less waste for disposal. The LMFBR technology was judged to be no more prone to proliferation risk than other nuclear power reactor technology. The United States has repeatedly reaffirmed the necessity to maintain the liquid metal fast breeder reactor option.

In view of the commitment this Nation has made and will continue to make in the LMFBR program, it would be sheer folly not to proceed, as has each of the major advanced industrial nations, with the construction of a technology demonstration facility in concert with our basic LMFBR program. The reason is plain: both proponents and opponents agree that breeder reactors today, without the cost benefit gained by replication of a standardized plant, can generate electricity at a cost half the present cost of oil-generated electricity. No other inexhaustible energy system comes close to this achievement.

Let me now address more specifically the issues related to this amendment.

BREEDER REACTORS USE RESOURCES 60 TIMES MORE EFFICIENTLY

Less than 1 percent of naturally occurring uranium is usable as fuel in today's nuclear powerplants. However, in breeders, the unusable constituent of uranium can be used not only to generate electricity, but to produce additional nuclear fuel which can then be used in other nuclear reactors. The energy value of the uranium already mined and above ground is roughly equal to our total unmined coal resources or at least three times the OPEC oil reserves.

Scientists recognize the monumental implications this technology has for our fuel supply and have been working on breeders for over 30 years. In fact, America's first nuclear-generated electricity was produced on a breeder reactor.

ECONOMIC GROWTH REQUIRES ADEQUATE ENERGY

Because of its convenience and versatility, our country is relying more and more heavily on electricity to provide its power. As the economy recovers and grows over the next few years, electric power demand will increase as well.

According to the Electric Power Research Institute, a modest annual growth rate of 3 percent will require the United States to double its entire electric power capacity in 25 years—that is twice as many powerplants; this does not even take into account replacement power needs for retiring plants or substitutes for inefficient oil-fired plants.

An electricity shortfall could be the limiting factor in the Nation's economic growth.

DOMESTIC COAL AND URANIUM WILL SUPPLY THE BULK OF OUR ELECTRIC NEEDS

To break the stranglehold foreign oil exporting countries have on the United States, we will have to step up the use of domestic resources to generate electricity. Utilities today have two choices—coal and uranium. Few countries have even one abundant energy source within their borders. We are blessed with two. However, both have limitations, and both are finite resources.

While coal will inevitably remain our major fuel for electric power, there are both economic and fuel supply dangers in relying solely on a single source for all our electricity needs. In addition, the environmental effects of burning too much coal could be severe.

Nuclear power is the partner—and the competitor—that coal needs. Prudence demands that we use our domestic uranium resources wisely. The nuclear breeder technology will enable us to extend our finite resources from decades to centuries.

CLINCH RIVER: THE NEXT LOGICAL STEP IN OUR NATIONAL BREEDER PROGRAM

The Nation is now approaching midpoint in the development of breeder technology. Hundreds of millions of dollars have been invested in building a base of technology upon which a breeder demonstration plant can be built. The Clinch River breeder reactor is the next step which is needed to demonstrate the performance, reliability, environmental acceptability and licensability of such a plant in an actual utility system.

A total of 753 utilities have pledged $257 million to the project—the largest Government/industry/utility partnership in the history of this country.

Plant design is more than 85 percent complete.

Nearly $660 million worth of equipment is either complete or on order.

It is a prudent scaleup of technology. At 375 MW(e), Clinch River is 2½ times the size of the fast flux test facility (FFTF), the current U.S. breeder test plant, and roughly 2½ times smaller than the next generation breeder—a logical intermediate step toward the ability to build commercial size plants.

CLINCH RIVER IS TECHNOLOGICALLY SUPERIOR

Allegations that the project is technologically obsolete have never been substantiated. In fact, the Clinch River design is the most advanced in the world, incorporating features and innovations no other nation can claim, including an advanced core design and upgraded shutdown systems and safety features.

Thirteen independent Government reviews since 1975 have confirmed Clinch River's technical merits.

Seventeen world-renowned scientists have reaffirmed the plants technical accomplishments.

The abundant flexibility in the reactor provides the opportunity for U.S. leadership in demonstrating the practicality of various fuel cycles.

THE PLANT IS READY TO BE BUILT

After 10 years of development, the Clinch River plant is ready to break ground. About 3,500 persons in 29 States and the District of Columbia are presently employed on Clinch River. Plant design is more than 85 percent complete, with nearly $660 million worth of equipment either complete or on order. Of the total plant cost estimate of $3.6 billion, $1.2 billion has already been spent. In August, the NRC granted the project permission to begin limited construction activities.

Contrary to what many have said, termination of the plant will not necessarily save money. If canceled, the cost to the taxpayers would be $1.4 billion—with nothing to show for it. On the other hand, completion costs of $2.4 billion—comparable to the bill we pay for imported oil every few weeks—would be partially offset by net revenue from the already contracted for sale of electricity from the plant—a net cash flow into the Federal Treasury. Cancellation of the project would also jeopardize the possibility of any future joint venture between government and private industry.

Breeder technology is the only developmental energy technology today that can be assured to produce large amounts of power in the first quarter of the next century. Without operating Clinch River, the utility industry will not risk tight capital on a technology that has not benefited from proven hands-on experience.

CLINCH RIVER HAS HAD STRONG SUPPORT—WITH THE ADMINISTRATION

The Reagan administration supports Clinch River and, accordingly, requested $252.5 million in the DOE fiscal year 1983 authorization bill for its con-

tinuation. David Stockman, Director of OMB, reiterated this support in a letter to DOE Secretary Edwards. Mr. Stockman left no doubt that the administration strongly believes the project is compatible with President Reagan's free-market approach to energy. He said that:

The Clinch River Breeder Reactor should be constructed and operated—not as a commercialization activity or as an economical power generator—but rather as the logical next step in breeder research and development.

IN CONGRESS

The Congress has repeatedly endorsed the project. The House, in considering its fiscal year 1980 DOE authorization bill (H.R. 3000) on July 26, 1979, overwhelmingly rejected, 237 to 182, an attempt to kill CRBR. Similarly, on September 27, 1979, when the full Senate was given the opportunity to vote on a proposal by Senator DALE BUMPERS to delete CRBR funding from a continuing appropriations resolution (H.J. Res. 404), it was tabled by a significant 64 to 33 margin. More recently, both House and Senate versions of the Omnibus Reconciliation Act of 1981 included authorization to continue funding of the Clinch River breeder reactor project. Furthermore, in action on the fiscal year 1982 energy and water development appropriations bill, the full House voted 266 to 186 against an amendment offered by Representative LAWRENCE COUGHLIN to delete funds for the Clinch River project and the Senate voted 48 to 46 in opposition to a Humphrey/Bumpers amendment to discontinue funds.

FROM INDEPENDENT EVALUATION GROUPS

In addition, virtually all Government or private studies have concluded that this Nation should pursue the breeder as a viable energy option. Most recently, in a July 12, 1982, report, the Government's General Accounting Office reiterated its belief that the Clinch River project is the next logical step in the Nation's breeder program. Failure to construct Clinch River, it said, would "foreclose on the long-term future of a major energy option—nuclear fission * * *."

OTHER COUNTRIES ARE COMMITTED TO THE BREEDER

Other countries are adopting breeder technology much faster than we are. Eng and, France, and the Soviet Union have been operating prototype breeder reactors since the mid-1960's, and a year ago the Soviets began operating a breeder twice as big as the Clinch River plant. Germany and Japan are planning to bring their first breeders into operation during the 1980's.

To walk away from Clinch River would be a clear signal to other nations that we are not serious about pursuing increased energy production to reduce worldwide shortages as well as our own perilous and costly dependence on foreign energy sources. It would also seriously jeopardize our leadership position in the peaceful uses of nuclear energy.

CLINCH RIVER: AN ENERGY SOLUTION

By building the Clinch River breeder reactor and assuring that the breeder will be proven and available when needed, we can hand down to the next generation not another energy problem, but an energy solution—an energy source to replace those our own generation has consumed.

Wise decisions today can enrich the lives of all Americans who follow us.

It may be, Mr. President, that all of this debate is irrelevant, that everybody has already made up their minds and they are going to vote however they wish to vote and all the record is for is for a historic reference point to the vote that was already taken, to ratify attitudes that are already in place.

The fact of the matter is exactly as the Senator from Tennesssee has suggested, and that is if the United States is to develop technology, if we are going to be able to compete at the end of this century and the beginning of the next century, we must develop that technology now. We cannot wait until events have outstripped us, have left us behind.

The French obviously are doing a great deal more than we are. There are those who say if we need a breeder reactor we can always buy one from the French. Tell that to the worker in Youngstown, Ohio, who will be out of work because he does not have the opportunity to compete. Tell that to the workers across this country that will see the technology installed in this country that was developed in another country because we refused to participate in the development of the new technology that will be applied at some time in the future.

But, besides that, Mr. President, what happens to our licensing and our safety requirements if we try to install something that was developed by someone else under a very different regime of safety and control of the components than we have in this country?

Mr. President, I think it is obvious that if we are to stay where we are as a competing industrial nation we must be able to continue to develop the technologies that will be applied in the future. That is why to make any current analysis, as the Senator from Arkansas did, and say this costs more for electricity than some other method of producing electricity, simply ignores the fact that we are in a demonstration program. We are not in a commercial program. As a matter of fact, we are trying to move the technology forward so that we will have option to exercise that at a future date, an option that we do not at this time have.

Mr. President, I thank the Senator for yielding. I do not want to take all of the time that is available to the opponents of the amendment. I just urge my colleagues, who have had any opportunity to study the issues at all and look at the facts as they really are, not to accept as gospel the facts that are thrown out by the opponents when, as a matter of fact, they are not factual at all. They are myths and they are propaganda. They are misleading and they are calculated to mislead.

Mr. PROXMIRE. Mr. President, will the Senator from New Hampshire yield one-half minute to me?

Mr. HUMPHREY. I yield 30 seconds to the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I rise in support of the Humphrey-Bumpers amendment.

What is wrong with the Clinch River breeder reactor? Practically everything. It is technologically obsolete and economically illogical. Even worse, it greatly increases the risk of nuclear proliferation.

And there is nothing about Clinch which warrants this risk. The entire breeder reactor program was designed to respond to anticipated shortages of the uranium needed to fuel conventional nuclear reactors. But the shortages have not occurred and neither have the high prices that were supposed to make Clinch competitive with conventional nuclear power. Instead, the first time this plant might be competitive is in the year 2040, yes 2040.

Despite the fact that the final cost of Clinch will be close to $10 billion and not the $400 million originally promised, industry's contribution will remain frozen at $275 million. The utilities know a bad project when they see one.

Even the Department of Energy's own advisers do not consider Clinch a top priority. Their Energy Research Advisory Board rated Clinch near the bottom of its project class.

A if this were not enough, according to Dr. Ted Taylor, former Deputy Director of the Defense Atomic Support Agency, one bomb dropped on an operating breeder reactor could release as much of two of the most dangerous radio isotopes as detonating every nuclear warhead now existing.

And breeder reactors increase the risk of nuclear proliferation by increasing the amount of plutonium available for diversion into bombmaking. Is the program worth these risks? Of course not.

Mr. President, going forward with this plant does not make any sense. All of the other countries experimenting with breeders are pulling back from the technology. The enormous expense is not worth the risk.

A recent Wall Street Journal editorial says it best, "There is no need and no excuse for new subsidies for its development in the midst of a budget emergency."

I urge my colleagues to support the Bumpers-Humphrey amendment.

I thank my good friend.

Mr. HUMPHREY. Mr. President, the essential point in this debate is that breeder reactors will not be com-

mercially, attractive until well after the year 2020. I am using the words of the GAO in this instance—"well after the year 2020."

So there is no point at this juncture in spending all of this money on demonstrating a breeder reactor. We do not need it. That is the essential point.

And I say to my colleagues that you do not need to take it from me, because the Energy Research Advisory Board, which is appointed by the Secretary of Energy, had the following to say about the Clinch River breeder reactor:

The Energy Research Advisory Board believes that the construction of a breeder reactor demonstration at this time is not an urgent priority and, thus, under current budget constraints, recommends that such a demonstration be delayed until a future time.

That is a body of advisers appointed by the Secretary of Energy. So the Department of Energy is going against its own advisory board. We do not need this demonstration project at this time.

Let me also make it clear that if we zero out Clinch River that does not zero out our efforts in the area of breeder reactor research. The bulk of the program goes forward. In fiscal year 1983, under the House appropriations, at least, Clinch River is $227 million. The total for breeder reactor research is $539 million. Even if we zero out Clinch River, the bulk of the breeder reactor research program remains in place.

Mr. President, I ask unanimous consent to have printed in the RECORD an editorial published in the Wall Street Journal this past Monday supporting the point of view of the opponents of the Clinch River breeder reactor and an editorial in the Washington Times, also published this past Monday.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Sept. 27, 1982]

SCUTTLING CLINCH RIVER

Construction crews broke ground last Wednesday for the long-delayed Clinch River breeder reactor near Oak Ridge, Tenn. I some members of Congress get their way however, that may be as far as the project will ever get.

Sens. Gordon Humphreys and Dale Bumpers plan to introduce an amendment tomorrow to the continuing budget resolution that would terminate funding for the nuclear reactor. Supporters of the amendment think they have a good chance at passage because the last crucial Senate test of the program last year won by only a two-vote margin after Majority Leader Howard Baker lobbied intensely for this big investment in his home state. Since then, several conservative senators, who are normally supporters of nuclear power, have apparently turned around on Clinch River.

One big reason is acceptance of the simple view that government should get out of the energy business. The success of oil deregulation attests to the fact that market forces can easily cope with our energy demands without government intrusion and no good purpose would be served by further massive federal subsidization of any energy project, even nuclear power. This was, in fact, the Reagan administration's initial view on Clinch River until the White House acquiesced to gain Sen. Baker's support in the budget and tax fights on Capitol Hill last year.

Another concern is money. Only last week the General Accounting Office concluded that the cost of the project could exceed $8 billion, more than twice the administration's current estimate. The cost totals of the 11-year-old program have already been revised six times, and critics now say the total could rise to more than $10 billion if the reactor encounters any construction delays and suffers escalation costs.

It's also becoming clearer to many that the only reason the federal government is so enmeshed in the project is that breeder technology isn't economical and the private energy sector doesn't want to waste its own money. At least one study projects that given the availability of relatively cheap uranium fuel, breeder reactors won't be economical until the year 2030 or beyond.

Besides these concerns, there is also the haunting worry about nuclear proliferation. Breeder technology provides an easy means of acquiring weapons grade plutonium. American support of such an uneconomic nuclear technology could encourage other countries to pursue their own breeder programs with more than just electricity production in mind.

It makes no sense, especially in light of current budgetary constraints, to sink billions of federal dollars into a nuclear project that won't be economical for at least 50 years. The Senate could do us all a favor by sinking the Clinch River reactor.

[From the Washington Times, Sept. 27, 1982]

"PLUTONIUM PORK BARREL"

Congressional proponents of nuclear power can vote against the Clinch River breeder reactor with a clear conscience.

They will not be reneging on the nuclear commitment as some Senate leaders imply. They will be voting against government waste; against what Sen. Gordon Humphrey aptly describes as a "plutonium pork barrel."

The issue is not nuclear power anyway. It isn't even breeder reactors. The issue is whether we can afford to spend more than three billion dollars so Oak Ridge, Tenn., can advertise itself as the "capital of nuclear research and development."

Being for nuclear power has never meant being for inefficient nuclear power. Nuclear proponents have never been so rigid as those obsessed with wind and solar alternatives.

The idea has been to find the most economical and dependable source of energy. Even the most avid proponents favor nuclear power only when it meets that test. They gladly would switch allegiance to wind, solar or spit power if anyone could be shown to be more efficient.

Whatever the Clinch River project becomes, it will not become that. The Department of Energy's own research board has recommended deferring construction "because of its low urgency, low economic potential and low benefit-to-cost ratio."

The House Energy Subcommittee estimates the projected start-up cost of $3.6 billion, which already makes the reactor functionally ridiculous, will be more like $6.5 billion. Others such as Senator Humphrey believe it will be closer to $10 billion once you add "incidentials" like interest payments.

As for dependability, nobody is quite certain—which tells you something right there. Breeder reactors still are in their experimental stage, and although safety is not necessarily in question, shut-down time and hours-on-line definitely are.

About all one can say for sure about Clinch River is that when and if it is completed, it will be obsolete. Reactors now being planned in France and Germany are more advanced. The technology behind the Clinch River reactor is a decade old and getting older.

That brings us to a perfectly reasonable suggestion. Let Congress abandon the Clinch River embarrassment and save part of its tremendous budget for further research in breeder reactors and their ilk.

Then, when we need a truly fuel-efficient, reliable, cost-effective source of nuclear energy, we might have one—instead of another decimal point in the national debt.

Mr. HUMPHREY. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 11 seconds remaining.

Mr. HART. Will the Senator yield 6 seconds?

The PRESIDING OFFICER. The Senator now has no time remaining. The opponents of the amendment have 5 minutes remaining.

Mr. JOHNSTON. Will the Senator yield 1 minute?

Mr. HATFIELD. I yield.

Mr. JOHNSTON. What is involved here is not phony cost estimates, but the question involved here is whether the United States wants to lose its edge technologically in one of the emerging fields. The United States has been the leader since the early days of atomic energy in the atomic area. We are the greatest exporter of not only nuclear fuel but nuclear components.

The question involved here is, Do we want to try to keep whatever edge is left of nuclear excellence? If we do, then we ought to go ahead with a project which is over one-third complete, the components are over 70 percent complete, and the technology is not obsolercent. The technology is the latest in the state of the art.

Mr. President, I think it would be silly for this country, over 33 percent into this project, to cease and desist and voluntarily lose our excellence, our edge, in this most important technology that we have today.

Mr. HART. Mr. President, the Clinch River breeder reactor has shown a remarkable ability to sustain itself in the Federal budget. Today, however, a series of overwhelming forces—astronomical cost overruns, decreasing growth in demand for electricity, and unfavorable economics—will justify a Senate vote to eliminate this project once and for all.

The estimated costs for building the Clinch River breeder reactor have skyrocketed, anywhere from fourfold to thirteenfold, depending on the estimates. The cost overruns on this project exceed those that plaque many of our weapons systems. In fact, the Federal Government has already spent $1.2 billion on the project, yet not one piling has been sunk or one ounce of concrete poured.

The original 1971 cost estimate for the Clinch River breeder reactor was $400 million—or $960 million in today's dollars. An industry consortium of 753 utilities pledged to contribute $257 million—or $600 million in today's dollars. Its share, at that time, represented more than 50 percent of the total estimated cost.

During the past 10 years, DOE estimates of the project's cost have risen to $3.6 billion. But the General Accounting Office (GAO), in a report released last week, disputes the DOE figure as too low. It estimates the cost at between $8 and $10 billion, figures that include several essential elements missing from the DOE estimates: the cost of the plutonium fuel for the reactor, the imputed interest to the Federal Government for financing, and the staff time used on the project.

Yet, despite the massive increases in the project's cost, the industry's dollar contribution has remained the same. Consequently, instead of sharing 50 percent of the cost, the industry now will share less than 10 percent, should the project go forward.

If, as originally intended, this project will demonstrate the commercial viability of breeder reactors, why should the private sector not continue to bear its original 50-percent share of the costs? It should—if it truly believes in the commercial viability of breeder reactors. But, apparently, the private sector has its doubts. Early on, it secured an agreement that the Federal Government would pay for all costs exceeding the original 1971 estimate.

Others also have doubted whether breeder reactors, in general, and the Clinch River breeder reactor, in particular, could pass muster in the free market. Our current Budget Director, David Stockman once described Clinch River as "incompatible with our free-market approach to energy policy * * *. The breeder cannot compete with existing nuclear technologies within the timeframe contemplated by its advocates without continuing massive subsidies." Stockman wrote that in 1977. And, as the estimated costs have spiraled, Clinch River has become even more "incompatible" with free market principles.

The spiraling costs alone would not justify terminating the Clinch River breeder reactor if the project reaped countervailing economic benefits. But, breeder reactors do not make economic sense today. And, according to study after study, they will not make economic sense until well into the next century, if ever.

The reason is as simple as the law of supply and demand. Breeder reactors use plutonium—the raw material of nuclear weapons—to boil water and produce the steam that turns the turbines to generate electricity. Plutonium is an extremely expensive reactor fuel, extracted by a highly technical process from the spent uranium fuel rods discharged from conventional nuclear power reactors. The GAO estimates the plutonium fuel for the Clinch River breeder reactor could cost from $23 to $200 per gram. Thus, to supply Clinch River with the 6.2 million grams of plutonium required to fuel it for 5 years will cost between $143 million and $1.2 billion.

Because breeder reactors can use the plutonium "left over" from conventional reactor fuel and produce—or "breed"—more fuel than they consume, many experts a decade ago saw them as the ideal way to extend our supposedly scarce uranium resources. But using plutonium in breeder reactors to generate electricity is like feeding cream to a cow to get milk. Only when the price of oats or hay exceeds the cost of producing cream would it make economic sense. Similarly, only when the price of uranium exceeds the cost of producing plutonium would breeder reactors make economic sense.

Today, the price of uranium would have to increase tenfold, from its current level of $17 per pound, for breeder reactors to become economically justifiable. Yet, the proven uranium reserves in this country have doubled over the past 10 years. At the same time, the projected demand for uranium has drastically decreased as the growth in demand for nuclear power has declined. Consequently, the domestic uranium industry has tumbled into a severe depression that has thrown out of work virtually half of the Nation's 22,000 uranium miners—many in my own State of Colorado. The domestic uranium industry has even persuaded the Congress to restrict imports of less expensive foreign uranium as a step toward restoring its economic health. Why should we now spend billions of dollars to develop an alternative to uranium fuel, when the domestic uranium industry verges on collapse?

If current economics do not justify use of the breeder as a "uranium insurance policy," then adoption of alternative technology to the breeder reactor will make it even more economically unjustifiable. Back-fittable technology currently under development by the nuclear industry and the DOE could increase by 15 percent the uranium efficiency of existing nuclear powerplants. This technology could save ratepayers $12.7 billion through the year 2000, according to the GAO.

In addition to the uranium savings that would result from back-fitting existing reactors, we can further reduce uranium consumption by up to 40 percent with a new generation of uranium-efficient, advanced converter reactors. A full-scale effort to develop these reactors as an alternative to breeder reactors would not only significantly extend our uranium resources but also give us a highly competitive, proliferation-resistant technology with which to capture our former share of the international nuclear market.

If, as many suggest, breeder reactors are the nuclear equivalent of the supersonic transport and the Concorde jets, then uranium efficient, advanced reactors are the nuclear equivalent of the Boeing 757 and 767. If the administration truly wanted to help the failing domestic nuclear industry, it would reject the economic chicanery of those supporting the Clinch River breeder reactor and instead promote uranium-efficient advanced reactors, a product that can survive in the free market.

We have all heard the argument that breeder reactors will increase the risk of nuclear proliferation by leading us into a plutonium economy in which tons of weapons-grade material move in international commerce each year. This grim prospect alone should clinch the case against the Clinch River breeder reactor. But if it does not, economics should. In a period of severe budget austerity, declining growth in electricity demand, and abundant supplies of and decreasing demand for uranium, we should terminate now the Clinch River breeder reactor, once and for all.

Mr. HOLLINGS. Mr. President, I rise in support of the amendment of the Senators from New Hampshire and Arkansas.

Mr. President, I have long been a proponent of the development of nuclear energy in this country. However, I cannot support the construction of the Clinch River breeder reactor. Despite the efforts made by the Department of Energy and Westinghouse to improve the technology, this project is not the best buy for the money.

Mr. President, in a day and age of fiscal constraint when the Members of this body are being asked to make difficult reductions in a broad array of projects and programs, we cannot afford to fund this project. To do so will take funds away from other much needed energy projects and other discretionary spending programs. How can the Members of this body ever reduce Federal spending and balance the budget if sacred cows exist?

Mr. President, as difficult as this decision is, I feel that the arguments against the construction of this project are valid and that the funding for the Clinch River breeder reactor must be terminated.

Mr. President, at this time, I would ask that a list of arguments against the Clinch River breeder reactor be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ARGUMENTS AGAINST THE CONSTRUCTION OF THE CLINCH RIVER BREEDER

ECONOMIC AND BUDGETARY ARGUMENTS

1. It is always argued that France and the Soviet Union are building large prototype breeder reactors for operation in the early 1980's. However, it should be noted that the French recently revealed that the cost of electricity from the world's first breeder of commercial size—the much touted Super

Phoenix—is almost twice the cost of electricity from conventional reactors.

2. There are fundamental economic questions concerning CRBR. Last year, the House Science and Technology Committee, primarily on economic grounds, decided not to include the Clinch River breeder reactor in the DOE authorization. I might also reference a letter written by David Stockman in September 1977 that stated "early commercialization of the breeder will result in large economic losses to society in addition to a lengthy list of non-monetary risks in the safety, environmental and international relations proliferation areas. Therefore, no further subsidization of the Clinch River project, an integral step in the early commercialization program, can be justified."

3. An important element in the decision to build or not to build CRBR rests on the demand for electricity and the availability of uranium resources. While there is considerable debate as to future U.S. electrical demand, there is a surplus of uranium. In addition, if uranium were to become scarce, utilities would opt to use reprocessed spent fuel before going to the breeder technology because of the more favorable economics of the once-through light water reactor cycle.

4. Current DOE data show sufficient natural uranium to fuel the light water reactor industry well past the year 2020 and that the breeder may not be economical until after the year 2025.

5. The President's Report of Federal Energy R&D Priorities issued in November 1981 by the Energy Research Advisory Board concluded that "the construction of a breeder reactor demonstration at this time is not an urgent priority and thus, under current budget constraints, recommended that such a demonstration be delayed until a future time."

6. On September 23, 1982, the GAO issued an interim report on the total cost estimate of the CRBR. The GAO revised the Department of Energy September 1982 estimate of $3.6 billion to $8.8 billion. The main reasons for this dramatic increase were that DOE underestimated the cost of plutonium and did not include the cost of imputed interest. Whereas the later component usually is not normally associated with cost estimates, it does reflect the true cost of the project including the cost of Treasury borrowing.

The report also noted that additional expenses above the $8.8 billion level will be incurred for decommissioning, technical support and testing, and construction contingencies.

7. Through fiscal year 1981, $1.148 billion has been expended for the CRBR. The majority of these expenditures have been for the design, fabrication, and purchase of a nuclear steam supply system. Only recently was a site-clearing permit granted and to date no construction has been commenced. If the CRBR is not terminated at this point, you will be beyond the point of no return and will find the same arguments existing for the CRBR as the Tennessee-Tombigbee Waterway.

8. In 1973, the CRBR was estimated to cost $422 million; in 1976, $699 million; in 1981, $3.3 billion. In September of 1982, the DOE cost estimate is $3.6 billion and the GAO cost estimate is $8.8 billion. However, the level of utility participation, despite the ever increasing cost of the CRBR, remains at $257 million—the same level as in 1973! If the economics supported the CRBR, so would the utilities.

TECHNICAL ARGUMENTS

1. In May 1982, the GAO issued a report that was critical of the Department of Energy's failure to conduct complete and thorough tests of the steam generator design to be used in the CRBR. "Steam generators for liquid metal fast breeder reactors have had a history of serious technical problems. Small breeder reactors in this country and demonstration breeder reactors in foreign countries have experienced steam generator failures. Steam generators for the CRBR have also experienced a number of problems during their development."

2. Numerous articles have surfaced the "technical" flaws of the CRBR. A Reader's Digest article described CRBR as "Senator Baker's Costly Technological Turkey"; the N.Y. Times refers to the project as a "costly, ill-conceived technological turkey"; and the Wall Street Journal calls it a "white elephant recognized as uneconomic even by the nuclear industry."

3. A broad array of Congressional and scientific critics argue that CRBR is rapidly becoming technically obsolete. Besides the problem with the steam generators, the use of liquid sodium to cool the reactor's core has created additional problems because sodium burns when it mixes with air. Sophisticated techniques are required to remove and replace fuels without opening the reactor up.

4. Constuction of the CRBR would lock the U.S. into the LMFBR before we have thoroughly researched other possible breeder technologies. To quote Dr. Schlesinger, the "commercialization of the LMFBR should be deferred and the construction of the Clinch River breeder cancelled. The Clinch River Breeder Reactor cannot be justified solely as a R&D project. To proceed now requires being fairly confident this type of breeder is going to be used as the next large source of energy and that it will be needed in the early 1990's. There are now serious doubts that this scenario is appropriate."

5. Critics also argue that the haste to build the CRBR and to quickly secure a technology that may be needed in the future is premature and wasteful. It also would divert attention and resources from safer, more economical alternatives—other forms of energy, or just better nuclear strategies.

6. It is often stated in editorials in support of the CRBR that the GAO and the National Academy of Sciences support the construction of the Breeder . . . and that is true. However, to support the breeder is not to support the CRBR. Let me quote, therefore, from the GAO and the National Academy of Sciences reports:

[GAO Report of Sept. 22, 1980]

"If Congress wishes to maintain a nuclear option or if it wishes to commit to nuclear power as a long-term energy source, GAO recommends that it require DOE to demonstrate the viability of the LMFBR technology by mandating the construction of a breeder reactor facility. However, in making this recommendation, GAO wants to emphasize that it is not necessarily advocating the completion of the Clinch River project as the only means of moving the program forward. The only resolution to the impasses may be to move ahead with a larger, more recently designed facility instead of the Clinch River project."

National Academy of Sciences Energy in Transition 1985-2000 "Development of the LMFBR should continue, but without immediate commitment to construction of prototype reactors. The Committee on Nuclear and Alternative Energy Systems was divided on the issue of whether to recommend the construction of the Clinch River breeder reactor as part of this development program. . . . A majority of the committee considered the Clinch River Breeder undesirable or unnecessary for reasons that varied within the majority, including inappropriateness of its design as a developmental facility, its incompatibility with President Carter's antiproliferation policies, and its possible contribution toward committing the U.S. to commercialization of the LMFBR. A minority considered it necesssary, as a technological step that is well short of commitment to commercialization, but necessary if early commercialization turned out to be desirable."

7. I would like to quote from a telegram that Dr. Edward Teller sent to Congresswoman Schneider after she successfully defeated the authorization of the CRBR in the House Science and Technology Committee in 1981:

"I continue to urge congressional support and encouragement of the American nuclear power program, as it continues its development into one of the most secure, safe, and economical portions of national energy supply. However, Clinch River is technically obsolescent, and its small scale and large cost make it thoroughly inconsistent with badly needed economy in government."

Mr. President, based on the arguments that exist, I have no choice but to oppose the construction of this project. However, I would be remiss if I did not say the cost estimate for this project should also include the cost of the Barnwell facility. Since it is clear in my mind that the sole reason this administration wants to complete Barnwell is to provide the fuel for the Clinch River breeder.

CLINCH RIVER: UNSAFE AND UNWISE

Mr. MITCHELL. Mr. President, I rise to support a long overdue and essential measure to eliminate funds for the Clinch River breeder reactor (CRBR).

In the late 1960's and early 1970's, when plans for the CRBR project were first conceived, a breeder reactor offered a special appeal because it would have the capacity to produce fuel while generating electricity; each successive breeder would be able to produce more fuel for the next reactor.

Clinch River seemed even more appealing due to fears that the price of uranium—the fuel of nuclear reactors—would skyrocket in the 1980's; that electricity demand would continue to grow rapidly through the last quarter of this century; and that nuclear power would account for much of that electricity growth.

In essence, the breeder in 1971 promised an inexhaustible source of energy as our Nation headed into decades of electricity growth and energy insecurity.

Today, that promise has faded: the economic assumptions which gave rise to Clinch River in the early 1970's are contrary to the economic realities of 1982.

Electricity demand has not increased as projected. The annual electric growth rate of 7 percent between 1960 and 1973 has steadily decreased to a current annual rate of 3 percent.

Instead of steadily rising in price and becoming more scarce, uranium has decreased in price and become more abundant with the discovery of new reserves in the United States.

Canada, and Australia. While uranium prices have dropped from about $40 to $20 per pound, numerous studies estimate that a breeder reactor would not be economical until the price of uranium reaches $165 per pound.

And nuclear power has not contributed to electricity growth as predicted. The Energy Information Administration now predicts that nuclear power will contribute 145 to 185 gigawatts of electr ty in the year 2000, less than 15 pe ent of the previously projected 1200 gawatts.

Clearly, these figures indicate that the economic basis for Clinch River has virtually disappeared.

While the promise of Clinch River has faded, its cost has not.

In 1971, the Atomic Energy Commission and a consortium of utilities agreed to become partners in the Clinch River project. The original estimate for CRBR then was $400 million. The estimate rose to $700 million in 1972. Eleven years later, the new Department of Energy estimate for the project is $3.57 billion. The cost of Clinch River has increased seven-fold, even though ground was just broken at the site last week.

One easily wonders how rapidly the overruns will accrue if construction begins in earnest. That question was recently answered by a General Accounting Office report which concluded that the Clinch River breeder reactor could cost $8.8 billion, more than twice the current administration estimate.

The cost overruns also provide evidence of why the private sector chose to sharply limit its contribution to the CRBR project. After establishing a partnership with the AEC in 1971, the consortium of utilities backed down from its full commitment a year later. In 1971, the Federal Government assumed all cost overruns with utility contributions frozen at $257 million.

To date, the consortium of utilities have committed only about $122 million. Of the total DOE cost estimate of $3.57 billion, American taxpayers will bear over 90 percent of the cost. The private sector will pay only 7.2 percent of the projected total cost.

What the private sector has deemed too costly, unprofitable, and not worthy of further investment, the Federal Government has continued to subsidize. The private sector's actions in regard to CRBR clearly indicate that Federal support for CRBR is poor public policy; that it runs counter to the free market; and it makes no economic sense.

But Clinch River is not merely an economic or energy issue. The project would also seriously increase nuclear proliferation risks. Breeder technology provides an easy means of acquiring plutonium, the stuff of nuclear bombs. Only 12 pounds of plutonium are required to manufacture an atomic bomb of the size that destroyed Nagasaki.

Breeder technology promises to hasten all the concomitant problems associated with the development of a plutonium economy—of large quantities of plutonium being transported, processed, and stored.

As The New York Times has stated,

No effective international control of separated plutonium seems possible. The use of plutonium as reactor fuel would widely distribute the substance employed as a nuclear explosive—and which could be made into bombs in a few hours by governments or terrorists.

Furthermore, our development of a breeder reactor can only serve to encourage other nations to start their own breeder programs. Where we might provide adequate safeguards against the abuse of the breeder in this country, we might not be able to feel such assurance when other nations build their own breeders for their own purposes.

Far from securing our long-term energy needs and fulfilling the promise of endless energy, Clinch River would promise to have the immediate effect of providing us with lasting proliferation risks.

As a member of the Senate Subcommittee on Nuclear Regulation, I have been extremely concerned and involved with issues of nuclear safety. The arguments over CRBR have traditionally centered on breeder technology, breeder economics, and nuclear proliferation risks. But there is a significant safety issue to Clinch River which also must be included in the arguments against the project. Take, for example, this assessment from an article in the summer 1982 Amicus Journal:

While the present generation of nuclear power plants is plagued with unresolved safety problems, breeders are potentially more dangerous. With a tightly-packed plutonium core and an accelerated rate of fission required for "breeding" more fuel an accident at a breeder reactor might result in an atomic explosion. In addition, breeders are cooled not by water, instead by highly volatile sodium. Recently in France, the Phenix demonstration breeder reactor was forced to shut down due to sodium leakage, resulting fires, and fear of a hydrogen gas explosion. Two earlier experimental breeders in the United States, the EBR-1 in Idaho and Fermi-1 near Detroit, experienced partial fuel meltdowns and have since been shut down.

Finally, Clinch River must be viewed in comparison with other competing national priorities. In a time of fiscal restraint, pouring money into an unnecessary, unsafe $8.8 billion project represents a misuse of the taxpayers' dollars. Our necessary national commitments are many; each presses its own security, environmental, human, economic or social needs. But Clinch River continues to receive a substantial share of Federal energy funds. Continued Federal support for this project only prohibits our turning more of our attention and resources toward more urgent tasks.

Clinch River is far too costly, obsolete, unnecessary and unsafe. We should face up to that fact right now, and eliminate for good the flow of funds to this project.

Mr. EAGLETON. Mr. President, I rise in supported of the amendment being offered today by Senator BUMPERS to delete funding for the Clinch River breeder reactor.

Mr. President, many of those present today supported the Clinch River project when it was first funded 10 years ago. Under the circumstances at the time, the project made sense. We perceived a need for a nuclear reactor that could make efficient use of uranium which we thought would be in scarce and expensive supply before the turn of the century. The breeder reactor was an attractive answer to that need. It was to be completed in 1979 at a cost of $700 million and would not only use uranium more efficiently, but it would also produce or "breed" more fuel than it used.

For better or for worse, time has not been good to the project's development or to the premises on which the project's proposal was based. It has been with growing dismay and later disgust that Clinch River's early supporters have watched the completion date and cost estimate lurch from one revision to another.

The Clinch River facility is now expected to being "demonstrating" breeder technology in the early 1990's—11 years late. The minimum completion cost, according to the General Accounting Office, is estimated to be $8.8 billion—$8.1 billion over budget.

Putting aside these glaring testiments to how any enterprise ought not to be run, let us analyze the initial grounds for proposing the concept of a breeder reactor.

As I previously stated, Mr. President the beauty of the breeder reactor is its efficient use of uranium and its ability to produce more nuclear fuel than it consumes. In the early 1970's, energy gurus predicted a severe shortage and price escalation of uranium based on three assumptions: First, The U.S. would experience a 7-percent electrical demand annual growth rate; Second, over 1,000 new nuclear plants would generate the additional electricity by the turn of the century (thereby depleting our uranium reserves); and Third, reserves of uranium in the U.S. would total 1.7 million—enough to fuel 340 reactors.

All three assumptions have turned out to be false: First, U.S. electrical demand growth has, in fact, slowed to 3 percent per year recently and has actually declined 1.9 percent in 1982. Projections are for 2 percent annual growth in the future; Second, accordingly, 60 U.S. nuclear plant proposals have been cancelled since 1975 and DOE expects no more than 165 operating reactors by the year 2000; and Third, currently, there is a glut of uranium on the market and estimates of

uranium reserves have more than doubled since 1974.

In the early 1970's, we assumed that future high uranium prices would make electricity generated by expensive breeder reactors more economical than electricity generated by current light water reactors. This assumption, of course, is no longer valid. Uranium is and will be plentiful and the price of the fuel has declined 59 percent since 1974. The breeder reactor will not be economical for a long time to come.

In the words of Frank von Hippel, senior research physicist at Princeton University and chairman of the Federation of American Scientists:

> At foreseeable uranium prices, the breeder cannot compete economically with ordinary power plants . . . it may be a century before the price of uranium can be expected to reach the level that would make breeder reactors economical.

Mr. von Hippel has joined a growing body of concerned scientists, labor unions, environmentalists, religious bodies, business-oriented and consumer-oriented interest groups that view the Clinch River project as a flagrant violation of the trust that taxpayers have placed in Government to spend tax dollars in a prudent and beneficial manner.

It is ironic if not hypocritical that the Republican administration, which has focused on terminating or crippling Government programs they perceive as wasteful or useless, now blindly disregards this $8.8 billion travesty being foisted on the American public.

Mr. President, I suggest that in place of giving, in effect, a blank check to the breeder reactor in Tennessee, the Senate consider reinstating past funding levels for the many fine programs the administration has cut. We could start by eliminating the administration's 1982 cuts of $1.5 billion for medicare, $2 billion in Government unemployment programs, $600 million in student aid, $1.1 billion in low income energy assistance, $1.6 billion in the food stamp program, and $256 million in weatherization funds. We could do all of this and still not come close to the $9 billion that will be spent on the Clinch River folly.

Finally, Mr. President, I would like to point out that this debate is not a debate about the nuclear industry, per se, nor will the vote be a referendum on the merits of nuclear power. Individuals from both sides of the nuclear issue have joined forces to put an end to what has been a very expensive instance of pork barrel politics.

It is time to drop this "technological turkey" and get on the serious business of strengthening the U.S. energy base through the promotion of alternative energy systems, energy conservation and by shoring up our current coal and nuclear industries.

We have already wasted $1.2 billion on Clinch River; I see no reason to squander another $7.6 billion. The project will only become more wasteful and obsolete.

I urge my colleagues to vote for Senator BUMPER'S amendment and against continued funding for the Clinch River breeder reactor.

Mr. DECONCINI. Mr. President, this is the time to make a tough but realistic decision regarding the Clinch River breeder reactor project in Tennessee.

I originally supported the committee's funding of the Clinch River breeder reactor in earlier years. The promise of an electric power plant designed to produce more nuclear fuel than it consumes, leading to unlimited future energy supplies is a worthy one. That promise justified in my mind the investment of public moneys for a research and development project.

However, we must base our decisions on available information and continuous reassessment of the costs, risks, and potential benefits. With the limited funds we have to work with, we have to decide what is practical and what is not.

I recommended to the committee last year that it eliminate the requested $228 million budgeted for the Clinch River project and designate less than half of that sum, approximately $111 million to solar and renewable resources programs. Unfortunately that did not happen. The transfer of Clinch River funds to solar programs is still a good idea, and I hope we will consider that possibility in our fiscal year 1983 bill.

Mr. President, as my colleagues consider the arguments made both in favor and in opposition to continuing the project, I would have them take a good hard look at the one single overriding factor that has changed my mind—cost. Last year the project costs were estimated at more than $3.2 billion—a 450 percent increase from the original $669 million. This year we hear $5.3 billion, and the ground has still not been broken.

The question is not on the breeder technology but on the economics and planning of this particular project. The issue is not only $180 million last year, but $237 million in 1983. Hundreds of millions of dollars in 1984, hundreds of millions of dollars in 1985, hundreds of millions of dollars in 1986, and so on, and so forth. We all know further increases in these estimates are inevitable. Next year it will be $9 billion. Also, even if this 375 megawatt project is completed by 1990 (again, construction has not yet started) there will still be a demand for a 1,000 megawatt demonstration plant, as the next stage of development. This will take another decade, and certainly billions more with no guarantee of private sector support.

Mr. President, for a small fraction of this cost and with much greater private investment we can firmly establish a solar and renewable energy industry in this country. We can attain, with a fraction of these costs, renewable resources sufficient to meet the 1 to 3 percent growth in electricity demand through the 1980's and 1990's.

This technology has promise and we should continue our R & D programs. However, I believe the time has come to simply stop the CRBR project and sincerely demonstrate to the American people that we are serious in our efforts to end the waste of public funds.

● Mr. RIEGLE. Mr. President, I rise in support of the Bumpers-Humphrey amendment to terminate all Federal funding for the Clinch River breeder reactor. This multibillion-dollar expenditure of taxpayers' dollars is one the Nation can ill afford at this time. In the face of staggering budget deficits when we are told by the administration that we cannot afford food stamps, remedial education, aid to cities, and portions of the civilian space program, how can we be asked to spend from $2.3 to $7.5 billion to complete a nuclear facility which will not be useful for another 30 years? The basic assumptions which served to justify this project in the early seventies are no longer valid. First, uranium resources are not being depleted, in fact, uranium is the only energy resource which has decreased in price since the 1975 oil embargo due to abundant supplies. Second, the future demand for electricity from nuclear sources are currently projected to be at least 10 times less than estimates used in justifing the Clinch River facility.

As a former colleague of mine from Michigan wrote in 1977:

> We will be forcing a product on the market before its time. During the next three decades the breeder will not be the least cost alternative for generating electricity, yet it will be the one given the overwhelming competitive advantage by virtue of having been selected as the government's choice. The result of this premature commercialization will be billions of dollars in irretrievable loss to the economy.

Now, OMB Director Stockman, speaking for the administration, states:

> The Clinch River Breeder Reactor should be constructed and operated—not as a commercialization activity or as an economical power generator—but rather as the logical next step in breeder research and development.

Very little has changed in the facility's design during the 5 years between these statements except that the price of the facility has risen and the price of uranium has dropped. The administration further states that the Government should provide this vital research and development to the capital poor utility industry. I strongly urge Senators to exercise fiscal responsibility on the Clinch River project and delete it from the Federal budget.

● Mr. DODD. Mr. President, It is rare that I have the chance to quote from a Heritage Foundation report in support of my position. But on the issue of the Clinch River breeder reactor, the Heritage Foundation is right: "The Clinch River breeder reactor may be the SST of the 1980's."

Congress at least had the sense never to get involved with funding the SST. Unfortunately, since the 1970's we have continued to meddle with the fate of the Clinch River breeder reactor—and have continued this project's livelihood long after it should have ground to a halt.

The Clinch River breeder reactor was authorized in 1970 in the hopes of producing an inexhaustible nuclear energy source. Unlike conventional nuclear reactors, breeder reactors produce fuel while generating electicity and were believed to be this country's best hope for producing economical, clean energy.

But more than a decade later, the Clinch River breeder reactor has yet to produce anything but mounting cost overruns. Congress has already poured close to $1.2 billion into the project—yet Clinch River's groundbreaking occurred only last week. Meanwhile, costs for the reactor have soared from the originally estimated $699 million to $3.57 billion. The Government's share of the liability has increased to $3.3 billion—eight times the original estimate. Worst of all, in 1975 the U.S. Government agreed to pick up all cost overruns for the project—while limiting utilities' contributions.

As costs for the Clinch River breeder reactor have escalated, arguments for its usefulness have diminished. The originally predicted shortage of nuclear fuel has never materialized. In fact, no new reactors have been ordered since 1978—and contracts for others have been deferred or cut. The country's electicity use appears to now be on the downswing. The Department of Energy's own research board last year recommended deferring construction of Clinch River because of lack of demand for the project; the Congressional Budget Office concluded that the future need for breeder reactors appear at best to be unclear.

Mr. President, I would urge my colleagues to vote no against continued funding for the Clinch River breeder reactor. I would also like to submit for reproduction in the RECORD the following editorial from Connecticut's Hartford Courant. I believe this editorial cogently outlines arguments against continuing funding for the Clinch River breeder reactor.

The article follows:

[From the Hartford, (Conn.) Courant, Aug. 18, 1982]

NO NEED FOR THE "BREEDER"

No target for federal budget cutting could be more obvious than the Clinch River Breeder Reactor in Tennessee.

The breeder, which would take about $3.2 billion to build, is already considerd a white elephant by some nuclear experts. It would create a slew of new safety problems, and no compelling case has been made that it's a necessity.

In fact, the General Accounting Office last month issued a report that said the priority given the project by the administration "might be miplaced, especially at a time of extreme fiscal constraint."

Commercial breeders, which would produce more nuclear fuel than they consume are not likely to be deployed for at least a half century. Why, then, the sense of urgency to provide federal money to subsidize a plant that should be paid for by private industry anyway?

On its third try, the administration finally got the Nuclear Regulatory Commission to agree to permit a speedup of construction for the plant. The NRC has said the Energy Department could bypass normal licensing requirements and begin initial construction at Oak Ridge almost immediately.

Congress, which this summer must decide whether to appropriate about $253 million for the project in fiscal 1983, should not be so hasty to support the breeder.

If it were built, the plant would open up a whole new range of problems that President Carter tried to forestall with his opposition. Among them are the increased threat of terrorism and the possible diversion of the plant's radioactive plutonium product to refashion for use in nuclear weapons.

Congress still has the opportunity to nip potential nuclear problems in the bud, while snipping some conspicuous fat from the federal budget. It should vote no on funding for Clinch River.●

Mr. SPECTER. Mr. President, after studying this matter at length, it is my judgment that the Clinch River breeder project should not be halted after the Federal Government has already invested $1.3 billion. At this juncture, 70 percent of the components are completed or are on order. If we were to start anew, my conclusion might well be different.

As I see it, there is no doubt about the absolute necessity to develop energy resources in as many diverse ways as practicable. We have already learned a bitter lesson on reliance on OPEC oil. While I recognize the weight of the arguments on the other side, I am persuaded that this project represents the state-of-the-art on an important energy alternative, so that our substantial investment should not now be abandoned.

Mr. TSONGAS. Mr. President, the Senate once again finds itself considering the Clinch River breeder reactor project. Unlike many other projects, the case against the CRBR gets stronger with time. Each time the Congress debates this matter, each time the media goes over the facts, the political support for this project weakens. The facts are simple.

The rationale for Clinch River has completely vanished. The annual growth in demand for electricity has dropped from 7 to 1 percent per year. New orders for nuclear reactors have ceased and many reactors under construction have been canceled.

The supply of uranium has increased and the price of uranium has dropped. There is also increasing evidence that light water reactors can be made more efficient in their use of uranium, stretching uranium resources even further. Because of these developments, the breeder will not be needed for 40 to 50 years, and probably will not be economical even longer than that.

The costs of CRBR have risen out-of-sight and are way beyond any projected benefits claimed by proponents. Initially conceived as a $400 million project with private sector cost sharing, the cost has risen to an astounding $8.8 billion, according to the latest GAO report. Even this does not include the cost for facilities that will be needed for reprocessing wastes and does not anticipate future delays and cost overruns. Meanwhile, industry's commitment to share the costs has been frozen at $257 million. This makes it very clear that the private sector sees little value in the project. While this administration is leaving so many other technologies, like solar, conservation, and fossil fuels to the private sector, it is inconsistent to continue enormous Federal support for Clinch River.

Clinch River raises other concerns more serious than merely the cost to the Federal Government. Clinch River will generate large amounts of plutonium which can be used in nuclear weapons. The commitment to a pultonium economy represented by Clinch River would lead us to a global situation where it will be nearly impossible to slow the proliferation of nuclear weapons.

In addition, the Clinch River design utilizing a "loop" type of reactor vessel is out of date. Foreign experience, often held up by proponents as a reason for us to push ahead if we want to be competitive, have experienced huge cost overruns, extensive delays, and technical difficulties. The fast breeder would appear the SST of the 1980's.

Even many of those who are enthusiastic about nuclear power and breeders have withdrawn their support of Clinch River. They see safety and reliability improvements to the light water reactor and continued research on alternate breeder cycles to be far more advantageous.

To summarize, the case against Clinch River, we do not need it, it is not economical, we cannot afford it, and it presents serious proliferation risks. I believe that Clinch River will never be completed. Eventually, the President and Congress will recognize it as a technological turkey. The question before us today is whether we waste any more money on it before we call it quits on a $8.8 billion boondoggle.

Mr. HUMPHREY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

The yeas and nays were ordered.

Mr. McCLURE. How much time remains?

The PRESIDING OFFICER. Three minutes twenty seconds.

Mr. McCLURE. I yield to the Senator from Tennessee.

Mr. SASSER. I thank the Senator for yielding.

Mr. McCLURE. Will the Senator from Oregon yield time?

Mr. HATFIELD. I yield 1 minute to the Senator.

Mr. SASSER. Mr. President, I rise in opposition to the Bumpers-Humphrey amendment to the continuing appropriations resolution, H.R. 599.

This amendment would eliminate funding for a demonstration project that is already one-third of the way completed. This amendment would, in essence, waste the nearly $1.3 billion already invested in the Clinch River breeder reactor project. The Clinch River breeder reactor is a necessary and vital first step in insuring our Nation's future energy independence. I am opposed to this amendment to the continuing resolution, and I strongly urge my colleagues to join me and continue funding for this vital energy project.

Mr. President, this amendment has no place in our present consideration of the continuing resolution. The Clinch River breeder reactor project is an important national energy project, but only one of many projects included in the continuing resolution. To debate the continued funding of the Clinch River project within the context of this continuing resolution is an unfair attempt to single out and eliminate current investment in the Clinch River breeder reactor project.

The estimated costs of completing the Clinch River breeder reactor project is $3.2 billion. Nearly $1.3 billion has already been invested in this project. Abandoning our efforts on the Clinch River project now would, in effect, waste the tremendous amount of human resources and funds that have been invested in the project.

Mr. President, I urge my colleagues not to turn their backs on the Clinch River project. To accept this amendment to eliminate funding would put an end to the efforts of more than 3,200 people over a 30-State region and the District of Columbia who have worked long and hard on the design, fabrication, and testing of the Clinch River breeder reactor project.

This amendment would write off the $135.1 million that has already been contributed by the private utilities industry to develop and support the Clinch River breeder reactor; 753 private utilities have pledged a total of $257 million to date to support this demonstration project in the hopes that they will eventually be able to assume complete control for the development of this technology.

Mr. President, opponents of the Clinch River breeder reactor unfairly cite bloated and deceptive cost estimates in seeking to eliminate its continued funding.

Mr. President, many of the criticisms and misperceptions surrounding the continued funding of the Clinch River breeder reactor can be attributed to findings and estimates which were recently published in the General Accounting Office report on the Clinch River project. The GAO report included an analysis of such cost factors as imputed interest, offsets, contingencies, and plutonium costs. These factors represent cost estimates not normally included in Federal projects. The inclusion of the imputed interest estimate alone attributes an excess of $3 billion being added to the total cost of the Clinch River project.

But the $5 billion cost overrun cited in the GAO report is wholly inconsistent with its statement which "found no reason to question the accuracy of many of the costs included in the Clinch River breeder reactor project's total cost estimate." The effect of the addition of these other extraneous factors in the GAO report grossly distorts the more accurate cost estimate of $3.2 billion for completion of the Clinch River breeder reactor project.

Mr. President, the Clinch River breeder reactor project is not a commercial project. It is a demonstration research and development project. Given the opportunity, the completion of the Clinch River breeder reactor could demonstrate for once and for all the technical performance, realiability, and economic feasibility of a liquid metal fast breeder reactor for meeting future energy demand. It would also help confirm the value of conserving our important renewable natural reserves of coal and uranium.

We must not now abandon our decade-long effort to gain energy independence. Unless we take positive steps now to assure our Nation's energy future, foreign oil and ever-depleting natural resources will cast a long and gloomy shadow over our Nation's future energy policies.

To abandon the Clinch River breeder reactor project now would be crippling blow to the U.S. breeder program. It would destroy the value of our present technological investment. It would demoralize and reduce the technical manpower teams presently pursuing breeder development. It would signal to the world that the United States no longer is committed to maintaining its role as a serious contributor to technical advancement in the nuclear field.

Mr. President, we do not have the energy resources by which we can remain infinitely independent.

We do have the technology by which we can now move toward energy independence.

It has been the sense of the last several Congresses to support the continued funding of the Clinch River breeder reactor project. We should not turn off funds on this project at this point.

I am opposed to this amendment to the continuing resolution, and I strongly urge my colleagues to join me and continue funding for this vital technology.

Mr. HATFIELD. Mr. President, if there is no one else who wishes to speak against the amendment I am willing to yield back the remainder of my time.

Mr. McCLURE. Mr. President, how much time remains?

The PRESIDING OFFICER. Two minutes, eight seconds.

Mr. HATFIELD. I am happy to yield 1 minute to the Senator from Idaho.

Mr. McCLURE. I thank the Senator for yielding. I just want to underscore one thing that people ought to keep in mind. That is the benefit of the Clinch River breeder as measured today ought to be in terms of the difference between the completed cost and the cost to cancel. There are components on order, not just the money which has already been spent, not just the money which would be wasted with respect to all of the reactor vessels, all the components, the sodium pumps, and all the rest that are already on hand. But what would it cost us to cancel the program by canceling the contracts that are already in being and pay off the contractors that already have contractual obligations with the United States for the furnishing of equipment, supplies, and construction? Compare that cost to the value of completing it. That cost gap is very, very small.

If people will focus on that for a moment there would be no debate. Really, there would be no argument.

Basically, what the Senator from Louisiana has said is exactly correct. It is a question of whether or not the United States wants to remain with the technological advancement it now has.

Mr. HATFIELD. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from New Hampshire. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Montana (Mr. BAUCUS), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Hawaii (Mr. MATSUNAGA) are necessarily absent.

I further announce that, if present and voting, the Senator from Montana (Mr. BAUCUS), and the Senator from Massachusetts (Mr. KENNEDY) would each vote "yea."

The PRESIDING OFFICER (Mr. ABDNOR). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 48, nays 49, as follows:

[Rollcall Vote No. 365 Leg.]

YEAS—48

Armstrong	Eagleton	Moynihan
Bentsen	Exon	Nickles
Biden	Glenn	Nunn
Boschwitz	Goldwater	Pell
Bradley	Hart	Percy
Bumpers	Hatfield	Proxmire
Byrd, Harry F., Jr.	Hawkins	Pryor
Byrd, Robert C.	Hollings	Quayle
Chafee	Humphrey	Randolph
Chiles	Jepsen	Riegle
Cohen	Kassebaum	Roth
Cranston	Leahy	Rudman
DeConcini	Levin	Sarbanes
Dixon	Lugar	Stafford
Dodd	Meicher	Tsongas
Durenberger	Metzenbaum	
	Mitchell	

NAYS—49

Abdnor	Grassley	Packwood
Andrews	Hatch	Pressler
Baker	Hayakawa	Sasser
Boren	Heflin	Schmitt
Brady	Heinz	Simpson
Burdick	Helms	Specter
Cannon	Huddleston	Stennis
Cochran	Inouye	Stevens
D'Amato	Jackson	Symms
Danforth	Johnston	Thurmond
Denton	Kasten	Tower
Dole	Laxalt	Wallop
Domenici	Long	Warner
East	Mathias	Weicker
Ford	Mattingly	Zorinsky
Garn	McClure	
Gorton	Murkowski	

NOT VOTING—3

Baucus	Kennedy	Matsunaga

So the amendment (UP No. 1309) was rejected.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The question occurs on the amendment of the Senator from Ohio.

UP AMENDMENT NO. 1310

Mr. METZENBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration. It is an amendment to my amendment.

The PRESIDING OFFICER. The Senate will be in order.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes an unprinted amendment numbered 1310.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the word "Notwithstanding", and insert in lieu thereof the following:

"any other provision of law, the provisions of subtitle A of title VI of the Tax Equity and Fiscal Responsibility Act of 1982, establishing a Federal supplemental benefits program of unemployment compensation benefits shall remain in effect, and an individual's period of eligibility shall continue, without regard to any provision in such Act relating to termination of such Federal supplemental benefit program, or to the end of such period of eligibility, until the national seasonally adjusted total rate of unemployment is less than or equal to 6.7 percent.

"(b)(1) Notwithstanding the provisions of section 2402(b) of the Omnibus Budget Reconciliation Act of 1981 the amendments made by subsection (a) of section 2402 of such Act shall not be effective for determining whether there are State "on" or "off" indicators for weeks beginning on or after June 1, 1982, and before the month following the first month thereafter for which the national seasonally adjusted total rate of unemployment is less than 8.7 percent.

"(2) For purposes of making such determinations described in paragraph (1), the rate of insured unemployement for all weeks shall be calculated in the same manner as it is calculated for the particular week with respect to which the determination of an "on" or "off" indicator is being made.

"(c) Section 2403(b) of the Omnibus Budget Reconciliation Act of 1981 is amended by striking out "September 25, 1982" and inserting in lieu thereof "the national seasonally adujusted total rate of unemployment is less than 8.7 percent for at least one month occuring after September 1982".

"(d) For purposes of determining whether there are State "on" or "off" indicators for weeks beginning on or after June 1, 1982, and before the month following the first month thereafter for which the national seasonally adjusted total rate of unemployment is less than 8.7 percent, paragraph (1) of section 203(d) of the Federal-State Extended Unemployment Compensation Act of 1970 shall be applied as if such paragraph did not contain subparagraph (A) thereof.

"(e) In the case of any State with respect to which the Secretary of Labor has determined that State legislation is required in order to amend its State unemployment compensation law so as to include any requirements imposed by this section with respect to extended compensation, such State's unemployment compensation law shall not be determined to be out of compliance under section 3304(c) of the Internal Revenue Code by reason of a failure to contain any such requirement for any period prior to the end of the first session of the State legislature which begins after the date of the enactment of this Act, or which began prior to the date of the enactment of this Act and remained in session for at least twenty-five calendar days after such date of enactment. For purposes of the preceding sentence, the term 'session' means a regular, special, budget, or other session of a State legislature.

"(f) Nothing contained in the preceding provisions of this section (or any amendments made thereby) does or shall be construed to authorize or require payment of unemployment compensation to any individual for any week prior to the first week which begins after the date this section becomes law, if such compensation would not have been payable to such individual without regard to the preceding provisions of this section."

Mr. METZENBAUM. Mr. President, my perfecting amendment is cosponsored by Senator ROBERT C. BYRD, Senator EAGLETON, Senator PRYOR, Senator LEAHY, Senator FORD, Senator INOUYE, Senator TSONGAS, Senator SASSER, Senator DIXON, Senator HUDDLESTON, Senator JOHNSTON, Senator HOLLINGS, Senator BURDICK, Senator BRADLEY, Senator BAUCUS, Senator LEVIN, Senator RANDOLPH, Senator DECONCINI, Senator MATSUNAGA, Senator KENNEDY, Senator BUMPERS, Senator SARBANES, Senator CANNON, Senator HEFLIN, Senator PROXMIRE, Senator EXON, Senator HART, Senator JACKSON, Senator PELL, and Senator RIEGLE.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DOLE. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. Those Members wishing to converse will please retire to the cloakroom.

Mr. METZENBAUM. Mr. President, I send to the desk a substitute to the amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment is not in order. It does not take priority over the second-degree perfecting amendment.

Mr. METZENBAUM. I am sorry?

The PRESIDING OFFICER. This amendment is not in order. It does not take priority over the second-degree perfecting amendment.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, the Senator from Ohio addressed himself to this issue at an earlier point today. We have been awaiting a member of the majority, the chairman of the Finance Committee, who wants to speak on the amendment, and some Members on this side of the aisle want to speak on the amendment. The Senator from Ohio is prepared to go to a vote when everybody who wishes to speak have concluded their remarks.

I yield to the Senator from Kansas, if he seeks recognition.

Mr. DOLE. I am just standing here.

Mr. METZENBAUM. I yield to the Senator from Michigan.

The PRESIDING OFFICER. The Senate will be in order. Senators who are conversing will please retire to the cloakroom. The Senate will be in order, or we will not continue.

Mr. RIEGLE. Mr. President, I rise as a cosponsor of the amendment and in support of the amendment. I shall make a few brief comments about it so that we can expedite the business of the Senate today. The amendment at the desk, offered by the Senator from Ohio and other cosponsors, deals with some of the critical problems relating to the unemployment compensation program. The amendment deals with three serious problems.

The first one, and perhaps the most important, is the trigger problem, whereby, under existing law, 29 States with high unemployment problems have triggered off or are due to trigger off the current 13 weeks of extended benefits.

While States then will be getting a replacement set of Federal supplemental benefits of either 6, 8, or 10 weeks they will lose the important 13 weeks of extended benefits.

I do not think this is what Congress intends. I know in the State of Michigan, where we now have over 700,000 people out of work and where we have had unemployment above 10 percent for 32 consecutive months, we face the prospect in October of the extended 13

kind of financial protection is that for a senior who is struggling to make it on a fixed income?

Years ago, Congress made a commitment to provide adequate health care for our Nation's senior citizens. We must take steps to insure that we do not neglect this responsibility. It is imperative that we take immediate action to alleviate the cost shifting to beneficiaries caused by physicians' refusal to accept medicare claims assignments. The expected cap on the physicians' fee index used for updating reimbursement rates will force patients treated on a nonassignment basis to pay an increasing amount, as the gap between physician charges and the medicare reasonable fees widens. Consequently, the cost of private supplemental insurance will be driven up as well.

The legislation I am introducing today seeks to restructure physician reimbursement under part B of medicare. It is a simple measure, aimed at achieving the goal of insuring beneficiaries' access to care, without increasing their out-of-pocket expenses or significantly straining the medicare budget. I propose doing this by setting up a voluntary system of cooperating physicians, similar to the Blue Shield system of participating physicians, where in doctors may annually enter into agreements with the Secretary to accept assignment for all medicare patients they treat. The names of these cooperating physicians will be published in local directories, which will be made available to medicare beneficiaries. Armed with this information, seniors can choose their physicians on the basis of their own financial considerations, as well as their personal preferences. Those individuals who wish to maintain relationships with non-cooperating physicians may elect to do so on whatever terms they agree upon. Those individuals wanting assurance that their out-of-pocket expenses will not exceed that 20 percent coinsurance can select a physician from the directory. Doctors volunteering to become cooperating physicians will benefit from a simplified claims process aimed at reducing their administrative and billing costs.

This program of incentives can be further strengthened by applying the expected physician fee index cap only to non-cooperating physicians. In fact, I have written to Chairman DINGELL of the Committee on Energy and Commerce supporting the proposal to provide an exemption to the cap for physicians who accept assignment in all cases.

In response to economic conditions, and increased competition among the swelling ranks of doctors, the assignment rate took a slight upturn last year. We have the opportunity to accelerate this trend and prevent further cost shifting to medicare beneficiaries, without significantly increasing program payout by enacting a program such as I am proposing today.

Mr. Speaker, each time more cuts are made in social spending, I hear the same refrain, "We must all tighten our belts in order to strengthen our weakened economy." There is no question that we need to control Government spending and balance our budget. However, I cannot watch our Nation's seniors be continually targeted for the brunt of these cutbacks. It is time we fulfilled our commitment to older Americans, by taking the measures to prevent the shifting of more financial burdens onto their shoulders. I offer this bill as one step towards meeting that obligation.●

THE REINSTATEMENT OF THE 5-MILE-PER HOUR AUTOMOBILE BUMPER STANDARD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. SCHUMER) is recognized for 5 minutes.

● Mr. SCHUMER. Mr. Speaker, I am pleased to reintroduce today, with 15 cosponsors, H.R. 6552, legislation to reinstate the 5-mile-per-hour automobile bumper standard. I would also like to share with my colleagues an article published by the Bureau of National Affairs.

On May 27, 1982, when the National Highway Traffic Safety Administration lowered the automobile bumper safety standard from 5 to 2.5 miles per hour, I urged my colleagues to join me in opposing the move. I based my opposition to his move on the contention that it will not benefit consumers, but will actually cost consumers in increased insurance rates and in replacement parts.

Regardless of these increased costs, the NHTSA argues that the average consumer would save $28 as a result of the new standard. I believe this contention to be wishful thinking. The results of recent tests performed by the Ford Motor Co. do not support secondary weight savings estimates which figured prominently in the NHTSA cost benefit analysis.

The NHTSA asserts that for every pound of weight removed from an automobile bumper, 1 gallon of gasoline is saved over the life of that car. Ford, however, found that for every pound of weight removed, a more realistic estimate of the savings is between 0.49 and 0.79 gallons of gasoline over the life of the car. Furthermore, both Ford and General Motors admit that even these modest savings would not be realized for at least 5 to 10 years. In actual terms, these savings are quite small.

These new findings reaffirm my belief that the savings in gasoline will not offset, in any substantial way, the increased insurance and repair costs occasioned by the reduced safety standard. I therefore call on you to support the reinstatement of the 5-mile-per-hour safety standard.

The following 15 Members join me in the sponsoring of this legislation: ANTHONY BEILENSON, CLAUDE PEPPER, JOHN CONYERS, RICHARD OTTINGER, EDWARD MARKEY, HAROLD WASHINGTON, TED WEISS, PARREN MITCHELL, BERKLEY BEDELL, STEWART MCKINNEY, JERRY HUCKABY, TOM HARKIN, HENRY WAXMAN, MIKE LOWRY, and JONATHAN BINGHAM.

I thank these Members for their support and urge my remaining colleagues to join us in our effort.●

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 60 minutes.

[Mr. ALEXANDER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

CONFERENCE REPORT ON HOUSE JOINT RESOLUTION 599

Mr. WHITTEN submitted the following conference report and statement on the joint resolution (H.J. Res. 599) making continuing appropriations for the fiscal year ending September 30, 1983, and for other purposes.

CONFERENCE REPORT (H. REPT. No. 97-914)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H.J. Res. 599) making continuing appropriations for the fiscal year ending September 30, 1983, 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 6, 7, 8, 11, 12, 13, 16, 24, 28, 31, 34, 35, 36, 38, 39, 41, 42, 44, 45, 47, 48, 49, 52, 55, 60, 70, 77, 87, and 95.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 4, 5, 9, 19, 20, 21, 22, 23, 25, 29, and 32 and agree 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 matter stricken and inserted by said amendment, insert the following:

(c) Pending passage of the regular Department of Defense Appropriation Act for fiscal year 1983, such amounts as may be necessary for continuing activities which were conducted in the fiscal year 1982, for which provision was made in the Department of Defense Appropriation Act, 1982, but such activities shall be funded at not to exceed an annual rate for new obligational authority of $228,700,000,000, which is an increase above the current level, and this increase shall be distributed on a pro-rate basis to each appropriation account and shall operate under the terms and conditions provided for in the applicable appropriation Acts for the fiscal year 1982: Provided, That no appropriation or fund made available or authority granted pursuant to this paragraph shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1982: this limitation shall include but not be limited to prohibitions on funding availability for initial production of the M-X intercontinental ballistic missile and for long lead or initial production of a second nuclear-powered aircraft carrier until midnight December 17,

1982; and in addition, this limitation shall include the lower appropriation or funding ceilings for specific projects and activities set forth in the Department of Defense Appropriation Act, 1983, as reported to the Senate on September 23, 1982, or as subsequently reported to the House of Representatives: Provided further, That no appropriation or fund made available or authority granted pursuant to this paragraph shall be used to initiate multiyear procurements utilizing advance procurement funding for economic order quantity procurement unless specifically appropriated later except for the following programs and amounts: AN/ALQ-136 Radar Jamming the purchase of C-2 aircraft under a multiyear contract, $267,800,000: Provided further, That none of the funds appropriated or made available pursuant to this paragraph for the pay of members of the uniformed services shall be available to pay any member of the uniformed services a variable housing allowance pursuant to section 403(a)(2) of title 37, United States Code, in an amount that is greater than the amount which would have been payable to such member if the rates of basic allowance for quarters for members of the uniformed services in effect on September 30, 1982, had been increased by 8 per centum on October 1, 1982: Provided further, That pending passage of the regular Department of Defense Appropriations Act for fiscal year 1983, none of the funds appropriated or made available pursuant to this paragraph shall be available for the additional conversion of any full-time personnel in support of the Army Reserve, Air Force Reserve, Army National Guard, and Air National Guard, from military technician to Active Guard/Reserve status: Provided further, That none of the funds appropriated or made available pursuant to this paragraph, except for small purchases in amounts not exceeding $10,000, shall be available for the procurement of any article of food, clothing, cotton, woven silk or woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, or wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles), or specialty metals including stainless steel flatware, not grown, reprocessed, reused, or produced in the United States or its possessions, except to the extent that the Secretary of the Department concerned shall determine that satisfactory quality and sufficient quantity of any articles of food or clothing or any form of cotton, woven silk and woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, wool, or specialty metals including stainless steel flatware, grown, reprocessed, reused, or produced in the United States or its possessions cannot be procured as and when needed at United States market prices and except procurements outside the United States in support of combat operations, procurements by vessels in foreign waters, and emergency procurements or procurements of perishable foods by establishments located outside the United States for the personnel attached thereto: Nothing in this provision shall preclude the procurement of foreign produced specialty metals used in the production or manufacture of weapons or weapons systems made outside the United States except those specialty metals which contain nickel from Cuba, or the procurement of chemical warfare protective clothing produced outside the United States, if such procurement is necessary to comply with agreements with foreign governments: Nothing herein shall preclude the procurement of foods manufactured or processed in the United States or its possessions: No funds appropriated or made available pursuant to this paragraph shall be used for the payment of a price differential on contracts hereafter made for the purpose of relieving economic dislocations other than certain contracts not involving fuel made on a test basis by the Defense Logistics Agency with a cumulative value not to exceed $5,000,000,000, as may be determined by the Secretary of Defense pursuant to existing laws and regulations as not to be inappropriate therefor by reason of national security considerations: That the Secretary specifically determines that there is a reasonable expectation that offers will be obtained from a sufficient number of eligible concerns so that awards of such contracts will be made at a reasonable price and that no award shall be made for such contracts if the price differential exceeds 5 per centum: None of the funds appropriated or made available pursuant to this paragraph shall be used except that, so far as practicable, all contracts shall be awarded on a formally advertised competitive bid basis to the lowest responsible bidder.

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:

Notwithstanding section 102 of this joint resolution, such amounts as may be necessary for continuing projects and activities under all the conditions and to the extent and in the manner as provided in S. 2939, entitled the Legislative Branch Appropriation Act, 1983, as reported September 22, 1982, and the provisions of S. 2939 shall be effective as if enacted into law; except that the provisions of section 306(a), (b), and (d) of S. 2939 shall apply to any appropriation, fund, or authority made available for the period October 1, 1982, through December 17, 1982, by this or any other Act.

For purposes of this subsection, S. 2939, as reported September 22, 1982, shall be treated as appropriating the following amounts:

Under the headings "JOINT ITEMS", "CONTINGENT EXPENSES OF THE SENATE", "Joint Economic Committee", $2,327,000, and "CONTINGENT EXPENSES OF THE HOUSE", "Joint Committee on Taxation", $3,233,000; under the headings "CONGRESSIONAL BUDGET OFFICE", "SALARIES AND EXPENSES", $14,825,000; under the headings "ARCHITECT OF THE CAPITOL", "Salaries", $4,301,000; under the headings "COPYRIGHT ROYALTY TRIBUNAL", "SALARIES AND EXPENSES", $606,000, of which $157,000 shall be derived from the appropriation "Payments to Copyright Owners" for the reasonable costs incurred in proceedings involving distribution of royalty fees as provided by 17 U.S.C. 807; under the headings "GENERAL ACCOUNTING OFFICE", "SALARIES AND EXPENSES", $244,900,000.

For purposes of this subsection, S. 2939 shall be applied as follows:

The limitation on the number of staff employees of the Congressional Budget Office contained in S. 2939 shall be applied by substituting "222 staff employees" for "226 staff employees".

The fourth proviso under the headings "GOVERNMENT PRINTING OFFICE", "GOVERNMENT PRINTING OFFICE REVOLVING FUND", relating to travel expenses of advisory councils to the Public Printer, contained in S. 2939 shall be effective only for fiscal year 1983.

And the Senate agree to the same.

Amendment numbered 17:

That the House recede from its disagreement to the amendment of the Senate numbered 17, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

(p) Such amounts as may be necessary for continuing activities which were conducted in fiscal year 1982, for which provision was made in the Energy and Water Development Act, 1982, at the current rate of operations: Provided, That no appropriation, fund or authority made available by this joint resolution or any other Act may be used directly or indirectly to significantly alter, modify, dismantle, or otherwise change the normal operation and maintenance required for any civil works project under Department of Defense-Civil, Department of the Army, Corps of Engineers-Civil, Operation and Maintenance, General, and the operation and maintenance activities funded in Flood Control, Mississippi River and Tributaries: Provided further, That no appropriation or fund made available or authority granted pursuant to this paragraph shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1982 without prior approval of the Committees on Appropriations: Provided further, That no appropriation, fund or authority made available to the Department of Energy by this joint resolution or any other Act, shall be used for any action which would result in a significant reduction of the employment levels for any program or activity below the employment levels in effect on September 30, 1982.

And the Senate agree to the same.

Amendment numbered 18:

That the House recede from its disagreement to the amendment of the Senate numbered 18, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: December 17, 1982; and the Senate agree to the same.

Amendment numbered 26:

That the House recede from its disagreement to the amendment of the Senate numbered 26, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows:

Sec. 116. No part of any appropriation contained in, or funds made available by this or any other Act, shall be available for any agency to pay to the Administrator of the General Services Administration a higher rate per square foot for rental of space and services (established pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended) than the rate per square foot established for the space and services by the General Services Administration for the current fiscal year and for which appropriations were granted: Provided, That no part of any appropriation contained in, or funds made available by this or any other Act, shall be available for any agency to pay to the Administrator of the General Services Administration a higher rate per square foot for rental space and services (established pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended) than the rate per square foot established for the space and services by the General Services Administration for the fiscal year 1982: Provided further, That the limitations of this section shall terminate on December 17, 1982.

And the Senate agree to the same.

Amendment numbered 27:

That the House recede from its disagreement to the amendment of the Senate numbered 27, and agree to the same with an amendment, as follows:

In lieu of section number 110 named in said amendment insert: *111*; 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 matter stricken and inserted by said amendment insert: *101(a)(3)*; and the Senate agree to the same.

Amendment numbered 40:

That the House recede from its disagreement to the amendment of the Senate numbered 40, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert: *: Provided, That except for funds obligated or expended for planning, administration, and management expenses, and architectural or other consulting services, no funds herein appropriated shall be available for obligation or expenditure until such time as the Chancellor, acting on behalf of the Board of Regents of the Smithsonian Institution, certifies that all required matching funds are actually on hand or available through legally binding pledges*; 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 matter stricken and inserted by said amendment insert: *101(a)(3)*; and the Senate agree to the same.

Amendment numbered 46:

That the House recede from its disagreement to the amendment of the Senate numbered 46, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

Notwithstanding section 101(a)(3) of this joint resolution, none of the funds provided by this joint resolution for the Legal Services Corporation shall be expended for any purpose prohibited or limited by or contrary to Sec. 4(a), (b), and (c); Sec. 5; and Sec. 11 of H.R. 3480, as passed the House of Representatives on June 18, 1981: Provided further, That none of the funds appropriated under this joint resolution for the Legal Services Corporation shall be expended to provide legal assistance for or on behalf of any alien unless the alien is a resident of the United States and is—

(1) an alien lawfully admitted for permanent residence as an immigrant as defined by sections 101(a)(15) and 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15), (20));

(2) an alien who is either married to a United States citizen or is a parent or an unmarried child under the age of twenty-one years of such a citizen and who has filed an application for adjustment of status to permanent resident under the Immigration and Nationality Act, and such application has not been rejected;

(3) an alien who is lawfully present in the United States pursuant to an admission under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157, relating to refugee admissions) or who has been granted asylum by the Attorney General under such Act; or

(4) an alien who is lawfully present in the United States as a result of the Attorney General's withholding of deportation pursuant to section 243(h) of the Immigration and Nationality Act (8 U.S.C. 1253(h)).

An alien who is lawfully present in the United States as a result of being granted conditional entry pursuant to section 203(a)(7) of the Immigration and Nationality Act (8 U.S.C. 1153(a)(7)) before April 1, 1980, because of persecution or fear of persecution on account of race, religion, or political opinion or because of being uprooted by catastrophic natural calamity shall be deemed, for purposes of section 1007(b)(1)(1) of the Legal Services Corporation Act, to be an alien described in subparagraph (C) of such section: Provided further, That none of the funds provided by this joint resolution for the Legal Services Corporation shall be used by the Corporation in making grants or entering into contracts for legal assistance unless the Corporation insures that the recipient is either (a) a private attorney or attorneys (for the sole purpose of furnishing legal assistance to eligible clients) or (b) a qualified nonprofit organization chartered under the laws of one of the States for the primary purpose of furnishing legal assistance to eligible clients, the majority of the board of directors or other governing body of which organization is comprised of attorneys who are admitted to practice in one of the States and who are appointed to terms of office on such board or body by the governing bodies of State, county, or municipal bar associations the membership of which represents a majority of the attorneys practicing law in the locality in which the organization is to provide legal assistance: Provided further, That none of the funds appropriated under this joint resolution for the Legal Services Corporation shall be used to bring a class action suit against the Federal Government or any State or local government except in accordance with policies or regulations adopted by the Board of Directors of the Legal Services Corporation.

Amendment numbered 50:

That the House recede from its disagreement to the amendment of the Senate numbered 50, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *$77,042,000*; 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 *$67,301,000*; and the Senate agree to the same.

Amendment numbered 53:

That the House recede from its disagreement to the amendment of the Senate numbered 53, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$7,121,000*; and the Senate agree to the same.

Amendment numbered 54:

That the House recede from its disagreement to the amendment of the Senate numbered 54, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the proposed Senate language amended to change section number 122, as follows: *126*; and the Senate agree to the same.

Amendment numbered 56:

That the House recede from its disagreement to the amendment of the Senate numbered 56, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 128. Notwithstanding any other provision of this joint resolution except section 102, funds shall be available for the special supplemental food program as authorized by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), at the rate and under the terms and conditions provided for in Title III of H.R. 7072 as passed the Senate on September 28, 1982.

And the Senate agree to the same.

Amendment numbered 58:

That the House recede from its disagreement to the amendment of the Senate numbered 58, and agree to the same with an amendment, as follows:

In lieu of section number 126 named in said amendment insert: *130*; and the Senate agree to the same.

Amendment numbered 61:

That the House recede from its disagreement to the amendment of the Senate numbered 61, and agree to the same with an amendment, as follows:

In lieu of section number 129 named in said amendment insert: *132*; and the Senate agree to the same.

Amendment numbered 62:

That the House recede from its disagreement to the amendment of the Senate numbered 62, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 133. (a) In accordance with section 101(b) of this joint resolution, activities under title XV of the Public Health Service Act shall be continued at a rate to maintain current operating levels.

(b) Notwithstanding any other provision of law, no funds appropriated by this joint resolution or any other Act for fiscal year 1983 for any allotment, grant, loan, or loan guarantee under the Public Health Service Act or the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 shall be subject to reduction under section 1521(d)(2) of the Public Health Service Act during the period beginning on October 1, 1982, and ending on the date specified in clause (c) of section 102.

And the Senate agree to the same.

Amendment Numbered 63:

That the House recede from its disagreement to the amendment of the Senate numbered 63, and agree to the same with an amendment, as follows:

In lieu of section number 131 named in said amendment insert: *134*; and the Senate agree to the same.

Amendment numbered 64:

That the House recede from its disagreement to the amendment of the Senate numbered 64, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 135. Notwithstanding any other provision of this joint resolution, such amounts as may be necessary shall be transferred from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds to support an annual operating level for Medicare claims processing activities of $800,000,000, (including $45,000,000 for this purpose which is currently available under section 118 of Public Law 97-248.

And the Senate agree to the same.

Amendment numbered 65:

That the House recede from its disagreement to the amendment of the Senate numbered 65, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 136. Notwithstanding the decision of the United States Court of Appeals for the District of Columbia Circuit in Connecticut v. Schweiker (No. 81-2090, July 27, 1982), section 306 of Public Law 96-272, or section 1132 of the Social Security Act, no payment shall be made, in or with respect to any fiscal year prior to fiscal year 1984, under this or any other Act, and no court shall award or enforce any payment (whether or

not pursuant to such decision) from amounts appropriated by this or any other Act, to reimburse State or local expenditures made prior to October 1, 1978, under title I, IV, X, XIV, XVI, XIX, or XX of the Social Security Act, unless a request for reimbursement had been officially transmitted to the Federal Government by the State within one year after the fiscal year in which the expenditure occurred. After fiscal year 1983, any payment made to reimburse such State or local expenditures required to be reimbursed by a court decision in any case filed prior to September 30, 1982 shall be made in accordance with a schedule, to be established under the Social Security Act, over fiscal years 1984 through 1986.

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:

In lieu of section number 134 named in said amendment insert *137*; and the Senate agree to the same.

Amendment numbered 67:

That the House recede from its disagreement to the amendment of the Senate numbered 67, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 138. Notwithstanding any other provision of law, of the funds appropriated for fiscal year 1983 to carry out the Community Services Block Grant Act of 1981, not more than 10 per centum of the funds allotted to each State under section 674 of such Act shall be used for purposes other than to make grants to eligible entities as defined in section 673(1) of such Act or to organizations serving seasonal and migrant farmworkers or to designated limited purpose agencies which meet the requirements of section 673(1) of such Act.

And the Senate agree to the same.

Amendment numbered 68:

That the House recede from its disagreement to the amendment of the Senate numbered 68, and agree to the same with an amendment, as follows:

In lieu of section number 136 named in said amendment insert: *139*; and the Senate agree to the same.

Amendment numbered 71:

That the House recede from its disagreement to the amendment of the Senate numbered 71, and agree to the same with an amendment, as follows:

In lieu of section number 139 named in said amendment insert *141*; and the Senate agree to the same.

Amendment numbered 72:

That the House recede from its disagreement to the amendment of the Senate numbered 72, and agree to the same with an amendment, as follows:

In lieu of section number 140 named in said amendment insert *142*; and the Senate agree to the same.

Amendment numbered 74:

That the House recede from its disagreement to the amendment of the Senate numbered 74, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 144. Notwithstanding any other provision of this joint resolution, except section 102, funds shall be available for the United States Travel and Tourism Administration at an annual rate of $7,600,000.

And the Senate agree to the same.

Amendment numbered 79:

That the House recede from its disagreement to the amendment of the Senate numbered 79, and agree to the same with an amendment, as follows:

In lieu of section number 147 named in said amendment insert: *148*; and the Senate agree to the same.

Amendment numbered 80:

That the House recede from its disagreement to the amendment of the Senate numbered 80, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 149. Of the amounts appropriated to the Department of State for the purposes of "Contributions for International Peacekeeping Activities" not more than $50,000,000 shall be available for expenses necessary for contributions to a United Nations Transition Assistance Group, notwithstanding section 15(a) of the State Department Basic Authorities Act of 1956 or any other provision of law: Provided, That none of these funds shall be obligated or expended for contributions to the United Nations Transition Assistance Group unless the President determines and reports to the Congress that an internationally acceptable agreement has been achieved among the parties to the Namibia dispute concerning implementation of United Nations Security Council Resolution 435 for the independence of Namibia.

And the Senate agree to the same.

Amendment numbered 81:

That the House recede from its disagreement to the amendment of the Senate numbered 81, and agree to the same with an amendment, as follows:

In lieu of section number 149 named in said amendment insert: *150*; and the Senate agree to the same.

Amendment numbered 82:

That the House recede from its disagreement to the amendment of the Senate numbered 82, and agree to the same with an amendment, as follows:

In lieu of section number 150 named in said amendment insert: *151*; and the Senate agree to the same.

Amendment numbered 84:

That the House recede from its disagreement to the amendment of the Senate numbered 84, and agree to the same with an amendment, as follows:

In lieu of the sum named in said amendment insert: *$190,000*; and the Senate agree to the same.

Amendment numbered 91:

That the House recede from its disagreement to the amendment of the Senate numbered 91, and agree to the same with an amendment, as follows:

In lieu of section number 160 named in said amendment insert: *159*; and the Senate agree to the same.

Amendment numbered 92:

That the House recede from its disagreement to the amendment of the Senate numbered 92, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 160. All obligations incurred in anticipation of the appropriations and authority provided in this joint resolution for the purposes of maintaining the minimum level of essential activities necessary to protect life and property and bringing about orderly termination of other functions are hereby ratified and confirmed if otherwise in accordance with the provisions of this joint resolution.

And the Senate agree to the same.

Amendment numbered 94:

That the House recede from its disagreement to the amendment of the Senate numbered 94, and agree to the same with an amendment, as follows:

In lieu of section number 163 named in said amendment insert: *162*; and the Senate agree to the same.

Amendment numbered 96:

That the House recede from its disagreement to the amendment of the Senate numbered 96, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 163. None of the funds provided in this joint resolution shall be used to implement an apportionment and staffing plan to specifically phase down the Public Health Service Commissioned Corps.

And the Senate agree to the same.

Amendment numbered 97:

That the House recede from its disagreement to the amendment of the Senate numbered 97, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 164. Notwithstanding section 1804 of the Public Health Service Act, funds provided for the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research by the Urgent Supplemental Appropriations Act, 1982 (Public Law 97-216) shall remain available until December 31, 1982.

And the Senate agree to the same.

Amendment numbered 98:

That the House recede from its disagreement to the amendment of the Senate numbered 98, and agree to the same with an amendment, as follows:

In lieu of section number 167 named in said amendment insert: *165*; and the Senate agree to the same.

Amendment numbered 99:

That the House recede from its disagreement to the amendment of the Senate numbered 99, and agree to the same with an amendment, as follows:

In lieu of section number 168 named in said amendment insert: *166*; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 15, 30, 33, 57, 59, 69, 73, 75, 76, 78, 83, 85, 86, 88, 89, 90, 93, and 100.

JAMIE L. WHITTEN,
EDWARD P. BOLAND,
WILLIAM H. NATCHER,
NEAL SMITH,
JOSEPH P. ADDABBO,
CLARENCE D. LONG,
SIDNEY R. YATES,
EDWARD R. ROYBAL,
TOM BEVILL,
BO GINN,
WILLIAM LEHMAN,
JULIAN C. DIXON,
VIC FAZIO,
SILVIO O. CONTE,
JOSEPH M. McDADE,
JACK EDWARDS,
JOHN T. MYERS (except No. 88),
J. KENNETH ROBINSON,
CLARENCE E. MILLER (except Nos. 29 and 30),
LAWRENCE COUGHLIN,
Managers on the Part of the House.

MARK O. HATFIELD,
TED STEVENS,
LOWELL P. WEICKER, JR.,
JAMES A. McCLURE,
PAUL LAXALT,
JAKE GARN,
HARRISON SCHMITT,
THAD COCHRAN,
MARK ANDREWS,
JAMES ABDNOR,
ROBERT W. KASTEN,
ALFONSE M. D'AMATO,
MACK MATTINGLY,

WARREN RUDMAN,
ARLEN SPECTER,
WILLIAM PROXMIRE,
JOHN C. STENNIS,
DANIEL K. INOUYE,
ERNEST F. HOLLINGS,
TOM EAGLETON,
LAWTON CHILES,
J. BENNETT JOHNSTON,
WALTER D. HUDDLESTON (except amendment No. 95),
QUENTIN BURDICK,
PATRICK J. LEAHY,
JIM SASSER,
DENNIS DECONCINI,
DALE BUMPERS,
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 joint resolution (H.J. Res. 599), making continuing appropriations for the fiscal year 1983 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.

Amendment No. 1: Deletes the House provision for the Energy and Water Development Appropriation Act, 1983 in Sec. 101. (a)(1).

Amendment No. 2: Deletes language proposed by the House and stricken by the Senate which provides for projects and activities funded in the HUD-Independent Agencies bill at the House or Senate level, whichever is lower.

Amendment Nos. 3, 4, and 5: Provide that when an Act listed in subsection 101(a) has been reported to the House or the Senate but not passed by that House by October 1, 1982, it shall be considered as having been passed by that House.

Amendment Nos. 6, 7, and 8: Technical amendments that delete proposed Senate conforming language.

Amendment No. 9: Specifies that off-budget appropriations for the purchase and transportation of petroleum for the Strategic Petroleum Reserve be continued at the fiscal year 1982 rate of operations, the same as other activities covered in the Interior and Related Agencies Appropriation, as proposed by the Senate.

RATE OF OPERATIONS FOR DEPARTMENT OF DEFENSE

Amendment No. 10: Includes language which provides for continuing the activities of the Department of Defense at not to exceed an annual rate for new obligational authority of $228,700,000,000, and includes certain prohibitions on the use of the funds made available. The House language would have provided for a rate of operations not in excess of the current rate until the Defense Appropriations Act, 1983, was reported in the House whereupon that rate would prevail. The Senate language would have provided for a rate of operations set forth in the Defense Appropriations Act, 1983, as reported to the Senate on September 23, 1982.

The managers have included a provision that prohibits the Department of Defense from initiating or resuming any project or activity for which appropriations or funds were not available in fiscal year 1982. The managers have also specifically included prohibitions of funding for initial production of the M-X missile and for long lead or initial production of a second nuclear-powered aircraft carrier. There is no prohibition on continuing long lead production of the carrier for which long lead production was provided in fiscal year 1982. By including these specific prohibitions, the managers intended only to defer these and other funding initiatives until the Congress has had an opportunity to act on the final funding decisions. The programs specifically included in the funding prohibition are only some major examples of funding issues that are still to be decided by Congress. The managers were of the opinion that a more complete program list of funding prohibitions should not be included, therefore allowing needed flexibility for both the Congress and the Executive Branch. However, the managers direct the Department of Defense to consult with the Appropriations Committees of Congress on any funding decisions where there is a question as to the propriety of proceeding with such funding during the operation of this continuing resolution. The managers also direct the Department to adhere to the lower of the appropriation and funding ceilings for projects, subprojects and activities set forth in the Department of Defense Appropriations Act, 1983, as reported to the House of Representatives or the Senate. In no instance should these ceilings be breached, and by the same token, these funding ceilings should not by interpreted as mandatory obligational levels. The intention of a continuing resolution is to proceed with the government's business at the lowest level possible, retaining Congressional flexibility for funding decisions to be made at a later time. Congress should not be put in a position of being forced to fund programs on which it has not yet had an opportunity to express its will, since such action would impinge on its flexibility in arriving at these final funding decisions.

The managers agreed further that in order to avoid costly interruptions in the industrial base, authorized and appropriated fiscal year 1982 funds, including long-lead funds for defense programs, should continue to be spent unless specifically prohibited by the authorizing and appropriation committees of Congress.

The managers included a provision limiting variable housing allowance payments. Regular military compensation consists of basic pay, basic allowance for subsistence, and basic allowance for quarters. Each of the components of regular military compensation is affected by cost-of-living pay raise adjustments. Accordingly, this year the determination to limit the pay raise to become effective October 1, 1982, to four percent means that each of the components would be reduced by four percent from the budgeted eight percent pay raise. For those service members receiving basic allowance for quarters, however, the variable housing allowance entitlement program automatically makes up that four percent reduction for the basic allowance for quarters component of regular military compensation. The effect of this situation is to unfairly spread the burden of the pay cap policy since only about one-third of the military population now receives variable housing allowance payments. Further, the variable housing allowance offsetting payments would amount to about $137 million and would therefore reduce anticipated savings from the pay cap policy by that amount.

The limitation in this joint resolution assures that those variable housing allowance payments that would otherwise offset the basic allowance for quarters reduction due to the pay cap are not made. Without this provision, the Congress would face the requirement to fund $137 million in a supplemental bill for these payments, and then make additional reductions of $137 million in other defense programs to stay within its fiscal year 1983 spending allocations for defense.

In fiscal year 1982, congressional report language directed the Department of Defense to let each reserve component be free to determine the appropriate mix of full time military and military technicians. It has come to the managers' attention that this language has been interpreted to mean that cost should not be a principal factor in the determination of the appropriate mix. The managers wish to reaffirm that cost is clearly intended to remain a principal factor in this determination as set forth in Public Law 93-365 (DOD Appropriation Authorization Act of 1975), which directed DOD to "use the least costly form of manpower that is consistent with military requirements and other needs of the Department of Defense". This is particularly the case since (1) the quality of cost comparisons previously presented to the Congress has been called into question by the General Accounting Office, and (2) Congress has approved significant pay increases for the military since the last comprehensive comparative cost assessment of conversions. Furthermore, the managers understand that a significant portion of the conversions planned for fiscal year 1983 are principally responsive to the requirement to reduce the number of civilian personnel to achieve personnel ceiling objectives, rather than considerations of relative cost and relative effect on readiness. Finally, the managers understand that in some components the Active Guard/Reserve personnel involved in these conversions are not deployable assets, which is also in contradiction to congressional report directives.

The language in the joint resolution is intended to put a stop to conversion of military technicians, by whatever means that may be accomplished administratively. It, therefore, is intended specifically to cover the 43 military technician Senior Staff Administrative Assistant positions in the Army Reserve now scheduled to be eliminated on October 1, 1982.

The managers wish to make it clear to the Department of Defense that it should structure its fiscal year 1983 military and civilian pay allocations—not program funding—to provide for at least a 25 percent absorption rate for the pay raise to become effective on October 1, 1982. Management and administrative practices and policies should be implemented from the beginning of the fiscal year to ensure achievement of absorption levels of at least 25 percent.

The managers have agreed to accept a provision included in the Senate reported Defense Appropriations Bill, 1983 (S. 2951), requiring procurement of American-built commodities and materials.

Amendment No. 11: Provides funding for foreign assistance at the level contained in Public Law 97-121 (the 1982 Foreign Assistance Appropriations Bill) or the 1983 request level, whichever is lower, as provided by the House instead of the current level of operations as provided by the Senate.

Amendment 12: Restores the House language ", or any other provision of law".

Amendment 13: Restores the House language which provides for aid to Israel at the level provided in Public Law 97-113 (the 1982 authorization bill).

Amendment No. 14: Provides funding for the operations of the Legislative Branch as provided in, and under the terms and conditions of, S. 2939, the Legislative Branch Appropriation Act for 1983, reported on September 22, 1982, with certain exceptions, for the fiscal year 1983, and extends the senior level salary freeze until December 17, 1982. The House bill had proposed funding as provided in H.R. 7073 for the fiscal year 1983;

the Senate bill proposed funding as provided in S. 2939, subject to the termination date of the continuing resolution.

The conferees have agreed on the following exceptions from S. 2939:

Item	Conference agreement
Joint Economic Committee	$2,327,000
Joint Committee on Taxation	3,233,000
Congressional Budget Office	14,825,000
Office of the Architect: Salaries	4,301,000
Copyright Royalty Tribunal—Limitation	606,000
Authority to spend receipts	(157,000)
Net direct appropriation	449,000
General Accounting Office	244,900,000

In addition, the conferees agree that the number of staff at the Congressional Budget Office shall be limited to 222; and that the Public Printer, during fiscal year 1983, may pay the travel expenses of advisory councils to the Public Printer out of funds available in the Government Printing Office revolving fund.

Due to the lack of sufficient time on the legislative calendar, and because the Committees on Appropriations in the House and Senate each reported Legislative Branch appropriation bills that are very close in their recommendations, the conferees have decided, after reaching agreement on the differences between the two bills, to fund the Legislative Branch for the entire fiscal year 1983. It is the intention of the conferees that fiscal year 1984 Legislative Branch funding will be acted upon in regular order by both Houses.

The conferees agree that no additional funding will be provided for energy conservation in the Capital complex until a comprehensive analysis of the accrued and estimated costs and benefits of the program has been developed, together with a statement of appropriate goals. Also, in providing annual authority for the Information Industry Council, an advisory body to the Public Printer, the conferees direct that the Council shall be broadly representative of all segments of the printing and publishing industry, including its communications, typesetting, distribution and labor components. Appointees to the Council shall be chosen for their experience and technological expertise within the industry. The Council's task shall be to advise and recommend methods and procedures to the Public Printer for furthering the stated aims of Congress in the field of public printing and distribution. All meetings of the Council shall be open to the public.

RATE OF OPERATIONS FOR MILITARY CONSTRUCTION

Amendment No. 15: 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 the following: *: Provided, That notwithstanding the foregoing provision of this paragraph and notwithstanding any other provision of this joint resolution, such amounts as may be necessary for projects or activities provided for in the Military Construction Act, 1983 (H.R. 6968), at a rate for operations and to the extent and in the manner provided for in the conference report and joint explanatory statement of the committee of conference as filed in the House of Representatives on September 30, 1982, as if such Act had been enacted into law.*

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. 16: Deletes language proposed by the Senate which provides for projects and activities funded in the HUD-Independent Agencies bill at levels and under the conditions of the Senate reported bill.

Amendment No. 17: Inserts language proposed by the Senate for funding of programs in Energy and Water Development Appropriations at the current rate of operations, modified to require prior approval of the Committees on Appropriations for the initiation or resumption of any project or activity for which appropriations, funds or other authority were not available in fiscal year 1982.

Amendment No. 18: Provides for a termination date for this resolution of Friday, December 17, 1982, rather than December 15, 1982 as provided for by the House or December 22, 1982 as provided for by the Senate.

Amendments No. 19 and 20: Technical amendments correcting two section number references to the United States Code.

Amendment No. 21: Deletes House language in Section 107 providing for funding of Department of Energy National Security Programs, Bonneville Power Administration Fund (Borrowing Authority) and Corps of Engineers Operation and Maintenance programs at the levels specified for these activities in the Energy and Water Development Appropriation Bill as reported to the House (H.R. 7145).

Amendment No. 22: Changes section number.

Amendment No. 23: Changes section number.

Amendment No. 24: Deletes language proposed by the Senate relating to Water Resources Council.

Amendment No. 25: Changes section number.

Amendment No. 26: Restores language proposed by the House amended to provide that the restriction on GSA rental rates provided in this joint resolution shall expire on December 17, 1982.

Amendment No. 27: Inserts language proposed by the Senate which prohibits the disposal of any federal land tracts or lands with national environmental or economic value until certain conditions are met. The managers agree that, except where provided by law and except in the case of land exchanges, certain requirements must be met by the proper administrative agencies before federal land tracts or lands with national environmental or economic value can be disposed of. As it is not the managers' intent to circumvent current law with respect to land disposals, the managers agree that state in-lieu selections, Alaskan Native Land selections, Desert Land Entry selections, Carey Act land selections, Indian Allotments, patents under the 1872 Mining Act, and other similar land conveyances are activities "provided by law" and, therefore, not subject to the specific requirements provided by this section.

Amendment No. 28: Changes section number.

Amendment No. 29: Inserts language proposed by the Senate which subjects this provision to section 102 of this joint resolution.

Amendment No. 30: 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 stricken and inserted by said amendment, insert the following: *moneys deposited into the National Defense Stockpile Transaction Fund under section 9(b) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(b)) are hereby made available, subject to such limitations as may be provided in appropriation Acts and in section 5(a)(1) of such Act, until expended for the acquisition of strategic and critical materials under section 6(a)(1) of such Act (and for transportation and other incidental expenses related to such acquisition). This paragraph applies without fiscal year limitation to moneys deposited into the fund before, on, or after October 1, 1982: Provided, That during the fiscal year ending on September 30, 1983, not more than $120,000,000 in addition to amounts previously appropriated, of which not to exceed $85,000,000 shall be available only until the termination of this joint resolution for the purchase of domestic copper mined and smelted in the United States after September 30, 1982, may be obligated from amounts in the National Defense Stockpile Transaction Fund for the acquisition of strategic and critical materials under section 6(a)(1) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98e(a)(1)) and for transportation and other incidental expenses related to such acquisition.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This amendment makes available $120,000,000 for the purchase of materials for the National Defense Strategic Stockpile, of which $85,000,000 shall be available only until the termination of this joint resolution for the purchase of copper mined and smelted in the United States after September 30, 1982. The conferees are agreed that this amendment does not mandate the purchase of copper and that all the funds made available by this amendment may be used for the purchase of any strategic or critical materials authorized by the Act.

Amendment No. 31: Changes section number.

Amendment No. 32: Inserts language proposed by the Senate which makes funds in the GSA Federal Buildings Fund available for projects in the Senate reported Treasury, Postal Service and General Government Appropriations bill.

The effect of this amendment would be that GSA projects listed by line-item in either House reported or Senate reported Treasury, Postal Service and General Government bill for fiscal year 1983 would be funded.

DISTRICT OF COLUMBIA

Amendment No. 33: 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. 114. (a)(1) Funds provided by this joint resolution for costs to continue the implementation of provisions contained in the District of Columbia Statehood Constitutional Convention Initiative (D.C. Law 3-171) shall be a[illegible]ed first toward ensuring voter educati[illegible]on the proposed constitution by (A) p[illegible]ing, by the Statehood Commission, of [illegible]roposed constitution together with [illegible]ve statements both for and against [illegible]ovisions as expressed by the Conven[illegible]elegates taking such positions, (B) ma[illegible]g of this information to the regis-

tered voters of the District of Columbia by October 22, 1982, and (C) preparing for publication as a public document a comprehensive legislative history of the proposed constitution.

(2) None of the funds provided by this joint resolution may be used to pay for the publication of any information or materials by the Statehood Commission which fail to present objective arguments for and against the provisions of the proposed constitution.

(b) Notwithstanding section 102, the paragraph under the heading "LOTTERY AND CHARITABLE GAMES ENTERPRISE FUND" in the District of Columbia Appropriation Act, 1982 (Public Law 97-91; 95 Stat. 1175) is amended—

(1) in the second proviso, by striking out "payments of prizes" and inserting in lieu thereof "payment of fees to ticket agents, fees to contractors supplying gambling paraphernalia or services, and prizes";

(2) in the third proviso, by striking out "payments of prizes" and inserting in lieu thereof "payment of such fees and prizes";

(3) in the fourth proviso, by striking out "prizes and administration of the Board shall not exceed resources available to the Board from appropriated authority or revenues" and inserting in lieu thereof "administration of the Board shall not exceed resources available to the Board from appropriated authority: Provided further, That the annual expenses for fees and prizes shall not exceed revenues"; and

(4) in the fifth proviso, by striking out "for prize money" and inserting in lieu thereof "for fees and prize money".

(c) Notwithstanding any other provision of this resolution, the Superior Court of the District of Columbia may continue to operate the Volunteer Attorney Program and the Community Workers Program, and may implement the hearing commissioner program, from existing resources and position authority. Upon passage of the fiscal year 1983 appropriation Act, full year program funding will be available to pay, retroactively, for program services performed on or after October 1, 1982.

(d) The Washington Convention Center may proceed at an annual rate of operation which does not exceed $5,275,000.

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 are agreed that first call on funds available to the Statehood Constitutional Convention shall be for (1) voter education materials to be mailed to registered voters of the District by October 22, 1982, and (2) preparation of a legislative history of the proposed constitution. The conferees are further agreed that funds may not be used by the Statehood Commission to pay for the preparation or publication of any information or materials which fail to present objective arguments for and against the provisions of the proposed constitution.

The conferees have also agreed to certain technical changes to the permanent legislation enacted in Public Law 97-91, approved December 4, 1981, establishing the lottery and Charitable Games Enterprise Fund. These changes were requested by the District government so that revenues generated from Lottery and charitable games activities may be used to (1) permit the payment of fees to ticket agents and contractors supplying gambling paraphernalia or services, and (2) allow for the payment of prizes from revenues generated by these activities.

The conference agreement further provides that the Superior Court of the District of Columbia may continue, within the resources allowed under this resolution, the Volunteer Attorney Program and the Community Workers Program, and may implement the hearing commissioner program.

The Volunteer Attorney Program and the Community Workers Program have been funded by Federal grant funds that will no longer be available after September 30, 1982. Henceforth, they will be funded from locally generated funds. Each of these programs is provided for in both the House and Senate versions of the fiscal year 1983 appropriations bills for the District of Columbia, which are pending final action by the Congress.

Finally, the conferees have inserted language which allows the Washington Convention Center to proceed towards its scheduled opening late in calendar year 1982, at an annual rate of expenditure of $5,725,000. This will allow the Center to hire the necessary staff and make the required final preparations prior to the first event in January, 1983. This amount does not allow for the purchase of theatre-style seats as proposed in the budget. That item will be resolved during consideration of the regular fiscal year 1983 appropriations bill for the District of Columbia.

Amendments No. 34, 35 and 36: Restore section numbers proposed by the House.

Amendment No. 37: Changes the section reference to 101(a)(3).

Amendment No. 38: Restores House language extending an Agency for International Development health project in Africa for three years.

Amendment No. 39: Restores section number proposed by the House.

Amendment No. 40: Provides that the Chancellor, acting on behalf of the Board of Regents of the Smithsonian Institution, certifies that private funds are available to match the appropriation in lieu of a certification by the Chancellor as proposed by the Senate amendment.

Amendments No. 41 and 42: Restore section numbers proposed by the House.

Amendment No. 43: Changes the section reference to 101(a)(3).

Amendment No. 44: Appropriates funds for Small Business Development Centers at an annual rate of $14,000,000 as proposed by the House instead of $11,000,000 as proposed by the Senate.

Amendment No. 45: Restores section number proposed by the House.

Amendment No. 46: Retains language, proposed by the House, which provides restrictions on the activities of the Legal Services Corporation as contained in H.R. 3480 as passed the House of Representatives on June 18, 1981 as follows:

(a) limitations on the presumptive right to refunding (Sec. 4(a), (b) and (c));

(b) prohibitions on lobbying (Sec. 5);

(c) allocation of funding (minimum access) (Sec. 11); and

(d) restrictions on use of funds for aliens (Sec. 14(a)(6) and (b)).

In addition the conference agreement provides for the restrictions on qualifications of recipients as contained in Sec. 3 of H.R. 3480, as proposed by the House, except, as provided by the Senate, that the Corporation can make grants and contracts to qualified nonprofit organizations chartered under State laws for the primary, instead of the sole, purpose of furnishing legal assistance to eligible clients. The conference agreement also provides for the restrictions on initiation of class action suits as proposed by the Senate instead of the class action provision contained in Sec. 6 of H.R. 3480, as proposed by the House.

The conferees are agreed that none of the funds available under this joint resolution for the Legal Services Corporation shall be available for a full adversarial hearing in advance of the denial of any application for refunding. The conferees are also agreed that prior to the denial of any application for refunding, the Corporation shall insure that, the applicant has been given reasonable notice and an opportunity for a timely and fair hearing pursuant to regulations promulgated by the Corporation.

Amendment No. 47: Restores section number proposed by the House.

Amendment No. 48: Restores language proposed by the House which permits the federal government to deduct reasonable amounts from government employees' wages to satisfy indebtedness to the government, when such indebtedness has been determined by a United States Court.

Amendment No. 49: Restores section number proposed by the House.

Amendment No. 50: Makes reference to a total of $77,072,000 available at an annual rate for exchange programs of the United States Information Agency as provided by the conference agreements in amendments numbers 51 through 53 instead of a total of $70,122,000 as proposed by the House and unspecified amounts as proposed by the Senate.

Amendment No. 51: Provides an annual rate of $67,301,000 for the Fulbright and International Visitor Programs instead of $60,415,000 as proposed by the House and $80,886,000 as proposed by the Senate.

Amendment No. 52: Provides an annual rate of $2,620,000 for the Humphrey Fellowship Program as proposed by the House instead of $3,147,000 as proposed by the Senate.

Amendment No. 53: Provides an annual rate of $7,121,000 for the Private Sector Programs instead of $7,087,000 as proposed by the House and $8,630,000 as proposed by the Senate.

Amendment No. 54: Retains Senate language prohibiting the use of funds for activities related to leasing in wilderness and wilderness study areas, to conform to the language in House-passed legislation.

Amendment No. 55: Restores section number proposed by the House.

Amendment No. 56: Provides that the Women, Infants and Children Program (WIC) shall be carried out as provided in Title III of H.R. 7072 as passed the Senate. The conference agreement amends the Senate language to specify as provided "in Title III" of H.R. 7072.

Amendment No. 57: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment amended to read as follows:

In lieu of the section number 125 named in said amendment, insert *129*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

CIVIL AERONAUTICS BOARD

PAYMENTS TO AIR CARRIERS

Amendment No. 58: Retains language proposed by the Senate which terminates the section 406 air carrier subsidy program but continues payments to air carriers. The House bill contained no comparable provision.

MILITARY SERVICE BONUSES

Amendment No. 59: 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 the following:

SEC. 131. Sections 308(g) and 308a(c) of title 37, United States Code, are amended by striking out "September 30, 1982" and inserting in lieu thereof "December 17, 1982".

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. 60: Deletes new section proposed by the Senate which would have appropriated $296,500,000 for community service employment for older Americans under title V of the Older Americans Act.

The conferees have deferred action without prejudice. While the conferees support increased appropriations for this program, there is still time to consider this matter in the regular fiscal 1983 Labor, Health and Human Services and Education bill, since it is forward-funded. The conferees intend to press for action on a regular Labor-HHS bill, providing fully adequate funding for this program.

Amendment No. 61: Changes the section number and appropriates $39,000,000 for the childhood immunization program administered by the Centers for Disease Control, as proposed by the Senate. The House resolution contained no special provision for this program.

Amendment No. 62: Changes the section number and provides for continuation of activities under title XV of the Public Health Service Act at the rate authorized by section 101(b) of H.J. Res. 599. The Senate bill appropriated $64,432,000 for these activities. The House bill contained no similar provision.

Also inserts language proposed by the Senate providing that funds appropriated for 1983 shall not be subject to reduction under section 1521(d)(2) of the Public Health Service Act for the duration of the Continuing Resolution. The House bill contained no similar provision.

The conferees have included bill language to continue the health planning program at the current operating level. The conferees direct the Department of Health and Human Services to make certain, in line with the authority in section 101(b) of this Resolution, that funds flow without interruption to health planning agencies so that they may continue to carry out their mission while the appropriate House and Senate committees continue their efforts to reauthorize the health planning program.

Amendment No. 63: Changes the section number and appropriates $34,000,000 for family medicine residencies as proposed by the Senate. The House bill contains no similar provision.

Amendment No. 64: Changes the section number and modifies language proposed by the Senate to read as follows:

Notwithstanding any other provision of this joint resolution, such amounts as may be necessary shall be transferred from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds to support an annual operating level for Medicare claims processing activities of $800,000,000, including $45,000,000 for this purpose which is currently available under section 118 of Public Law 97-248.

No similar provision was included in the House bill.

The conferees have agreed to an interim funding level of $800,000,000 for medicare contractors. This includes such amounts as may be necessary, over and above the $45 million already made available by P.L. 97-248 for this purpose, to achieve this operating level. The 1982 funding level for this program was $711 million.

Amendment No. 65: Changes the section number and modifies language proposed by the Senate related to certain claims submitted by the States under various public assistance entitlements. The revised language reads as follows:

Notwithstanding the decision of the United States Court of Appeals for the District of Columbia Circuit in Connecticut v. Schweiker (No. 81-2090, July 27, 1982), section 306 of Public Law 96-272, or section 1132 of the Social Security Act, no payment shall be made, in or with respect to any fiscal year prior to fiscal year 1984, under this or any other Act, and no court shall award or enforce any payment (whether or not pursuant to such decision) from amounts appropriated by this or any other Act, to reimburse a State or local expenditures made prior to October 1, 1978, under title I, IV, X, XIV, XVI, XIX, or XX of the Social Security Act, unless a request for reimbursement had been officially transmitted to the Federal Government by the State within one year after the fiscal year in which the expenditure occurred. After fiscal year 1983, any payment made to reimburse such State or local expenditures required to be reimbursed by a court decision in any case filed prior to September 30, 1982 shall be made in accordance with a schedule, to be established under the Social Security Act, over fiscal years 1984 through 1986.

No similar provision was included in the House bill.

On July 27, 1982, the United States Court of Appeals for the District of Columbia Circuit reversed a lower court decision which had found approximately $382 million in claims by the States to have been untimely filed under applicable appropriations restrictions (Connecticut v. Schweiker, No. 81-2090). For the most part, these claims arose under the AFDC, Medicaid and title XX programs. Some of them related to expenditures under those programs occurring almost thirty years ago. As of the date of this conference, the appeal rights of the government in the case have not yet expired, and there remains the possibility of Supreme Court review or other court action affecting the eventual payment by the government of these sums. The language agreed to is not intended to prejudice the outcome of this court case either on behalf of the government or for the States. The position of the Congress on this issue has already been amply expressed through its action on the fiscal year 1980, 1981 and 1982 appropriations bills and related continuing resolutions. The amendment is, however, intended to prohibit payment of any of these claims during fiscal year 1983. If the courts determine that payments must be made, the language agreed to provides a procedure for orderly payment of claims over a 3 year period beginning in fiscal year 1984.

Amendment No. 66: Appropriates $18,000,000 for fiscal year 1983 to carry out the Runaway and Homeless Youth Act, as proposed by the Senate, and changes the section number.

Amendment No. 67: Changes the section number and modifies language proposed by the Senate relating to the Community Services Block Grant. The conference agreement maintains the current requirement that States "pass through" at least 90% of funds allotted to them to local community action agencies and groups serving migrant and seasonal farmworkers.

Amendment No. 68: Inserts new section as proposed by the Senate extending the availability of funds appropriated in 1982 for close-out activities of the former Community Services Administration.

Amendment No. 69: 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 section number 137 named in said amendment, insert *140*.

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 amendment modifies the statutory requirement for making preliminary impact aid payments from funds available under the continuing resolution.

Amendment No. 70: Deletes language proposed by the Senate which would have appropriated an additional $50,000,000 over the amount otherwise made available for 1983 by the continuing resolution for vocational education basic State grants.

It is the intent of the conferees that increases in funding for vocational education aimed at job training and other employment preparation for displaced, unemployed workers will be considered as part of the fiscal 1983 funding bill for the Department of Education.

Amendment No. 71: Changes section number and appropriates $9,000,000 to remain available for obligation until September 30, 1988, as proposed by the Senate, to carry out part H, subpart 2 of Title XIII of the Education Amendments of 1980 relating to the establishment of the General Daniel James Memorial Health Education Center at the Tuskegee Institute in Alabama. There was no funding for this purpose in the House resolution.

Amendment No. 72: Changes the section number and appropriates $5,000,000 for nursing research, as proposed by the Senate. The House bill contained no similar provision.

UNITED STATES COAST GUARD

HEALTH CARE RESPONSIBILITIES

Amendment No. 73: 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 section number 141 named in said amendment, insert *143*.

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. 74: Inserts language proposed by the Senate that maintains the funding level at an annual rate of $7,600,000 for the United States Travel and Tourism Administration within the Department of Commerce, but deletes the Senate provision concerning the numbers of offices and employees in foreign countries. The conferees note that this provision is included in the FY 1983 Appropriations Bill for the Department of Commerce, Justice, and State, the Judiciary and Related Agencies (S. 2956) as reported to the Senate.

Amendment No. 75: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment with an amendment, as follows:

In lieu of the section number named in said amendment, insert: *145*.

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 amendment of the Senate requires that government agencies make loan commitments in the full amount provided by law subject only to the availability of qualified applicants and the limitations contained in appropriation Acts.

Amendment No. 76: 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 section number 144 named in said amendment, insert: *146*.

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 have agreed to language proposed by the Senate which extends for

120 days the 6 month moratorium on the issuance of new nursing home regulations contained in Public Law 97-248.

Amendment No. 77: Deletes language proposed by the Senate to provide the Secretary of Agriculture with authority to conduct boundary surveys of National Forest System lands. The Managers are aware that the Bureau of Land Management has not met adequately Forest Service land line location needs. The two agencies are directed to comply with the existing Memorandum of Understanding. The Managers also urge the Authorizing Committees to address the proposals to give the Forest Service authority to conduct boundary surveys of National Forest System lands. In the event the above actions do not alleviate the Forest Service problem, the Committee will address an adequate remedy in fiscal year 1983.

URBAN MASS TRANSPORTATION ADMINISTRATION

FORMULA GRANT APPORTIONMENTS

Amendment No. 78: 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 the following:

SEC. 147. Notwithstanding any other provision of this joint resolution or any other provision of law, appropriations for urban and nonurban formula grants authorized by the Urban Mass Transportation Act of 1964 (49 U.S.C. 1601 et seq.) shall be apportioned and allocated using data from the 1970 decennial census for one-quarter of the sums appropriated and the remainder shall be apportioned and allocated on the basis of data from the 1980 decennial census.

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. 79: Inserts language proposed by the Senate that adds $13,555,000 to the annual rate provided by Section 101(a) of the resolution for the LANDSAT program, administered by the National Oceanic and Atmospheric Administration within the Department of Commerce.

Amendment No. 80: Inserts language proposed by the Senate amended to read as follows:

SEC. 149. Of the amounts appropriated to the Department of State for the purposes of "Contributions for International Peacekeeping Activities" not more than $50,000,000 shall be available for expenses necessary for contributions to a United Nations Transition Group, notwithstanding section 15(a) of the State Department Basic Authorities Act of 1956 or any other provision of law: Provided, That none of these funds shall be obligated or expended for contributions to the United Nations Transition Assistance Group unless the President determines and reports to the Congress that an internationally acceptable agreement has been achieved among the parties to the Namibia dispute concerning implementation of the United Nations Security Council Resolution 435 for the independence of Namibia.

The conference agreement requires achievement of "an internationally acceptable" agreement among the parties to the Namibia dispute instead of an "adequate" agreement as proposed by the Senate.

Amendment No. 81: Appropriates $365,000 for salaries and expenses of the National Security Council as proposed by the Senate for the President's Foreign Intelligence Advisory Board and the President's Intelligence Oversight Board.

Amendment No. 82: Transfers $5,200,000 from salaries and expenses of the National Endowment for the Humanities to "matching grants" to be used for challenge grants as proposed by the Senate, amended to change section number.

Amendment No. 83: Reported in disagreement.

Amendment No. 84: Appropriates $190,000 to carry out section 301 of the Native Hawaiians Study Commission Act to remain available until expended instead of $200,000 as proposed by the Senate.

Amendment No. 85: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate. This amendment authorized the Administration to regulate the entry of steel products into this country.

Amendment No. 86: 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. This amendment provides that importation of steam will be duty free.

Amendment No. 87: Deletes language proposed by the Senate.

Amendment No. 88: 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, as follows:

In lieu of section number 156 named in said amendment, insert *155*.

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 amendment adds a new section to the joint resolution providing for admittance of Tessie and Enrique Marfori into the United States for permanent residence.

The conferees are agreed that very unusual circumstances exist in this case and that the action of the conferees is not to be considered as a precedent for future consideration of private immigration bills.

DEPARTMENT OF TRANSPORTATION

INTERSTATE TRANSFER GRANTS

Amendment No. 89: 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 the following:

SEC. 156. Notwithstanding any other provision of this joint resolution, there is appropriated $518,000,000, to remain available until expended, for Department of Transportation Interstate Transfer grants—Highways, and $365,000,000, to remain available until expended, for Department of Transportation Interstate Transfer grants—Transit: Provided, That allocations of these funds shall be distributed in accordance with House Report 97-783 or Senate Report 97-567, whichever is higher.

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. 90: 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 section number 158 named in said amendment, insert *157* and in lieu of the section number 159 in said amendment, insert *158*.

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 have agreed to language expressing the sense of the Senate that (1) Congress should reject any proposal to impose a means test on the Medicare program, and (2) that October 10, 1982 be designated National Peace Day.

Amendment No. 91: Inserts language proposed by the Senate extending the construction deadline for financial adjustment factor (FAF) eligible housing units from October 1, 1982, to January 1, 1983, and changes section number.

Amendment No. 92: Provides validating language identical to language included last year in lieu of language proposed by the Senate.

Amendment No. 93: 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 the following:

SEC. 161. Section 2 of the International Coffee Agreement Act of 1980 (19 U.S.C. 1356k) is amended by striking out "October 1, 1982" and inserting in lieu thereof "December 17, 1982".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This amendment extends the expiration date of the International Coffee Agreement Act from October 1, 1982 to the date of the expiration of this joint resolution.

Amendment No. 94: Inserts new section as proposed by the Senate specifying that amounts made available by section 101 for continuing activities conducted in 1982 under the Comprehensive Employment and Training Act of 1973 are also available to continue those activities under the provisions of S. 2036 as reported by the Committee of Conference. S. 2036 is the new employment training authorization bill; the conference report was filed on September 28.

Amendment No. 95: Deletes language proposed by the Senate postponing the effective date of tenant rent contributions regulations.

Amendment No. 96: Changes the section number and modifies language proposed by the Senate to read as follows: *None of the funds provided in this joint resolution shall be used to implement an apportionment and staffing plan to specifically phase down the Public Health Service Commissioned Corps.*

No similar provision was included in the House bill.

The conferees have agreed to a limitation on the use of funds provided by this continuing resolution which prohibits the executive branch from taking any actions which are specifically designed to reduce the size of the Commissioned Corps of the Public Health Service. The conferees are agreed that this limitation does not restrict the authority of the Secretary of the Department of Health and Human Services to make reductions in the size of the Corps which he determines to be in the best interest of the Public Health Service.

Amendment No. 97: Extends availability of funds provided for the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research in the Urgent Supplemental Appropriations Act until December 31, 1982, instead of March 31, 1983, as proposed by the Senate, and changes the section number. The House bill contains no similar provision.

Amendment No. 98: Inserts Senate housekeeping item language regarding certain telephone mileage charges.

Amendment No. 99: Inserts language proposed by the Senate to prohibit studies of "market rate" pricing of hydroelectric power by the six Federal public power authorities or other agencies or authorities of the Federal government. The language is in no way intended to affect specific case-by-case rate reviews that are required to be conducted by the Federal Energy Regula-

tory Commission under existing statutes and changes section number.

FEDERAL AVIATION ADMINISTRATION

AIRPORT GRANTS

Amendment No. 100: 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 the following:

SEC. 167. Section 508 of the Airport and Airway Improvement Act of 1982 is amended by adding at the end thereof the following new subsection:

"(e) USE OF CERTAIN APPORTIONED FUNDS FOR DISCRETIONARY PURPOSES.—(1) Subject to paragraphs (2) and (3), if the Secretary determines, based upon notice provided under section 509(e), or otherwise that any of the amounts apportioned under section 507(a) will not be obligated during a fiscal year, the Secretary may obligate during such fiscal year an amount equal to such amounts at his discretion for any of the purposes for which funds are made available under section 505.

"(2) The Secretary may make obligations in accordance with paragraph (1) only if the Secretary determines that the total of obligations for such fiscal year for purposes of section 505 will not exceed the amount authorized for such fiscal year under section 505(a) and if the Secretary determines that sufficient amounts are authorized under section 505(a) for later fiscal years for obligation for such apportioned amounts which were not obligated during such fiscal year and which remain available under section 508(a).

"(3) For the purposes of carrying out this subsection—

"(A) None of the funds provided in the joint resolution providing continuing appropriations for the fiscal year 1983 shall be available for the planning or execution of programs the commitments for which are in excess of $1,050,000,000 for the two fiscal years ending prior to October 1, 1983, for grants-in-aid for airport planning, noise compatibility planning and programs, and development; and

"(B) Section 506(e)(4) of this Act shall not in any manner whatsoever impair the limitation established by this paragraph."

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 direct that any carryover fiscal year 1982 contract authority be obligated during October, 1982.

JAMIE L. WHITTEN,
EDWARD P. BOLAND,
WILLIAM H. NATCHER,
NEAL SMITH,
J P ADDABBO,
CLARENCE D. LONG,
SIDNEY R. YATES,
EDWARD R. ROYBAL,
TOM BEVILL,
BO GINN,
WILLIAM LEHMAN,
JULIAN C. DIXON,
VIC FAZIO,
SILVIO O. CONTE,
JOSEPH M. MCDADE,
JACK EDWARDS,
JOHN T. MYERS
(except amendment No. 88),
J. K. ROBINSON,
CLARENCE E. MILLER
(except amendments Nos. 29 and 30),
LAWRENCE COUGHLIN,
Managers on the Part of the House.

MARK O. HATFIELD,
TED STEVENS,
LOWELL P. WEICKER, JR.,
JAMES A. MCCLURE,
PAUL LAXALT,
JAKE GARN,
HARRISON SCHMITT,
THAD COCHRAN,
MARK ANDREWS,
JAMES ABDNOR,
R. W. KASTEN,
ALFONSE M. D'AMATO,
MACK MATTINGLY,
WARREN B. RUDMAN,
ARLEN SPECTER,
WILLIAM PROXMIRE,
JOHN C. STENNIS,
DANIEL K. INOUYE,
ERNEST F. HOLLINGS,
TOM EAGLETON,
LAWTON CHILES,
J. BENNETT JOHNSTON,
WALTER D. HUDDLESTON
(except amendment No. 95),
QUENTIN BURDICK,
PATRICK J. LEAHY,
JIM SASSER,
DENNIS DECONCINI,
DALE BUMPERS,
Managers on the Part of the Senate.

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

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PHILLIP BURTON. Madam Speaker, I ask unanimous consent that I may be permitted to revise and extend my own remarks, and that all Members may have 5 legislative days within which to revise and extend their remarks on the legislation just considered.

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

There was no objection.

CONFERENCE REPORT ON HOUSE JOINT RESOLUTION 599, CONTINUING APPROPRIATIONS, 1983

Mr. WHITTEN. Madam Speaker, pursuant to the order of the House of yesterday, I call up the conference report on the joint resolution (H.J. Res. 599) making continuing appropriations for the fiscal year ending September 30, 1983, and for other purposes, and I ask unanimous consent that the statement of the managers be read in lieu of the conference report.

The Clerk read the title of the joint resolution.

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

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of Thursday, September 30, 1982.)

Mr. WHITTEN (during the reading). Madam Speaker, I ask unanimous consent to dispense with further reading of the statement.

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

There was no objection.

The SPEAKER pro tempore. The gentleman from Mississippi (Mr. WHITTEN) will be recognized for 30 minutes, and the gentleman from Massachusetts (Mr. CONTE) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Mississippi (Mr. WHITTEN).

GENERAL LEAVE

Mr. WHITTEN. Madam Speaker, I ask unanimous consent that all Members may have 5 legislature days within which to revise and extend their remarks on the conference report on House Joint Resolution 559 and amendments in disagreement, and that I may include extraneous tabular matter.

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

There was no objection.

Mr. WHITTEN. Madam Speaker, I yield myself such time as I may require.

May I say to my colleagues that I hope we will avoid this type of proceeding in the coming year. As Members will recall, this is the second consecutive year that the Congress has been faced with the necessity to have a continuing resolution providing for nearly the entire Government. We have had problems at times because our friends on the other side of the Capitol were not able to get to consideration of appropriations bills. Then, we have had other problems such as delay in adopting a budget resolution for one reason or another.

Even though most of the Appropriations Subcommittees finished hearings in May and June of this year it was not possible for us to get the appropriations bills before the body until after passage of the budget resolution. Despite that fact, I think the committee has done a good job within the limited time that we have.

I call the Members' attention again to the fact that a continuing resolution is a hybrid. It is both legislation and an appropriation, and for that reason if we had not handled it as we have, we would have had many problems on our side and we would have had problems on the other side of the Capitol.

May I say that when we met in conference the Senate had adopted a total of 100 amendments to the House-passed bill. All 13 subcommittees were involved. Thirty-one of the Senate amendments changed dollar figures totaling a net increase over the House, which was some $33.2 billion. Fifty-four of the Senate amendments were language changes, and 15 of the Senate amendments were technical in nature.

I do want to say for the record that our friend, Senator HATFIELD, chairman of the committee on the Senate side, and his associates were most cooperative in the conference that we had. I think we have learned somewhat from experience, because it is about the second straight year we have been faced with this. This year, the senior members of the House committee met in advance and agreed we would try to hold the line because we realize not only that there is a need to hold the line, but we also had a need to stay within the budget resolution. In our conference yesterday, each subcommittee dealing with the subjects in which it was interested and had jurisdiction met separately, while we went ahead with those that were ready. I think we finished in about 4 hours, which is quite something under the conditions that existed.

I want to say that the bill we bring to you—while we cannot vouch for the outlays entirely because the rate of outlays is largely under the control of the executive branch—is well within the committee's section 302 allocation under the budget resolution.

FEATURES OF THE CONTINUING RESOLUTION

As I stated, this resolution is comfortable with the budget resolution. It generally follows the format of prior years. It exptres December 17, 1982 Instead of December 15 as proposed by the House and December 22 as proposed by the Senate. The provisions of the continuing resolution automatically disengage when regular annual appropriations bills are enacted.

RATES UNDER THE CONTINUING RESOLUTION

Section 101(a) of the resolution provides for 5 bills at the rate of the House bill or the Senate bill, whichever is lower.

The five bills under this section are: Agriculture; Commerce-Justice-State-Judiciary; District of Columbia; Transportation and related agencies; and Treasury-Postal Service and general government.

Section 101(b) provides for the Labor-HHS-Education and related agencies and Interior and related agencies.

Section 101(c) provides for defense at an annual rate of operations not to exceed $228.7 billion, and contains several provisions which address various defense activities.

Section 101(c) provides for foreign assistance at the rate of last year's bill or the budget estimate, whichever is lower.

The legislative branch is provided for in section 101(e) as in the House reported bill for House items and as in the Senate reported bill for Senate items. The existing pay cap is extended through the termination date of the resolution. Other items are provided for the full fiscal year.

Section 101(f) provides such amounts as may be necessary for projects or activities provided for in the Military Construction Act, 1983 (H.R. 6968), at a rate for operations and to the extent and in the manner provided for in the conference report and joint explanatory statement of the committee of conference as filed in the House of Representatives on September 30, 1982, as if such act had been enacted into law.

Section 101(g) provides for the energy and water development appropriation bill at the current rate of operations.

The HUD-Independent Agencies Appropriation Act, 1983, was signed into law yesterday, September 30, 1982, and thus is not provided for in the resolution.

The resolution extends the 1982 provisions and limitations on abortion and school prayer.

□ 1620

Let me say again, in case some of the Members do not know, that the deadline or the end of this continuing resolution is December 17, 1982. I personally do not know when the House will reconvene or when it may adjourn sine die. I do not know that. But the general impression is that we will be

back here, soon after Thanksgiving, and we will continue under this resolution to operate until December 17 unless of course a bill comes out from under it by being enacted into law.

So I say again that we feel we have done a good job and have had a hard test. I also repeat that it was made necessary to meet some deadlines in a timely way, which enabled us to bring the conference report to the House today.

So I just say to the Members that we are under the budget. We have a resolution which we hope the administration will find acceptable. It was a good conference. We have, I think, only one matter that is in true disagreement. That concerns the FAA air traffic controllers. We were able to reach agreement on the other 99 amendments.

So I hope that we can bring this to an end speedily. Let us provide for the orderly continuation of the Government for a temporary period. I am hopeful that when we return in November the Congress will be able to send many of the regular annual appropriations bills to the President so they will disengage from this resolution.

Madam Speaker, at this point in the RECORD I will insert a letter which I received today from the Comptroller General which addresses an action taken by the Appropriations Committee in Public Law 97-92.

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C. October 1, 1982.

Hon. JAMIE L. WHITTEN,
Chairman, Committee on Appropriations, House of Representatives.

DEAR MR. CHAIRMAN: This letter addresses the issue of whether section 140, Pub. L. 97-92, which places a restriction on pay increases to Federal judges and Justices of the Supreme Court, is permanent legislation.

Section 140 provides:

"Sec. 140. Notwithstanding any other provision of law or of this joint resolution, none of the funds appropriated by this joint resolution or by any other Act shall be obligated or expended to increase, after the date of enactment of this joint resolution, any salary of any Federal judge or Justice of the Supreme Court, except as may be specifically authorized by Act of Congress hereafter enacted: *Provided*, That nothing in this limitation shall be construed to reduce any salary which may be in effect at the time of enactment of this joint resolution nor shall this limitation be construed in any manner to reduce the salary of any Federal judge or of any Justice of the Supreme Court."

That provision was introduced for the stated purpose of precluding the annual cost-of-living increase which a Federal judge or Justice of the Supreme Court would otherwise receive on October 1 of any year in which a cost-of-living salary adjustment is made to the General Schedule under 5 U.S.C. 5305. CONGRESSIONAL RECORD, Senate S13373, November 13, 1981. Absent section 140, the adjustment for Federal judges and Justices of the Supreme Court is mandated by law. See, for example, 28 U.S.C. 5, id. 461 as to increases for Justices of the Supreme Court; 28 U.S.C. 44, id. 461 for circuit judges and 28 U.S.C. 135 id. 461 for district court judges.

We have held that a provision contained in an annual appropriation act may not be construed to be permanent legislation unless the language used therein or the nature of the provision renders it clear that such was the intent of the Congress. We believe that the language of section 140 when construed together with the nature of the provision results in a clear showing of a congressional intent to enact permanent legislation.

Standing alone, the language of section 140 "by any other act * * * after the date of enactment of this resolution" is not persuasive as to permanency. However, the additional phrase "except as may be specifically authorized by Act of Congress hereafter enacted" does lead us in that direction. Moreover, to view section 140 as not being permanent legislation would strip the section of any legal effect. Section 140 was included in a continuing resolution which was enacted on December 15, 1981, and which expired on September 30, 1982. The next applicable cost-of-living pay increase under existing law for Judges would be effective October 1, 1982, after the expiration of the continuing resolution. Thus, if section 140 were not held to be permanent legislation, the section will have had no legal effect since it would have been enacted to prevent increases during a period when no increases were authorized to be made.

Accordingly, we conclude that section 140 is permanent legislation and precludes the use of appropriated funds to pay cost-of-living pay increases to Federal judges and Justices of the Supreme Court unless such increases are specifically authorized by the Congress.

Sincerely yours,

CHARLES A. BOWSHER,
Comptroller General of the United States.

Mr. BOLAND. Mr. Speaker, I am happy to report that last night the President signed H.R. 6956, the 1983 HUD-Independent Agencies Appropriation Act. That act is the first regular appropriations bill signed into law before the start of the fiscal year in 3 years—since the 1st session of the 96th Congress.

The 1983 HUD-Independent Agencies Appropriation Act was cleared for the White House on September 29. Because Senator GARN and I had been informed that the President would sign the bill as soon as he received it, reference to the HUD-Independent Agencies Act was dropped from this continuing resolution.

Mr. CONTE. Madam Speaker, I yield myself such time as I may require.

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

Mr. CONTE. Madam Speaker, I support the conference report on House Joint Resolution 599, which continues appropriations for the 1983 fiscal year.

Your conferees disposed of 100 Senate amendments. The conference agreement covers 12 of the 13 appropriation bills for fiscal 1983, as well as several substantive issues which we all recognize should be handled in substantive legislation, but were given to us because the basic legislation has not been enacted.

Some of these issues are within the jurisdiction of the Committee on Ways and Means. I hope my colleagues on that committee will recognize that we did not initiate or seek these issues. They were thrust upon us.

Personally, I am not at all confortable dealing with issues such as steel import licenses, and the International Coffee Agreement. The members of the Committee of Jurisdiction are the experts on such questions.

But the facts of life are that when the legislative committees are not able, for whatever reason, to resolve highly controversial issues, Congress will find some other way, which is usually appropriation bills.

We are not shopping for problems, but we cannot avoid them once the House or the Senate amends one of our bills. The termination date of the resolution is December 17, which was a simple compromise, with no special significance, between the House date of December 15, and the Senate date of December 22.

The rates for individual bills are as follows: Five bills are covered under section 101(a): Agriculture, Commerce-Justice-State-Judiciary, D.C., Transportation, and Treasury.

The rate for project and activities which would be funded in those appropriation acts for 1983, and which were conducted in fiscal 1982, is the House or the Senate rate, whichever is lower, and under the more restrictive authority. A bill which has been reported to the House or the Senate is considered to have been passed by that House.

No new general provision shall take effect unless included in identical form in the House and Senate bills.

Where an item is included in only the House or the Senate bill, the rate is the rate provided by the one House, under the 1982 terms and conditions.

The legislative branch is continued under section 101(e) for the full year at the rate provided in the Senate reported bill, with several specific provisions.

The conference agreement includes a pay cap on upper level Federal employees, including Members of Congress.

Two bills, Labor-HHS and Interior, are continued under section 101(b), which covers activities provided for in the 1982 bill, under the 1982 conditions, at a rate to maintain current operating levels. Section 101(b) also contains language specifically including the off-budget activities of the strategic petroleum reserve.

The Department of Defense is covered under section 101(c), at a rate of $228.7 billion for projects and activities conducted in 1982, and provided for in the 1982 Defense Appropriations Act.

We include several limitations, including no new starts, no initial production of the MX, no long lead procurement or initial production of the second nuclear carrier, and the "buy-America" provision for the Defense Department which covers specialty metals, food, and textiles.

Foreign Assistance activities are covered under section 101(d), which continues activities funded in the 1982

Foreign Assistance Act at the rate provided in that act, or the budget estimate, whichever is lower, and under the more restrictive authority.

Aid to Israel is at the 1982 level.

Activities funded in the Energy and Water Development Act for 1982, which were conducted in 1982, are funded at the current rate. New starts are prohibited unless approved by the Committee on Appropriations, and DOE employment levels are not to be "significantly" reduced below the levels in effect on September 30, 1982.

Military Construction activities are continued at the rate and in the manner provided in the conference report as filed in the House.

Although I cannot cover all of the Senate amendments, I will try to highlight some of the most important special provisions.

We accept the Senate amendments regarding steel import licenses and imported steam, and extending the International Coffee Agreement.

We provide that 75 percent of mass transit funds shall be apportioned using 1980 census data, and 25 percent will be based on 1970 census data. The Senate amendment would have required that all funds be apportioned using the 1980 figures.

Senate language which provides for payments to air traffic controllers is reported in disagreement, but I support the Senate language, and will support a motion to be offered later to accept the Senate language.

The conferees agreed to $85 million to be available, but not required to be spent, for the purchase of copper for the national stockpile.

The conferees agreed to restrictions on the Legal Services Corporation which would limit the presumptive right to refunding, place certain restrictions on lobbying, retain House language on the allocation of funding, and restrict the use of funds for aliens. The conference agreement also restricts the initiation of class action suits, and requires certain qualifications of recipients.

Mr. Speaker, these are the highlights of the conference agreement.

I did not agree with all of the conference agreements. But we are operating on borrowed time. The new fiscal year has started. The executive branch is cooperating by keeping the Government running so that we can act today.

Let us pass this conference report and go home.

COMMERCE, JUSTICE, STATE AND JUDICIARY

The conferees agreed to fund the programs of the Departments of Commerce, Justice and State, the Judiciary and related agencies at the lower of House or Senate reported bills for fiscal year 1983. The House had tied the rates to the House reported bill or the fiscal year 1982 levels, whichever are lower. The Senate bill was reported subsequent to House action on the continuing resolution.

The conferees agreed to earmark small business development centers at $14 million, as provided by the House. The Senate had reduced this earmark to $11 million.

Compromise amounts were reached for certain programs of the U.S. Information Agency, including $67.3 million for the Fulbright and international visitors program, $2.6 million for Humphrey fellowships, and $7.1 million for private sector programs.

The conferees provided the full Senate amount of $7.6 million for the U.S. Travel and Tourism Administration. The House bill included $5.033 million for this agency.

House conferees also agreed to the Senate addition of $13.5 billion for Landsat, which will allow this important resource to continue operations in fiscal year 1983. Due to a delay in certain authorizing legislation, the National Oceanic and Atmospheric Administration faced the prospect of assuming responsibility for the operation of Landsat without the necessary funds to do so.

The conference agreed to Senate language authorizing the use of $50 million from existing funds from U.N. peacekeeping activities for a new United Nations Transition Assistance Group (UNTAG) in Namibia, subject to Presidential determination that an agreement has been achieved among the parties to the dispute in that country. The authority for this money in the continuing resolution is necessary in case there is a resolution of the negotiations during the election recess. The total U.S. contribution to this non-U.S. force is estimated at $135 million, including $10 million for refugee assistance.

The conference agreement provides an annual rate of $241 million for the Legal Services Corporation, along with restrictive language regarding aliens, lobbying, presumptive right to refunding, minimum access, qualifications of recipients and class action suits.

FOREIGN OPERATIONS

The conferees agreed in most instances to the House funding levels for foreign assistance, providing a total of $9.8 billion. This is $1.3 billion below the Senate amount, $1.8 billion below fiscal year 1982 appropriations, and $1.7 billion below the President's fiscal year 1983 request. The international financial institutions are funded at Senate levels because of a separate provision adopted by the conference.

The Export-Import Bank is limited to $3.83 billion in direct lending and $8 billion in guarantees, compared to $4.4 billion and $9.22 billion, respectively, in the Senate bill and fiscal year 1982. The amounts in the continuing resolution are the same as the President's request for fiscal year 1983. Israel would receive the same amounts in the continuing resolution, and under the same conditions, as in fiscal year 1982; that is, $785 million in economic support funds as a grant and $1.4 billion in foreign military sales credits, $550 million of which is forgiven. The amount for economic support funds is the same as the President's request for fiscal year 1983, although the President would provide two-thirds of the money as a grant and one-third as a loan. The request for foreign military sales credits for fiscal year 1983 is $1.7 billion, $300 million higher than the amount provided in the continuing resolution, with $500 million forgiven, $50 million less than the amount forgiven in the continuing resolution.

UNICEF receives $26 million under the continuing resolution, $15.5 million below the Senate amount and below the fiscal year 1982 appropriation. The United Nations Development Program receives $106.8 million, $21.4 million below the Senate amount and the amount provided in fiscal year 1982.

Significant reductions below fiscal year 1983 budget requests and needs are made in such accounts as the economic support fund, American schools and hospitals abroad, the Peace Corps, military assistance, peacekeeping activities in the Sinai, the Export-Import Bank and the international financial institutions. No funding at all is provided for the International Fund for Agriculture Development, which is a mistake. It is obvious that these shortfalls will have to be addressed by Congress during the postelection session.

The conferees accepted language in the House bill extending a regional health delivery project in West and Central Africa for 3 years at an estimated cost of $2 million per year. This highly successful project, directed under AID contract by Boston University, had been threatened with termination, and this language will avoid that prospect.

LEGISLATIVE BRANCH

The conferees agreed to include for the entire fiscal year a compromise version of the legislative branch appropriations for fiscal 1983. All House items and all Senate items reported previously in H.R. 7073 and S. 2939 are included in the conference agreement, and dollar differences in several joint items were split.

The pay cap for Federal executive, judicial, and legislative officials, which was included in both the House and Senate bills, is retained by the conference for the duration of the continuing resolution.

A House provision limiting reimbursements for Senators' travel within their home States was dropped by the conference.

DEFENSE

The defense section provides a rate of $228.7 billion dollars, but with some specific restrictions. None of the funds may be used to initiate or resume projects or activities for which funds or authority were not available in fiscal 1982. There is a specific prohibition against starting production of the MX missile and the second nuclear-powered aircraft carrier. Long lead

only can continue, as was approved last year, for one carrier. Defense is directed to consult with the Appropriations Committees of the House and Senate in every instance where there is any question on proceeding, and I can assure you we mean exactly that.

We fully expect to have a defense bill before the House shortly after we return from the election recess, and we can resolve these issues at that time. But for the continuing resolution, there are no new starts, no MX, and no carrier production, with full consultation with the committee on any questionable item. I am comfortable with the defense section.

ENERGY AND WATER

The continuing resolution provides that the rate of operations for energy and water programs will generally be at the current rate, modified to require prior approval of the Committee on Appropriations for the initiation or resumption of any project or activity for which appropriations, funds, or other authority were not available in fiscal year 1982.

The House receded to a Senate amendment that would prohibit the use of funds for the purpose of conducting studies relating to changing from the currently required "at-cost" to a "market rate" method for pricing hydroelectric power by Federal public power authorities.

HUD INDEPENDENT AGENCIES

The conference agreement removes funding for the programs of the Department of Housing and Urban Development and Independent Agencies from under the continuing resolution since both the House and Senate have already adopted the conference report to H.R. 6956, making fiscal year 1983 appropriations for HUD/Independent Agencies.

The conference agreement does include language offered by the Senate to extend the construction start deadline for financial adjustment factor (FAF) eligible housing projects from October 1, 1982, to January 1, 1983. The conference agreement does not include language proposed by the Senate to postpone the effective date of tenant rent contributions regulations.

LABOR-HHS-EDUCATION

For the Departments of Labor, Health and Human Services, Education and Related Agencies, the conference report establishes funding levels under the continuing resolution at current operating levels and under current terms and conditions. This is the same provision as was passed by the House when it considered House Joint Resolution 599 for the first time. Current operating level is meant to include all supplemental appropriations and is meant to continue all current programs through the period of the continuing resolution.

The Senate added 19 amendments on its side, 7 of them increasing funding for particular programs by about $100 million. The two largest of these increases, $50 million for vocational education and $19 million for older Americans title V, were not appropriate for consideration in this short-term, continuing resolution, because they establishing funding levels for forward-funded programs that would not be obligated until next July. The conference report strikes these two amendments, without prejudice to their consideration in the regular 1983 labor-HHS-education bill.

Another four money amendments provided relatively small amounts to a number of important programs, and in the interest of reaching an agreement with the Senate and keeping the Government from shutting down, the House receded to the Senate. These increases were runaway youth, $7.5 million; family medicine, $7.2 million; childhood immunization, $4.4 million; nursing research, $1.6 million.

The last funding amendment provides $9 million to endow a center at Tuskegee University in honor of the Nation's first and only black four-star general in the U.S. Air Force. This was requested by the administration and is contained in the regular 1983 House bill.

The Senate added a number of language amendments as well.

Probably the amendment that has caused the most interest concerns the matter of prior year State social security claims. This is a complicated matter with a long history, but I want to make it clear that this amendment keeps the door open for the States that have obtained a court decision in their favor.

No money would be provided in fiscal year 1983 while the battle continues in the courts, but provided they obtain a favorable judgment, the States would be eligible for payments over a 3-year period starting in 1984.

The conference report contains a number of other language provisions as well, including extending the moratorium on nursing-home regulations by 120 days; adopting the sense-of-the-Senate resolution in opposition to a medicare means test; continuing the allocation of community service block grant money under current terms and conditions; permitting the funding for jobs training to be obligated under the terms of the transition provision contained in the conference report of the jobs training bill.

All in all, the provision relating to the Departments of Labor, Health and Human Services, and Education keep the continuing resolution close to the original concept of continuing the programs as they are operating currently, which gives the opportunity and the incentive to consider funding these programs as part of the regular labor-HHS-Education bill during the lame duck session.

TRANSPORTATION

The continuing resolution provides that the rate of operations for transportation programs will generally be the lower of the House-passed or Senate reported bill. For items that are contained in one bill not in the other, funding will be provided at the lower of the level provided in that bill or the fiscal year 1982 level.

One exception is the provision for the Department of Transportation's interstate transfer grants, for which the continuing resolution provides $518 million for highways and $365 million for transit projects.

The allocation of these funds is to be in accordance with the higher of the House or Senate report on the fiscal year 1983 transportation appropriations bill, which will permit the funding of the many important and much needed projects listed in the House report.

For urban and nonurban formula grants the Senate had proposed to apportion and allocate these funds using 1980 census data. Under the conference agreement, 75 percent of these funds would be apportioned using 1980 data, while 25 percent of the funds would continue to be apportioned on the basis of the 1970 census.

Mr. Speaker, the controversial question of the pay increase for air traffic controllers was reported back in true disagreement. The Senate amendment provided for an average 6.6 percent pay increase for working air traffic controllers—an increase that is well deserved and long overdue.

The House passed this measure in last November's continuing resolution, only to see it die with the President's veto.

At the appropriate time, there will be a motion made to recede and concur in the Senate amendment. I will have further remarks on this subject at that time, but at this point would urge my colleagues to agree to that motion and defeat an amendment that would mandate the rehiring of fired striking controllers.

The continuing Resolution provides that programs and activities of the Department of Interior and Related Agencies shall be continued at a rate to maintain current operating levels.

Six amendments in disagreement were considered by the conferees relating to the programs and activities of the Department of Interior and Related Agencies. The managers on the part of the House have agreed to the Senate provision providing the budget request for the strategic petroleum reserve so that there will be no disruption in our efforts to fill the reserve. The House also agreed to Senate language further conforming to the House-passed Wilderness Protection Act provisions contained in the House-passed continuing resolution to prohibit the use of funds for activities relating to leasing in wilderness and wilderness study areas. The conference agreement also provides $36.5 million for the construction of the south quadrangle project by the Smithsonian. The funds are made available sub-

ject to certification by the Chancellor on behalf of the Board of Regents of the Smithsonian that the required private matching funds are available.

The conferees also agreed to provide $190,000 for the expenses of the Native Hawaiians Study Commission, approved the transfer of $5.2 million in salaries and expense money to the matching grants program within the National Endowment for the Humanities, and deleted Senate language which would have transferred all resources involving cadastral survey work in the national forest system from the Department of Interior to the Department of Agriculture.

Mr. WHITTEN. Madam Speaker, I yield such time as he may require to the gentleman from California (Mr. FAZIO) a member of the committee.

(Mr. FAZIO asked and was given permission to revise and extend his remarks, and to include extraneous matter.)

Mr. FAZIO. Madam Speaker, I rise in support of the conference report.

Madam Speaker, the conference report includes funding for the operations of the legislative branch for the 1983 fiscal year. The continuing resolution references the levels set in S. 2939, the fiscal year 1983 legislative branch appropriation reported to the Senate on September 22, 1982, together with certain exceptions. This conference agreement, Madam Speaker, represents a reasonable compromise between H.R. 7073, the Legislative Branch Appropriation Act reported to the House on September 9, 1982, and S. 2939.

At this point in the RECORD under permission which I have already obtained, I will insert a tabulation detailing the conference agreement on legislative branch items in comparative form:

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY—LEGISLATIVE BRANCH: CONTINUING RESOLUTION, FISCAL YEAR 1983 (H.J. RES. 599)

	Fiscal year 1982, enacted	Fiscal year 1983, request	House	Senate	Conference
TITLE I—CONGRESSIONAL OPERATIONS					
SENATE					
Compensation and mileage of the Vice President and Senators and expense allowances of the Vice President, the leaders, and whips of the Senate:					
Compensation and mileage of the Vice President and Senators	6,922,000				
Mileage of the Vice President and Senators		60,000		60,000	60,000
Expense allowances of the Vice President, President pro tempore, majority and minority leaders and majority and minority whips:					
Vice President	10,000	10,000		10,000	10,000
President pro tempore of the Senate	10,000	10,000		10,000	10,000
Majority leader of the Senate	10,000	10,000		10,000	10,000
Minority leader of the Senate	10,000	10,000		10,000	10,000
Majority whip of the Senate	2,500	2,500		2,500	2,500
Minority whip of the Senate	2,500	2,500		2,500	2,500
Total, expense allowances	45,000	45,000		45,000	45,000
Total, Vice President and Senators	6,577,000	105,000		105,000	105,000
Salaries, officers and employees:					
Office of the Vice President	991,000	991,000		991,000	991,000
Office of the President pro tempore	133,000	147,000		133,000	133,000
Offices of the majority and minority leaders	717,100	780,000		717,000	717,000
Floor assistants to the majority and minority leaders	115,000	134,000		117,000	117,000
Offices of the majority and minority whips	278,600	308,000		279,000	279,000
Conference committees	875,700	968,000		876,000	876,000
Offices of the secretaries of the conference of the majority and the conference of the minority	150,100	166,000		150,000	150,000
Office of the Chaplain	80,640	80,000		80,000	80,000
Office of the Secretary	5,296,000	5,702,000		5,660,000	5,660,000
Administrative, clerical, and legislative assistance to Senators	90,996,000	90,996,000		90,996,000	90,996,000
Office of Sergeant at Arms and Doorkeeper	24,542,000	28,470,000		27,378,000	27,378,000
Offices of the secretaries for the majority and minority	710,000	717,000		710,000	710,000
Agency contributions and longevity compensation	15,971,000	17,024,000		16,705,000	16,705,000
Total, salaries, officers and employees	140,856,140	146,483,000		144,792,000	144,792,000
Office of the Legislative Counsel of the Senate: Salaries and expenses	1,086,600	1,266,000		1,155,000	1,155,000
Office of Senate Legal Counsel: Salaries and expenses	508,000	525,000		508,000	508,000
Expense allowance for the Secretary of the Senate, Sergeant at Arms and Doorkeeper of the Senate, and secretaries for the majority and for the minority of the Senate		8,000		8,000	8,000
Contingent expenses of the Senate:					
Senate procedure	5,000				
Senate policy committees	1,833,700	1,803,000		1,634,000	1,634,000
Automobiles and maintenance	75,000	111,000		90,000	90,000
Inquiries and investigations	43,199,500	47,524,000		43,199,500	43,199,500
Folding documents	134,000	134,000			
Miscellaneous items	33,507,168	39,064,000		37,900,500	37,900,500
Postage stamps	9,000	11,000		11,000	11,000
Stationery (revolving fund)	43,000	31,000		131,000	131,000
Total, contingent expenses of the Senate	78,606,368	88,680,000		82,966,000	82,966,000
Total, Senate	228,034,108	237,066,000		229,534,000	229,534,000
HOUSE OF REPRESENTATIVES					
Payments to widows and heirs of deceased Members of Congress: Gratuities, deceased Members	121,375		60,663	60,663	60,663
Compensation and mileage for the Members:					
Compensation of Members	29,382,000				
Mileage of Members	210,000	210,000	210,000	210,000	210,000
Total, compensation and mileage for the Members	29,592,000	210,000	210,000	210,000	210,000
House leadership offices:					
Office of the Speaker	673,000	676,000	676,000	676,000	676,000
Office of the Majority Floor Leader	551,000	555,000	555,000	555,000	555,000
Office of the Minority Floor Leader	610,000	617,000	617,000	617,000	617,000
Office of the Majority Whip	465,000	470,000	470,000	470,000	470,000
Office of the Minority Whip	406,000	408,000	408,000	408,000	408,000
Total, House leadership offices	2,705,000	2,726,000	2,726,000	2,726,000	2,726,000
Salaries, officers and employees:					
Office of the Clerk	11,543,000	11,787,000	11,787,000	11,787,000	11,787,000
Office of the Sergeant at Arms	16,028,000	16,284,000	16,284,000	16,284,000	16,284,000
Office of the Doorkeeper	5,537,000	5,938,000	5,938,000	5,938,000	5,938,000
Office of the Postmaster	3,672,000	1,769,000	1,769,000	1,769,000	1,769,000
Office of the Chaplain	56,000	56,000	56,000	56,000	56,000

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY—LEGISLATIVE BRANCH: CONTINUING RESOLUTION, FISCAL YEAR 1983 (H.J. RES. 599)—Continued

	Fiscal year 1982, enacted	Fiscal year 1983, request	House	Senate	Conference
Office of the Parliamentarian	495,000	495,000	495,000	495,000	495,000
Office of the Parliamentarian	(305,000)	(305,000)	(305,000)	(305,000)	(305,000)
Compilation of precedents of the House of Representatives	(190,000)	(190,000)	(190,000)	(190,000)	(190,000)
Office of the Law Revision Counsel	594,000	716,000	716,000	716,000	716,000
Office of the Legislative Counsel	2,577,000	2,601,000	2,601,000	2,601,000	2,601,000
House Democratic Steering Committee and Caucus	502,000	511,000	511,000	511,000	511,000
House Democratic Steering Committee	(356,000)	(391,000)	(391,000)	(391,000)	(391,000)
House Democratic Caucus	(118,000)	(120,000)	(120,000)	(120,000)	(120,000)
House Republican Conference	502,000	511,000	511,000	511,000	511,000
6 statutory employees	343,000	352,000	352,000	352,000	352,000
Other authorized employees	852,000	936,000	936,000	936,000	936,000
Technical assistant, Office of the Attending Physician	(40,000)	(40,000)	(40,000)	(40,000)	(40,000)
L. B. J. interns and former Speakers' staff	(734,000)	(812,000)	(812,000)	(812,000)	(812,000)
Miscellaneous items	(84,000)	(84,000)	(84,000)	(84,000)	(84,000)
Total, salaries, officers and employees	40,951,000	41,959,000	41,959,000	41,959,000	41,959,000
Committee employees: Professional and clerical employees (standing committees)	31,180,000	32,035,000	32,035,000	32,035,000	32,035,000
Committee on Appropriations (studies and investigations): Salaries and expenses	3,701,000	3,750,000	3,750,000	3,750,000	3,750,000
Committee on the Budget (studies): Salaries and expenses	218,000	276,000	276,000	276,000	276,000
Members' clerk hire: Clerk hire	143,715,000	143,953,000	143,953,000	143,953,000	143,953,000
Contingent expenses of the House:					
Allowances and expenses:					
Official expenses of Members	49,036,000	49,791,000	49,791,000	49,791,000	49,791,000
Salaries, materials, administrative costs and Federal tort claims	11,876,000	8,337,000	8,337,000	8,337,000	8,337,000
Furniture and furnishings	1,670,000	1,250,000	1,250,000	1,250,000	1,250,000
Reporting hearings	1,511,000	700,000	700,000	700,000	700,000
Reemployed annuitants reimbursement	2,300,000	2,300,000	2,300,000	2,300,000	2,300,000
Government contributions	18,988,000	18,988,000	18,988,000	18,988,000	18,988,000
Miscellaneous items	563,000	500,000	500,000	500,000	500,000
Total, allowances and expenses	86,038,000	81,866,000	81,866,000	81,866,000	81,866,000
Special and Select Committees, Salaries and expenses	42,135,000	43,600,000	47,000,000	42,000,000	42,000,000
Total, contingent expenses of the House	128,173,000	125,466,000	128,866,000	123,866,000	123,866,000
Total, House of Representatives	380,388,375	350,375,000	348,835,663	348,835,663	348,835,663
JOINT ITEMS					
Contingent expenses of the Senate:					
Joint Economic Committee	2,305,000	2,375,000	2,375,000	2,230,000	2,327,000
Joint Committee on Printing	816,000	951,000	816,000	816,000	816,000
Total, contingent expenses of the Senate	3,121,000	3,326,000	3,191,000	3,046,000	3,143,000
Contingent expenses of the House: Joint Committee on Taxation	2,136,000	3,405,000	3,405,000	2,862,000	2,733,000
Office of the Attending Physician: Medical supplies, equipment, expenses, and allowances	603,000	622,000	633,000	633,000	633,000
Capitol Police:					
General expenses	887,000	945,000	945,000	945,000	945,000
Capitol Police Board (unappropriated)	628,000				
Total, Capitol Police	1,515,000	945,000	945,000	945,000	945,000
Education of pages: Education of congressional pages and pages of the Supreme Court	255,000	271,000	271,000	271,000	271,000
Official mail costs: Expenses	75,095,000	55,196,000	55,196,000	55,196,000	55,196,000
Capitol Guide Service: Salaries and expenses	734,000	734,000	734,000	734,000	734,000
Statements of Appropriations: Preparation	13,000	13,000	13,000	13,000	13,000
Total, joint items	84,472,000	64,523,000	64,388,000	63,698,000	64,168,000
OFFICE OF TECHNOLOGY ASSESSMENT					
Salaries and expenses	12,169,000	13,900,000	12,575,000	12,575,000	12,575,000
CONGRESSIONAL BUDGET OFFICE					
Salaries and expenses	13,226,000	16,352,000	14,200,000	15,450,000	14,825,000
ARCHITECT OF THE CAPITOL					
Office of the Architect of the Capitol:					
Salaries	3,897,000	4,540,000	4,261,000	4,326,000	4,301,000
Contingent expenses	210,000	210,000	210,000	210,000	210,000
Total, Office of the Architect of the Capitol	4,107,000	4,750,000	4,471,000	4,536,000	4,511,000
Capitol Buildings and Grounds:					
Capitol Buildings	10,330,000	11,814,000	9,056,000	9,998,000	9,998,000
Capitol Grounds	2,480,000	5,608,000	4,921,000	4,921,000	4,921,000
Acquisition of property as an addition to the Capitol Grounds		4,500,000	4,500,000	4,500,000	4,500,000
Senate office buildings	15,051,000	34,883,000		20,308,000	20,308,000
Senate garages	99,000	104,000			
House office buildings	20,099,000	20,814,000	20,367,000	20,367,000	20,367,000
Capitol Power Plant (operation)	22,222,000	24,060,000	23,100,000	23,100,000	23,100,000
Total, Capitol Buildings and Grounds	70,281,000	101,783,000	61,944,000	82,194,000	82,194,000
Total, Architect of the Capitol (except items in title II)	74,388,000	106,533,000	66,415,000	87,730,000	87,705,000
LIBRARY OF CONGRESS					
Congressional Research Service: Salaries and expenses	31,605,000	37,109,000	33,851,000	33,851,000	33,851,000
GOVERNMENT PRINTING OFFICE					
Congressional printing and binding	84,843,000	90,247,000	81,747,000	81,747,000	81,747,000
Total, title I—Congressional operations	909,123,433	916,095,000	822,011,663	873,420,663	873,420,663
TITLE II—OTHER AGENCIES					
BOTANIC GARDEN					
Salaries and expenses	2,351,000	1,827,000	1,827,000	1,827,000	1,827,000
LIBRARY OF CONGRESS					
Salaries and expenses	121,676,000	129,657,000	126,803,000	126,803,000	126,803,000

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY—LEGISLATIVE BRANCH, CONTINUING RESOLUTION, FISCAL YEAR 1983 (H.J. RES. 599)—Continued

	Fiscal year 1982, enacted	Fiscal year 1983, request	House	Senate	Conference
Authority to spend receipts:					
Net, salaries and expenses	−6,500,000		−6,500,000	−6,500,000	−6,500,000
Copyright Office, salaries and expenses:					
Authority to spend receipts	115,176,000	129,657,000	120,303,000	120,303,000	120,303,000
Net, Copyright Office, salaries and expenses	14,677,000	15,515,000	15,477,000	15,477,000	15,477,000
Books for the blind and physically handicapped, salaries and expenses	−5,000,000		−5,000,000	−5,000,000	−5,000,000
Collection and distribution of library materials (special foreign currency program):	9,677,000	15,515,000	10,477,000	10,477,000	10,477,000
Payments in Treasury-owned foreign currencies	33,221,000	35,478,000	33,384,000	33,384,000	33,384,000
U.S. dollars	3,576,000	3,576,000	3,576,000	3,576,000	3,576,000
Total, collection and distribution of library materials	429,000	462,000	462,000	462,000	462,000
Furniture and furnishings	4,405,000	4,438,000	4,438,000	4,438,000	4,438,000
Total, Library of Congress (except Congressional Research Service)	1,089,000	1,563,000	1,226,000	1,226,000	1,226,000
ARCHITECT OF THE CAPITOL					
Congressional cemetery	163,518,000	186,651,000	169,828,000	169,828,000	169,828,000
Library buildings and grounds, Structural and mechanical care					
COPYRIGHT ROYALTY TRIBUNAL	8,785,000	5,137,000	300,000 5,071,000	300,000 5,071,000	300,000 5,071,000
Salaries and expenses					
Authority to spend receipts	487,000	556,000	606,000	556,000	606,000
Net, salaries and expenses			−157,000		−157,000
GOVERNMENT PRINTING OFFICE	487,000	556,000	449,000	556,000	449,000
Printing and binding:					
Office of Superintendent of Documents, salaries and expenses	17,888,000	16,591,000	12,791,000	12,791,000	12,791,000
Total, Government Printing Office (except Congressional printing and binding)	27,120,000	28,889,000	27,291,000	27,291,000	27,291,000
GENERAL ACCOUNTING OFFICE	45,008,000	45,480,000	40,082,000	40,082,000	40,082,000
Salaries and expenses					
Total, title II—Other agencies	236,000,000	255,014,000	245,300,000	244,250,000	244,900,000
Grand total, new budget (obligational) authority	456,149,000	494,665,000	462,857,000	461,914,000	462,457,000
	1,365,272,433	1,410,760,000	1,084,868,663	1,335,334,663	1,335,697,663
RECAPITULATION					
Title I—Congressional operations	909,123,433	916,095,000	622,011,663	873,420,663	873,240,663
Title II—Other agencies	456,149,000	494,665,000	462,857,000	461,914,000	462,457,000
Grand total	1,365,272,433	1,410,760,000	1,084,868,663	1,335,334,663	1,335,697,663
TITLE I—CONGRESSIONAL OPERATIONS					
Senate	228,034,108	237,056,000		229,534,000	229,534,000
House of Representatives	380,385,325	350,375,000	348,835,663	348,835,663	348,835,663
Joint items	84,472,000	64,523,000	64,388,000	63,698,000	64,168,000
Office of Technology Assessment	12,168,000	13,900,000	12,575,000	12,575,000	12,575,000
Congressional Budget Office	13,226,000	16,352,000	14,200,000	15,450,000	14,825,000
Architect of the Capitol (except Library buildings and grounds, and Congressional Cemetery)	74,388,000	106,533,000	66,415,000	87,730,000	87,705,000
Congressional Research Service, Library of Congress	31,605,000	31,109,000	33,851,000	33,851,000	33,851,000
Congressional printing and binding, Government Printing Office	84,843,000	90,247,000	81,747,000	81,747,000	81,747,000
Total, title I—Congressional operations	909,123,433	916,095,000	622,011,663	873,420,663	873,240,663
TITLE II—OTHER AGENCIES					
Botanic Garden	2,351,000	1,877,000	1,877,000	1,877,000	1,877,000
Library of Congress (except Congressional Research Service)	163,518,000	186,651,000	169,828,000	169,828,000	169,828,000
Architect of the Capitol (Library buildings and grounds, and Congressional Cemetery)	8,785,000	5,137,000	5,371,000	5,371,000	5,371,000
Copyright Royalty Tribunal	487,000	556,000	449,000	556,000	449,000
Government Printing Office (except congressional printing and binding)	45,008,000	45,480,000	40,082,000	40,082,000	40,082,000
General Accounting Office	236,000,000	255,014,000	245,300,000	244,250,000	244,900,000
Total, title II—Other agencies	456,149,000	494,665,000	462,857,000	461,914,000	462,457,000
Grand total, new budget (obligational) authority	1,365,272,433	1,410,760,000	1,084,868,663	1,335,334,663	1,335,697,663

There is one point I want to clarify, Madam Speaker. In enacting the change to title 44 contained in section 305 of S. 2939, a change which will probably save the international exchange program from closing down, the new language in section 1719 of title 44 specifies those documents that are exempt from the program because of national security, limited public interest or educational value, and related reasons. With respect to these exempt publications, the law speaks for itself, and there is no additional discretion implied in the law or in the accompanying House and Senate reports that outline the new legislation.

Madam Speaker, Senator MATTINGLY, my counterpart chairman in the other body, and I and the other members of the conference committee feel that this is the best compromise that can be reached. The legislative branch budget is $29,574,770 below the amount enacted for fiscal year 1982 and it is $75,062,337 under the amount requested for fiscal year 1983. In other words, we have produced a legislative branch budget that is 2 percent less than the 1982 level, while the entire Federal budget is projected to increase by almost 6 percent for the same period of time. Once again, the legislative branch is showing the way in these times that require fiscal restraint on the part of all levels of Government.

Every Member of this House and this Congress can be proud of this budget, Madam Speaker. The legislative branch budget shows that the Congress, in its own operations, has been more than a willing partner in the effort to bring fiscal policy in line with the need for prudent public expenditures.

□ 1630

Mr. CONTE. I yield 3 minutes to my good friend, the gentleman from Ohio (Mr. KINDNESS).

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

Mr. KINDNESS. I rise, Madam Speaker, to voice some discomfort about the conference report which I cannot in good conscience support because I share the belief of two of our colleagues, members of the Appropriations Committee, that it incorporates an unconstitutional delegation of au-

thority to the Appropriations Committee.

Last week when the House first considered House Joint Resolution 599 the gentleman from New York (Mr. GREEN) and the gentleman from Oklahoma (Mr. EDWARDS) both brought to the attention of the House a provision which is as outrageous as it is illegal and illegitimate.

That provision is the one which deems those general appropriation measures which have simply been reported from the Appropriations Committee to be considered as passed by the full House.

I share their view that that is an impermissible delegation of authority.

One of the results of this provision, however, is more troublesome. It would appear to effectuate a legislative rider contained in the appropriations bill on Treasury, Postal Service and Related Agencies, H.R. 7158, which was reported on September 22, 1982. That rider purports to restrict interference by OMB in the regulatory activities of the regulatory agencies.

I do not think it means anything and it has no legislative effect. But some of these conditions that are put in appropriation measures and are given false life by the continuing resolution need to be examined by this House, by this body, before they are given some sort of a semilegal status.

In the absence of any further legislative language to define what is meant by "interference" it is worth remembering that the courts presume that agencies are properly conducting their activities.

The report language accompanying this provision does not specify any examples of what is meant by "interference" and thus at most this provision imposes no further restrictions upon the activities of the Office of Management and Budget than otherwise existed.

Then their ability to carry out their statutory duties under the Paperwork Reduction Act of 1980 and under Executive Order 12291 having to do with regulatory oversight continue in effect and are not touched by this.

If there is any different interpretation that should be placed upon that I would invite anyone to do that in order for the RECORD to be made clear.

Mr. WHITTEN. Madam Speaker, I yield 4 minutes to the gentleman from Florida (Mr. LEHMAN).

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

Mr. LEHMAN. Madam Speaker, I rise in support of the House Joint Resolution 599 conference agreement. I would like to highlight several of the major items in this bill as they pertain to transportation.

First and foremost, the conference agreement stipulates that the rate of spending for most transportation items be limited to the rates specified in either the House-passed or Senate-reported transportation appropriations bills, whichever is lower.

The one major exception to this requirement is amendment No. 89 which appropriates $518,000,000 for Interstate transfer grants—highways, and $365,000,000 for Interstate transfer grants—transit. The amendment also specified how these funds are to be allocated. That distribution is as follows:

Interstate transfer—highways

Pennsylvania	$34,800,000
Washington, D.C	30,000,000
Hartford-New Britain	40,000,000
Oregon	60,000,000
Tucson	12,600,000
Northeast Illinois	150,000,000
Denver	25,000,000
New York State	18,000,000
Minneapolis	8,500,000
Twin Cities	11,000,000
New Jersey	40,000,000
Cleveland	25,000,000
Omaha	12,000,000
Memphis	18,400,000
Duluth-Superior	13,000,000
Baltimore	10,000,000
Indianapolis	5,700,000
Iowa	4,000,000
Total	518,000,000

Interstate transfer—transit

Boston	$105,000,000
New Jersey	30,000,000
Washington, D.C	45,000,000
Oregon	56,000,000
Sacramento	18,400,000
Northeast Illinois	56,000,000
Baltimore	37,000,000
Duluth	600,000
Hartford-New Britain	6,000,000
Indianapolis	11,000,000
Total	365,000,000

Other major transportation related provisions in the House Joint Resolution 599 conference agreement include a requirement to apportion and allocate one-quarter of all mass transit formula grants on the basis of the 1970 census, and a provision allowing the Secretary to spend fiscal year 1982 carryover airport development contract authority. This will permit the Secretary to make discretionary grants, equal to the amounts of apportioned authority which were not obligated during fiscal year 1982 but were carried forward to future years. The conferees intend that discretionary grants equal to apportioned authority not used during fiscal year 1982 be made in October 1982. These and other grants in fiscal years 1982 and 1983 will be subject to an obligation ceiling of $1.05 billion.

We also have brought back in disagreement the Senate's amendment to give air traffic controllers a pay increase. More will be said on this issue later.

I urge adoption of the conference agreement.

Mr. YATES. Madam Speaker, will the gentleman yield?

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

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

Mr. YATES. Madam Speaker, first I would like to congratulate the gentleman from Florida (Mr. LEHMAN) on becoming the new chairman of the Appropriations Subcommittee for the Department of Transportation. He has done a superb job as a member of that committee for a number of years and his excellent handling of this bill bodes well for his tenure as chairman of that subcommittee as well.

Madam Speaker, I rise in support of House Joint Resolution 599.

I would like to engage the distinguished chairman of the Transportation Appropriations Subcommittee (Mr. LEHMAN) in a brief colloquy.

Am I correct in understanding section 101(a)(3) of this joint resolution to mean that, where an amount is appropriated in the bill of only one House, the applicable rate of expenditure for that item shall be the rate permitted by the action of the one House, or the current rate, whichever is lower?

And, therefore, the $15,000,000 appropriated in the Transportation appropriations bill for Chicago commuter rail needs which is contained in the House bill under the heading "Commuter Rail Service," but is not contained in the Senate bill, should be made available upon enactment of this bill since $15,000,000 is less than the $20,000,000 provided for this purpose in fiscal year 1982?

Mr. LEHMAN. The gentleman is correct.

There should be absolutely no problem in interpreting the intent of section 101(a)(3) as it applies to the appropriations we made for commuter rail service. We expect the Department of Transportation to make available $60,000,000 for commuter transition needs in the Northeast and $15,000,000 for commuter rail subsidies for the Chicago RTA. Further, we expect the Department to allocate the $60,000,000 for transition according to the distributions specified on page 61 of House Report No. 97-783.

Mr. MINETA. Madam Speaker, will the gentleman yield?

Mr. LEHMAN. I yield to my friend, the gentleman from California.

Mr. MINETA. I would like to commend the House conferees for the excellent job they have done.

But I do have a question on amendment No. 100, on which the House will offer a motion to recede and concur with the Senate amendment with an amendment.

Under that provision, fiscal year 1982 airport grant funds which might otherwise be lost, could be obligated in the coming weeks. That is something that I fully support. But can the gentleman tell me, did the conferees agree, or would this House agree by adopting this provision, that all or part of these funds should be earmarked for any particular location, or are they to be distributed pursuant to the objective criteria in the author-

izing statute adopted by this Congress just 1 month ago?

Mr. LEHMAN. We have agreed to no earmarking of any of these funds, and they should be distributed pursuant to existing statue.

Mr. CONTE. Madam Speaker, I yield myself 1 minute.

Mr. ROUSSELOT. Madam Speaker, will the gentleman yield?

Mr. CONTE. I yield to my friend from California.

Mr. ROUSSELOT. I appreciate my colleague yielding.

Was there not some defense spending in here someplace?

Mr. CONTE. Yes, there was. The House figure is $4.7 billion below the Senate figure. Our figure is $228 billion plus and the Senate figure was $233 billion plus.

So the House figure is about 5 billion below the Senate figure.

Mr. ROUSSELOT. $5 billion?

Mr. CONTE. $5 billion.

Mr. ROUSSELOT. That is a real savings.

Mr. CONTE. Yes. We did a good job here.

I do not know if the gentleman was in the Chamber when I mentioned that the young slasher has notified that he expects the President is going to sign this bill and he is going to recommend that the President sign this bill.

Mr. ROUSSELOT. That is certainly good news. You mean the Government can go on?

Mr. CONTE. The Government can go on and all of you folks can go back home and campaign.

Mr. ROUSSELOT. I intend to do that.

Mr. CONTE. And I hope to see you all back here after November 29.

Madam Speaker, I reserve the balance of my time.

Mr. WHITTEN. Madam Speaker, I yield 3 minutes to the gentleman from Pennsylvania, (Mr. EDGAR).

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

Mr. EDGAR. I thank the chairman for yielding and want to commend the committee on their conference report, particularly in deleting the language possessed by the Senate relating to the Water Resources Council.

I would, however, like to request of the chairman of the Subcommittee on Water and Power if he might answer a question relating to amendment 99 in the bill.

I am concerned about why the House has accepted the language offered by Senator SASSER to prohibit funding of studies and pricing policies for hydroelectric power. Can the gentleman indicate to us the reasoning behind the acceptance of the language contained in amendment No. 99?

Mr. BEVILL. Madam Speaker, will the gentleman yield?

Mr. EDGAR. I am happy to yield to the gentleman from Alabama.

Mr. BEVILL. I am glad to answer the gentleman's question.

The other body, of course, placed this into the bill and this came up in conference and the conference adopted it unanimously.

The purpose, of course, as the gentleman knows, for example, the TVA has in the law that it is required that they charge enough to cover all costs and this is an investigation to look into the possibilities of raising those rates.

Right now there is not much sympathy for that position and it is something, though, that if it looks like it has some merit in it, when we come back or when we get into the next year, when we have regular hearings, if it looks like it justifies a hearing we will certainly hold a hearing on it and go into it.

But this is a matter that came up on short notice in the conference committee and, as I say, the other body felt very strongly they had to look into it. We had not. But the members felt unanimously that this should be provided and it should be looked into more thoroughly before any such action is taken.

Mr. EDGAR. I thank the gentleman for his explanation. I find it difficult to understand why we would not permit the Energy Department to do a study on the market rate pricing for hydroelectric power and make legitimate changes that need to be made in reforming the pricing policies, whether it is the TVA or any other authority.

I find that that language in amendment 99 is inappropriate for this continuing resolution.

I understand the gentleman's problem because it was a Senate side provision and there has to be a little give and take.

□ 1649

I would have preferred this continuing resolution not have this language and allow the energy agencies to proceed with its approach in looking at market rate pricing.

I thank the gentleman for his explanation in clarifying this.

Mr. BEVILL. If the gentleman will yield further, as the gentleman notices, it does not in any way interfere with the Federal Energy Regulatory Commission which looks into these matters.

Mr. CONTE. Mr. Speaker, I yield 5 minutes to the gentleman from Minnesota (Mr. FRENZEL).

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

Mr. FRENZEL. Mr. Speaker, I regret that it is again necessary to invite the body's attention to what only can be described as a total lack of control in our rules, procedures, and discipline in this body.

The end of any legislative session is never any event to inspire confidence in the hearts of the governed. Due solely to our own unwillingness to manage our affairs responsibly, we pass most of our legislation in the last week. What passes is done hastily, without regard to proper procedures of safeguard and scrutiny. The result is bad procedure and bad law. Almost nobody knows what is being passed, and nobody at all can assess the risk of what is being passed.

In the name of expediency, we have rolled all of our appropriations into a single foul-smelling lump. We deny amendments; we limit discussion; then we tell people we had to do it or the Government would close down. We do not tell them that we could have passed the appropriations bills previously.

Worse, when our odious lump passes to the other body, it falls into a worse sinkhole of failed discipline. Committees and individuals there merrily attach nongermane, nonsensical, nonuseful, nonstudied, nondebated amendments as a matter of courtesy each to the other. It is of course an odd form of courtesy that uses the taxpayers' money to pander to specific greeds, most of which have no broad public purpose, and many of which are counterproductive to widely accepted social goals.

I do not propose to reform the other body. Far abler people than I have broken their picks on that rock. I do, however, accuse this body and its leadership of encouraging irresponsible deportment in the other body by accepting the frivolous, unnecessary, unknown, nongermane amendments from the other body.

Those amendments are not for fun. They become law, ladies and gentlemen. Those laws generate expenses and deficits and regulation and create needs for more bureaucrats in our Government.

Let us get to the case in point. In this resolution, I am told, there are 50 Senate amendments of various kinds and descriptions that are beyond my ability to describe.

When we put our resolution together for some reason we do not want to pass appropriations bills we rolled all the spending plans up into one. We gathered together all of our wildest current spending dreams into another malodorous lump. Parenthetically, while we are still waiting for the real bills, we probably ought to slow spending down to 85 percent to give us an incentive to pass our real appropriations. Instead, we managed to accelerate the spending in this resolution.

Then the other body did its usual number. During its committees' show-and-tell session, it added 100 amendments. In conference, our intrepid defenders of good order and discipline accepted about half of them. Which half, I do not know. I do not want to take a quiz on the contents of this resolution, and I doubt if many of the conferees would like to either.

The chairman of the other body's Appropriations Committee was quoted in this morning's paper as follows: "I

admit we probably added a lot of garbage in it."

Now, most of us would agree with that statement, but everyone who votes for this resolution today accepts that garbage as his or her personal responsibility, because you are ratifying those actions.

I want to just note a couple of the items which, contrary to our rules, invade the jurisdictions of other committees in this body. I again have not had a chance to analyze this resolution, and will not have an opportunity for the next couple of days, but I imagine that most of the committees in this body have had their jurisdictions invaded.

We are going to spend $85 million to buy copper from a stockpile which everybody knows we do not need, which they cannot give away. And yet we are going to saddle the taxpayers with that.

We are going to begin a system of import licensing of steel, which has never had a hearing, which will add enough regulation in at least two major departments to delight the printers of the Federal Register for generations to come and require regular supplemental appropriations for more bureaucrats.

Now, just a few minutes ago we debated the balanced budget amendment. Our orators blasted away on all cylinders for fiscal discipline. And that is wonderful. I am for it. But I wonder how many of our colleagues who stood so tall for discipline on balanced budgets are going to cave into the lack of discipline, the undisciplined anarchy of this bill. I will not, Mr. Speaker.

I cannot tell my constitutents that I seek order and discipline in budgeting unless I seek it in the appropriations process and in the general procedures. I shall not vote for this continuing resolution or anything like it.

The bill is a substitute for honest work. It is a convenience over discipline. Regrettably, it will probably pass, but I will not be responsible.

Finally, I know this is a difficult, imperfect, fragile system, requiring comity, sensitivity and compromise. There is none so naive, not even I, that he does not expect a little give and take. But you, Mr. Speaker, have not given us give and take. You have given us a circus.

My negative vote will be cast both in anger and sorrow. I am enraged at our acceptance of the total breakdown of orderly procedure and angered at the shame that is consequently reflected in this institution.

Mr. WHITTEN. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. ROSTENKOWSKI), the chairman of the Ways and Means Committee.

Mr. ROSTENKOWSKI. Mr. Speaker, I would like to address the distinguished chairman of the Committee on Appropriations for the purpose of clarifying the intent of amendment No. 65 in the conference report. This amendment modified Senate language related to State claims for Federal reimbursement for payments made under AFDC, medicaid, title XX social services, and other Social Security Act programs.

Because of a large backlog of old outstanding State claims, in 1980 Congress enacted section 306 of the Adoption Assistance and Child Welfare Act of 1980 (Public Law 96-272). This section established procedures for the disposition of State claims for AFDC, medicaid, and title XX social service payments made before October 1979. Also, in order to prevent a similar backlog from developing in the future, States were required to submit future claims under these Federal/State matching fund programs within 2 years following the State expenditure.

It is my understanding that the Department of Health and Human Services, on the basis of languages contained in subsequent appropriations bills, has imposed a 1-year time limit on the filing of both past and current claims. The retroactive imposition of a 1-year filing period requirement made it impossible for States to obtain reimbursement for millions of dollars of valid claims for payments made in previous years. However, in July of this year, a U.S. court of appeals said the 1-year filing period restriction was not valid with regard to claims for expenditures made prior to October 1978, and directed the Department to pay all legitimate pre-1978 State claims.

Amendment No. 65, contained in the conference agreement before the House today, does restrict the payment of pre-1978 during fiscal 1983. It provides that all such claims determined to be valid by the courts would have to be paid during fiscal years 1984 through 1986 according to a procedure to be established under the Social Security Act.

It is my understanding that this amendment is not intended to prejudice in any way any court case pertaining to these claims.

With regard to State claims for expenditures made since fiscal year 1981, it is my understanding that there is nothing in this amendment that allows HHS to go beyond or be more restrictive than the requirements and procedures contained in section 306 of Public Law 96-272.

Does the distinguished chairman of the Committee on Appropriations agree with my understanding of the intent and implications of this amendment?

Mr. WHITTEN. Mr. Speaker, may I turn to my colleague, the chairman of the subcommittee which deals directly with this matter, the gentleman from Kentucky (Mr. NATCHER).

Mr. NATCHER. Mr. Speaker, the language agreed to in amendment No. 65 affects only those State expenditures which occurred prior to October 1, 1978, and which were not submitted by the States within 1 year. Language prohibiting payment of these claims was included in the 1980, 1981, and 1982 appropriations bills. As you know the validity of these appropriation limitations is at the heart of the case currently before the courts. This language does not prejudice the outcome of this case nor does it affect payment of any claims for State expenditures after fiscal year 1978. It merely provides that if a final judgment is rendered against the Government that payment of the judgment will be spaced out over a 3-year period of time beginning in fiscal year 1984.

Mr. Speaker, I would say to the chairman of the Ways and Means Committee that he is correct.

Mr. ROSTENKOWSKI. I thank the gentleman.

□ 1650

Mr. WHITTEN. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. GIBBONS).

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

Mr. GIBBONS. Mr. Speaker, I intend to vote against this conference report, and this provision, the provision we have been discussing here dealing with amendment No. 95 presented by Senator HEINZ of the Senate, because it was sneaked through. It never had any proper consideration. The administration colluded in sneaking it through. It is going to be very costly. It sets a dangerous precedent. It provides for the steel industry, a sick industry with the highest wages in the world, the highest labor costs in the world, a protection that other struggling industries in this country are not entitled to.

It, in effect says that because you are in the steel industry you can get extraordinary protection from this Government, without proving injury. That is a dangerous precedent. It is something, if it had ever received any consideration in the other body, I am sure it would not have been passed.

The debate over there does not reflect that it was ever accurately described by Senator HEINZ, the Senate if there had been anyone on the floor, and I do not know if there was more than two or three present.

It is a very poor precedent. I regret that our House conference saw fit to adopt it.

I hope it will not be too expensive for the United States. It is going to cost a lot of money to administer this program, and it is going to be costly in price increases.

Mr. Speaker, I oppose the motion to recede and concur in the Senate amendment. The Senate amendment would authorize the Secretary of the Treasury to regulate imports of steel mill products in order to monitor and enforce foreign export restraints enacted pursuant to an agreement between the United States and a foreign government. The purpose of this provision is to give the administration au-

thority to enforce a cartel-type restraint arrangement. The administration is currently negotiating such an agreement with the European Economic Community in order to settle pending unfair trade practice cases. Let me explain my reasons for opposing this amendment.

First, the effect of passing this measure will almost certainly be to authorize immediate curtailment of steel imports. This will have an impact on customs revenues of potentially significant proportions. The Congressional Budget Office today advised the Ways and Means Committee in writing that if the Secretary exercises his authority as contemplated by the amendment it would have an impact on tariff revenues in fiscal year 1983. It is clear, therefore, that this constitutes revenue legislation which should not be considered in the context of an appropriations measure.

Second, and more important, this provision would establish a dangerous precedent, because it would allow the President to conclude restrictive bilateral restraint agreements without any of the safeguards and procedural requirements contemplated by existing law. Section 201 of the Trade Act of 1974 currently permits the President to negotiate and carry out a bilateral restraint agreement with a foreign government, but not until there is a finding by the International Trade Commission that imports are a substantial cause of serious injury. The Congress has traditionally been unwilling to delegate broad Presidential authority to restrict imports without attaching very clear conditions such as those laid down in the Trade Act. The Senate amendment would therefore represent a fundamental change in U.S. trade policy which will establish a precedent for other industries seeking such treatment. By passing such authority exclusively for the steel industry, we are telling other industries that we adopt special rules for those with political muscle, but others must simply live with the law the way it is.

Third, and most troubling of all to me, this measure was never considered by the appropriate committee, either in the House or in the Senate—where it began as a last minute floor amendment. The administration has not taken a unified position on this major revision in our trade policy. No hearings have been held to examine how this would affect the domestic economy. It could be that such hearings would reveal a need to amend our unfair trade law to provide some kind of general settlement authority. I think we should examine that issue. But we should not hastily and covertly authorize a special deal for one industry and in doing so change established trade policies. I, therefore, urge Members to reject the conference report.

Mr. CONTE. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. HORTON).

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

Mr. HORTON. Mr. Speaker, legislation that affects the entire Government frequently has undesirable side effects and this conference report is no exception: I want to express my concern about one of those consequences: the potential impact of this measure on the Office of Management and Budget.

H.R. 7158, the Treasury, Postal Service, and General Government Appropriations Act for fiscal year 1983, includes funding for the Office of Management and Budget. As reported by the Appropriations Committee, the bill contains this restriction on OMB's actions during fiscal year 1983:

Provided, That none of the funds made available by this Act may be used by the Office of Management and Budget to interfere with the rulemaking authority of any regulatory agency.

The companion Senate bill, S. 2916, as reported by committee, contains no comparable restriction.

Although neither of these bills has passed its House, and neither is even expected to be considered before the October recess, the continuing resolution has elevated them for the period from October 1 to mid-December to the status of bills which have passed their respective Houses.

The resolution further provides that when, as in this case, the bills have in effect passed the two Houses in different forms, an activity which would be funded by the legislation shall be continued under the more restrictive authority. Because the House's authority for OMB is more restrictive, it will become law once the continuing resolution is enacted.

What is the "interference with rulemaking authority" that OMB will be precluded from doing, and what is a "regulatory agency"? The second part of the question is simpler; it seems reasonable to conclude that a "regulatory agency" is any agency which issues regulations. The first has been the subject of more discussion. I have heard some speculation that this proviso is intended to prevent OMB from carrying out its responsibilities under Executive Order 12291, entitled "Federal Regulation," and the Paperwork Reduction Act of 1980.

As the ranking minority member of the Committee on Government Operations, which has both legislative and investigative jurisdiction over OMB, I have devoted considerable attention to examining the work of that agency. I can assure the House that the restriction contained in H.R. 7158 does not affect OMB's legitimate exercise of authority because the agency does not interfere with rulemaking authority under either of these laws.

Executive Order No. 12,291 is intended—

To reduce the burdens of existing and future regulations, increase agency accountability for regulatory actions, provide for Presidential oversight of the regulatory process, minimize duplication and conflict of regulations, and insure well-reasoned regulations. (Exec. Order No. 12,291, preamble; 46 Fed. Reg. 13193 (Feb. 17, 1981)).

The Paperwork Reduction Act is designed to minimize the Federal paperwork burden for individuals, small businesses, State and local governments, and other persons; to minimize the cost to the Federal Government of collecting, maintaining, using, and disseminating information. (44 U.S.C. 3501).

And accomplish other purposes.

These laws require all Federal agencies to fulfill certain duties, and OMB to exercise central management authority to insure that those functions are performed in a consistent manner.

Both of these laws are clearly reasonable exercises of authority under the Consitution's directive that the President "take Care that the Laws be faithfully executed. . . ." (Artilce II, section 3). This mandate was given fuller explanation by the Supreme Court in the case of Myers against United States:

The ordinary duties of officers prescribed by statute come under the general administrative control of the President by virtue of the general grant to him of the executive power, and he may properly supervise and guide their construction of the statutes under which they act in order to secure that unitary and uniform execution of the laws which Article II of the Constitution evidently contemplated in vesting general executive power in the President alone. (272 U.S. 52, 135 (1926)).

For more than 40 years, Presidents have chosen to exercise that power to secure unitary and uniform execution of the laws by vesting the Office of Management and Budget and its predecessor with the authority to coordinate the activities of executive agencies. Franklin Roosevelt, for example, transferred that Office from the Treasury Department to the Executive Office of the President to insure that the Government as a whole could perform "promptly, effectively, without waste or lost motion." (84 CONGRESSIONAL RECORD 4741 (1939)). Richard Nixon gave the Office additional managerial duties, saying that—

The President must . . . have a substantially enhanced institutional staff capability in (more) areas of executive management—particularly in program evaluation and coordination. (116 Cong. Rec. 7088 (1970)).

Both these actions were taken in reorganization plans to which the Congress assented.

Executive Order No. 12,291 and the Paperwork Reduction Act are merely two recent expressions of this historical development. The Executive order is carefully crafted to protect each agency's ability to issue its own rules under the Administrative Procedure Act and other statutes, subject only to additional administrative requirments and consideration of advice from the Presidential Task Force on Regulatory Relief and the Director of OMB. The Paperwork Reduction Act simply restates, in clearer and more detailed terms, a function which since 1942 has

been considered a normal part of the procedure for issuing forms. At most, the prohibition on interference is simply a caution that OMB not go beyond its legitimate authority in carrying out the two laws.

● Mr. BROOKS. Mr. Speaker, I rise in support of the conference report and commend Chairman WHITTEN and members of the Appropriations Committee for the diligent and careful though that went into this measure. However, it is my understanding that H.R. 7158, the Treasury, Postal Service and General Government Appropriations Act for fiscal year 1983, contains a provision which prohibits OMB from expending any funds "to interfere with the rulemaking authority of any regulatory agency." I also understand that this provision may be taken by some as a prohibition against OMB in carrying out its responsibilities under the Paperwork Reduction Act of 1980 (Public Law 96-511). I do not believe that is the effect the Appropriations Committee intended this provision to have. Under Public Law 96-511, OMB is responsible for insuring that agencies, in developing rules and regulations, use efficient methods to collect, use, and disseminate needed information. Clearly, the provisions contained in H.R. 7158 does not change or in any way modify OMB's authorities under the Paperwork Act. Further, no reference was make to the Paperwork Act in the bill. Since Public Law 96-511 does not authorize OMB to interfere with the rulemaking authority of regulatory agencies, a prohibition against such activities would have no effect on the paperwork legislation.●

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

Mr. Speaker, it is easy to take the well and lambast the Committee on Appropriations. But these amendments were not instigated or begun by the Committee on Appropriations on the House side. Neither were they instigated or adopted here in the House of Representatives.

This argument should be over in the other side. It was the other side that put these amendments in.

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

Mr. CONTE. I yield to my good friend from Florida.

Mr. GIBBONS. I thank the gentleman for yielding.

I realize amendments were not put in over here. I cast no reflections upon any member of the House conference. I am reflecting severely upon the presenter of the amendment in the Senate. He did not accurately describe it. And I do not know who else was on the floor. There has been no request from the administation to ever take up anything like this. They deliberately bypassed the House.

There are plenty of vehicles over in the Senate for dealing with subject matter like this that they could have attached this amendment to. They just used the Appropriations Committee because they figured that they had a situation in which they could take advantage of the fact that the Government would have to close down. And there was no consideration of this matter.

And I realize the gentleman is a very conscientious man, and he doe snot like to obfuscate, and he is not obfuscating. But there was plenty of it on the other side of the Capitol.

Mr. CONTE. Well, I appreciate the explanation of the gentleman from Florida. They are not the only ones that use the Appropriations Committee. This House has used us time and time again because they cannot get a certain bill out of legislative committee, and then comes the Appropriations Committee on the floor of the House after months of hard work and out comes an amendment saying no funds shall be spent for this or no funds shall be spent for that.

Mr. GIBBONS. If the gentleman will yield further, I want to make it perfectly clear, the Ways and Means Committee was in no way derelict on this. We have never received a request to have a hearing, to entertain the motion by any Member of the House. There has been no bill presented in the House on this subject. This one was plainly and clearly sneaked through the Senate by the administration and by the Senators who colluded in it.

Mr. CONTE. I have a letter written by the Secretary of Commerce to Senator HEINZ on September 29, in regard to the steel amendment. He said,

> This amendment would facilitate the implementation and enforcement of the arrangement on steel with the European Community in settlement of the current antidumping and counter-veiling debt cases. The proposed provision, narrow as it is in product coverage, duration, and prerequisites for application, makes it consistent with the administration policy and approach to our efforts to resolve the steel trade issue.

I might go back to the first paragraph, and in the last line of that paragraph, he says, "I support this amendment."

So, that is what we have before us.

Mr. GIBBONS. If the gentleman will yield further, I will try to be brief. That letter was never sent to any House Member. There are plenty of bills in the Senate that this amendment could have been attached to, and we could have had a discussion of it. Some of our bills have been lying in the Senate, noncontroversial bills, for a year and a half—for a year and a half. And, for some reason, the Senate has never been able to even move them over there. They are noncontroversial bills, bills that affect many Members of this House, bills that passed here by unanimous consent, that they could have connected them to, but they just chose this vehicle.

They took advantage of the gentleman. I am sorry they did, because the gentleman is an honorable man. And the gentleman should not have been imposed on like that.

Mr. CONTE. Wait a minute, now. There is 10 percent unemployment, steel mills closing all over the country. This is not a protectionist measure. This is an antidumping measure. With people out there on the unemployment lines and the soup lines, we should start taking care of our American workers.

Mr. GIBBONS. I agree with that, but we must look after the welfare of all Americans—not just a few at the expense of all other Americans.

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

Mr. CONTE. I yield to the gentleman from Indiana, he knows a little bit about steel.

Mr. MYERS. I thank the gentleman for yielding.

It is too bad we had to do it this way. I am not sure who is right in this issue. But to attack this committee, when we went over with the Senate with over 100 amendments, and you should have seen this bill. If Members do not like it now, they should have seen it before we cleaned it up. It was a conference. We had to concede in some issues.

What the gentleman from Massachusetts says is absolutely right. Maybe this is not the bill that should have been amended. But would the Members disagree about what we are trying to do for American labor, to protect and keep them on the job? Maybe this is not the right vehicle, but it is the only one available right now. Maybe the other body was wrong in adding it. Maybe we should have made a greater fight. But it was a conference, and you have to give and take in a conference. The gentleman from Florida has been in many conferences.

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

Mr. CONTE. I yield briefly to the gentleman from Florida.

□ 1700

Mr. GIBBONS. I agree with the gentleman. I want to make it perfectly clear, I am not attacking any Member of the House, and that, of course, includes this Appropriations Committee and this conference committee.

Mr. CONTE. I appreciate that.

Mr. GIBBONS. But I want to say again, there are many bills over in the Senate that they could have easily attached this to. We have been having conferences with the Senate all week on a number of bills. No one ever mentioned this, but that is the truth. That is all that happened. They took advantage of the lateness of the hour—and the urgency of the appropriation process to the operation of our Government.

Mr. CONTE. Mr. Speaker, I yield to my good friend, the gentleman from Ohio (Mr. REGULA).

Mr. REGULA. Mr. Speaker, I thank the gentleman for yielding.

I think it ought to be clear, as to what this does. The Commerce Department has brought actions on dumping. It is negotiating a settlement of these cases with the other countries on a country-to-country basis. In order to keep accurate control of what is happening, this provision was requested.

It is not a protectionist issue. It is a matter of administering the existing dumping laws. The administration needs the ability to request export licenses from the country of origin so it can have a control to implement the agreement that is not being worked out to stop the dumping of foreign steel into the American markets.

Of course, we have on the books many statutes to prohibit dumping, but to adequately implement them this is needed.

I understand the gentleman's concern about the procedure on this language, but I think it is a very important issue because Commerce is in the process right now of negotiating these cases and the administration needs the ability to request an export license for steel coming into the United States.

Mr. CONTE. Mr. Speaker, I want to thank the gentleman from Ohio for his explanation.

Mr. WHITTEN. Mr. Speaker, I yield myself 3 minutes.

May I say, the problem stops here, it rests at the steps of your Appropriations Committee, it does not start here. When this Congress provided that we could not move appropriation bills after May 15, but rather until we finally agreed upon a budget ceiling, that is what put us into this situation here.

I spent about an hour before the Rules Committee urging that whatever they did about the Budget Act, either make the budget resolutions conform to the deadlines of the act or at least let us, the Appropriations Committee, go ahead with our work and bring bills to this floor in a timely manner so we can avoid the need for continuing resolutions such as this one.

My testimony went into detail, and I felt the need for it. As all of my colleagues know, I was cochairman of the study committee that recommended the creation of the Budget Act and I support it; but this matter that the Congress cannot move until they reach a final conclusion months beyond the deadline just ties us in knots.

Mr. Speaker, the Senate did not pass this resolution until late Wednesday night. We were not able to go to conference on the 100 amendments of the Senate until midafternoon yesterday. We were under heavy pressure and the situation was most critical. The House members of the conference did an excellent job and we appreciate the cooperation of Chairman HATFIELD of the Senate Appropriations Committee in finding solutions in a timely manner.

In this connection, Mr. Speaker, I wish to pay special tribute to all the staff of the committee. The preparation of the report required a great deal of competence. This resolution included financing for all the Government, it involved all subcommittees, and therefore all the staff shared responsibility.

It was possible through a determined effort by the staff to file this report by midnight last night so that it would be available for consideration by the House today so that essential functions of Government might continue.

Mr. Speaker, especially since I have been chairman of the committee, I have been impressed by the dedication of our staff. They take pride in their work and I must say I have never seen another group which constantly demonstrates such smooth teamwork. They always try to do their best for the committee on both sides, and for the House.

Last year I think we worked 72 hours, two nights we stayed up trying to get through the myriad amendments. Last year we did a good job, and again this year we have done a good job. I understand this conference agreement will be signed.

Your committee on the House side had a very tight bill moneywise and otherwise, and we did refrain from most of those things that under the rules of the other body are permissible on a resolution of this kind.

So I just want to say we did our best; but the point is that we are here because of that requirement that we could not move on with our bills until other actions were taken.

Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. HANCE).

Mr. HANCE. Mr. Speaker, I have a question to be directed to the chairman or one of the subcommittee chairmen.

According to the Washington Post and also the report from the other body, there was a fund of some $500,000 to be provided in 1983, to provide housing for a chimpanzee colony. It reportedly would house 60 animals. I think that kind of monkey business will offend a lot of people. The cost is over $8,000 per monkey. I just would like to know what happened to it in conference.

Mr. NATCHER. Mr. Speaker, will the gentleman yield to me at this time?

Mr. HANCE. I am very glad to yield.

Mr. NATCHER. Mr. Speaker, the matter that the gentleman from Texas discusses was not germane insofar as the conference is concerned and it was not discussed.

Mr. HANCE. I appreciate the gentleman's answer and I am glad the conferees pointed out that it was not germane and it was not included in the conference report.

Mr. WHITTEN. Mr. Speaker, I yield 1 minute to the gentleman from Kentucky (Mr. MAZZOLI).

Mr. MAZZOLI. Mr. Speaker, I thank the chairman for yielding.

I would direct my inquiry to the gentleman from Iowa, the distinguished chairman of the subcommittee.

Amendment No. 88 in the conference report deals with the addition of what amounts to a private immigration bill to this continuing resolution for appropriations.

I commend, first, the chairman for having added the statement that it does not constitute a precedent and that it is a highly unusual procedure.

I wonder if the gentleman might help me, though, by perhaps adding to the legislative record on that.

The gentleman from Kentucky is chairman of the subcommittee and deals with these private bills and, of course, wonders about the procedure where they come back attached to an appropriation bill.

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. MAZZOLI. I certainly will.

Mr. SMITH of Iowa. To start with, I take a very dim view of these kinds of bills.

First, we determined that a bill had been approved by the Judiciary Committee. Had that not been the case, we would not even have considered it.

Next we were told that the two individuals, the bill was for a mother and her son, and does not involve a general immigration bill, would have to leave the country by October 10. In addition, I understand that the woman's husband had cancer, and had come to this country, accompanied by this family, for treatment and had recently died. So there were some very unusual circumstances. We made it very clear that although in this one instance we were including a private bill in a continuing resolution, it is to be considered an exception and not a precedent, and we only did it after we found out that the Judiciary Committee had approved the bill.

Mr. MAZZOLI. I understand. I thank the chairman for that explanation. It helps me, because, of course, the subcommittee takes pride in the deliberations that it conducts on all the hundreds of private bills introduced by Members, and it, of course, wants to proceed on the basis of an orderly legislative process.

I thank the chairman for his explanation.

Mr. DAUB. Mr. Speaker, it is again time to emphasize the Federal responsibility to compensate those local school districts which are heavily impacted with families who live and/or work on military bases. These families are exempt from paying local property taxes—those taxes which principally fund the operating budgets of local public schools. Military dependents were the original justifications for the Federal impact aid reimbursement, and nothing has changed to make them any less deserving.

It is unjustifiable that those school districts which are impacted with military children should undergo financial difficulties as a result of Congress inability to appropriate funds in a timely manner.

The continuing resolution passed by the House provided funding of the impact aid program at current fiscal year 1982 levels. My support of this resolution reflected my desire that the current level of $437 million for fiscal year 1982 be sustained for fiscal year 1983. However, the continuing resolution presented to the Senate would have allowed only those school districts that showed "undue hardship" to receive preliminary payments. These preliminary payments are necessary because school districts need these funds for cash flow purposes.

An amendment was offered to allow schools where at least 20 percent of the students' parents either work or live on Federal property to receive preliminary payments of 75 percent of their 1982 funding level. All other school districts would receive 50 percent of their 1982 funds in preliminary payments. The distribution of additional impact aid funding would be decided upon in the regular appropriations bill for education programs.

This amendment has been agreed upon by House and Senate conferees. This amendment provides an acceptable means to insure that cash flow problems for impacted school districts are minimized, if not eliminated. At the same time, total funds for fiscal year 1983 are made by the appropriation subcommittee.

● Mrs. SCHROEDER. Mr. Speaker, enactment of this conference report will result in Congress passing two rather different approaches to dealing with the same problem, both on the same day. Section 124 of House Joint Resolution 599 authorizes Government agencies to offset the salaries of Government employees where there has been a court decision holding that the employee is indebted to the Government. Section 5 of H.R. 4613, the Debt Collection Act, provides for an offset following an agency determination of indebtedness, but provides for a due process administrative hearing in front of an independent official before the offset can take place. House Joint Resolution 599 says up to 25 percent of gross pay can be withheld to satisfy the debt. H.R. 4613 only permits the withholding of 15 percent of disposable pay.

The provisions of these two bills are not exactly contradictory, but they do go after the same problem in differing ways. The language in the continuing resolution is really a remnant from earlier in the process which should have been discarded in conference. Somehow, the word of final action on H.R. 4613 did not get through to the conferees. The final days of any session bring anamolies of this sort. In the lameduck session, we should repeal section 124 of the continuing resolution.

I take this time to suggest a means of dealing with these two provisions. Section 5 of H.R. 4613 should be used as the primary debt collection mechanism. It is better from the point of view of the Government because it spares the Government of the huge cost of seeking a court order in every case. It is better from the point of view of the employee since the employee will have an independent official in front of whom the employee can argue about the existence and amount of the debt as well as the repayment of schedule. Further, it limits the maximum offset amount to a reasonable level. I cannot imagine where the use of Section 124 of House Joint Resolution 599 would be the preferred course.

One other point. If an agency pursues the administrative route from H.R. 4613 and is not satisfied with the results, I think it is obvious that a Federal court should and would give stare decisis effect to the administrative proceeding, just as a Federal agency could not reconsider a negative decision reached by a Federal court. In other words, the Government should be limited to the pursuit of one and only one of the two mechanisms. I would think that the H.R. 4613 route would be the only one taken.●

● Mr. STARK. Mr. Speaker, I supported initial passage of this continuing resolution. But the bill which has come back from conference has little resemblance to the bill we passed. A Dr. Jekyll has become a Mr. Hyde.

Basically, the House passed bill would have provided for Defense spending at a level of about $205 billion. The Senate passed bill would have provided $233.4 billion. The "compromise" settles at $228.7 billion.

To paraphrase the words of a current, popular country western tune, "the Pentagon got the goldmine and we got the shaft."

Mr. Speaker, $228.7 billion in a budget which cuts major social programs is simply too much.

I vote no.●

● Mr. FIELDS. Mr. Speaker, as we stand here today to consider this final piece of legislation before adjourning for the elections, I feel compelled to bring to the attention of my colleagues a provision in the continuing resolution which is of great concern to me.

In the House-passed version of the continuing resolution, the urban mass transit formula grants were to be apportioned on the basis of half 1970 census figures and one-half 1980 census figures. The Senate on the other hand, in their version of the continuing resolution mandated the use of the latest available census figures as required by the underlying authorizing legislation. The use of outdated census figures represents a potential loss of $1.5 million to my own city of Houston.

During conference, I along with several of my fellow colleagues from Texas worked hard to restore the use of the latest available census figures. A compromise was struck in the conference which requires only 25 percent of the urban mass transit grants to be allocated on the basis on 1970 census figures and 75 percent apportioned on the basis of 1980 figures. Although this compromise will translate into an additional $750,000 for the city of Houston in badly needed transit moneys, I nonetheless remain concerned about the equity of this entire situation.

Mr. Speaker, the legitimate needs of growth areas in the South and West can no longer be ignored or overlooked. We, in Congress must meet these needs just as we met the needs of those areas in our country which are declining in population. Mr. Speaker you can be sure that I will continue to work in this Congress and in future Congresses to assure that the growth areas in our country are fairly represented.

Mr. Speaker, I would like to submit for the RECORD a copy of my letter to the chairman of the Appropriations Committee expressing my strong desire that the conferees adopt a mass transit formula which uses only the latest available census figures.

Thank you Mr. Speaker.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., September 29, 1982.

Hon. JAMIE L. WHITTEN,
Chairman, Committee on Appropriations, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In your capacity as Chairman of the House Appropriations Committee and as a member of the House-Senate Conference Committee on the Continuing Resolution for fiscal year 1983, we are writing to call your attention to a provision in this legislation which is of critical importance to us.

As you are aware, under the Urban Mass Transportation Act of 1978, the formula grants for section 5 and section 18 are authorized to be appropriated on the basis of population, as determined by the latest available census figures. This formula would be continued in H.R. 6211, the Surface Transportation Act of 1982, a bill reauthorizing the major highway and transit programs for fiscal year 1983.

Unfortunately, H.R. 7019, the Transportation Appropriations for FY 1983 does not carry out this legislative mandate. Although P.L. 97-102, the transportation appropriations for FY 1982 directed the use of 1970 census figures during the first six months of the year for these programs pending the completion of the 1980 census, this was clearly understood to be a temporary measure and can no longer be justified since 1980 figures are now available.

As representatives from a state which has experienced tremendous growth in the past decade, we are extremely concerned that the continued use of 1970 census figures as provided for in H.R. 7019 as passed by the House, will cost our State of Texas almost $4.8 million next year. Many other southern and western states will experience comparable losses in vitally-needed federal transit funds. Attached is a list of some of the states and cities which will be unduly penalized through the use of these outdated census figures.

During the House-Senate Conference Committee on the Continuing Resolution, we urge your consideration of section 147 of H.J. Res. 599 as passed by the Senate. In short, this section would restore legislative equity by requiring the use of 1980 census figures for the entire fiscal year as previously and presently mandated by the Congress. We hope you will give this issue careful and serious consideration during the course of your deliberations.

Thank you for your attention.

Sincerely,

JACK FIELDS,
TOM LOEFFLER,
KENT HANCE,
RALPH M. HALL,
BILL PATMAN,
CHARLIE WILSON,
BILL ARCHER,
CHARLIE STENHOLM,
JACK HIGHTOWER,
MARVIN LEATH,
SAM B. HALL, JR.

Examples of States and Cities Unfairly Treated By Use of 1970 Census Data for Mass Transit Formula Grants: Net Amounts Lost

Oregon	$931,000
Portland	580,000
Eugene	176,000
North Dakota	354,000
Bismarck-Maudan	202,000
Florida	9,458,000
Miami	1,930,000
Orlando	705,000
Tampa	313,000
Idaho	306,000
Boise City	112,000
Texas	4,761,000
Dallas	1,150,000
Houston	1,489,000
Austin	310,000
Hawaii	1,134,000
Honolulu	724,000
South Carolina	992,000
Columbia	151,000
Charleston	142,000
Florence	165,000
Utah	743,000
Salt Lake City	446,000
Vermont	226,000
Burlington	232,000
Louisiana	596,000
Baton Rouge	152,000
New Orleans	149,000
Houma	186,000
California	11,373,000
Los Angeles	4,642,000
San Diego	1,529,000
San Jose	926,000
Colorado	1,640,000
Denver	753,000
North Carolina	1,173,000
Raleigh	139,000
Virginia	861,000
Norfolk	225,000
South Dakota	137,000
Rapid City	166,000
Sioux City	2,000
Mississippi	525,000
Hattiesburg	161,000
Jackson	50,000
Pascagoula-Moss Point	183,000
Alaska	87,000
Anchorage	82,000
Georgia	904,000
Atlanta	506,000
Augusta	187,000
Athens	188,000
Nevada	863,000
Las Vegas	688,000
Arkansas	363,000
Little Rock	100,000
Fayetteville-Springdale	167,000
Arizona	2,748,000
Phoenix	1,791,000
Tuscon	469,000
Tennessee	767,000
Knoxville	138,000
Jackson	144,000
Johnson City	221,000
New Mexico	668,000
Las Cruces	174,000
Albuquerque	337,000
Santa Fe	154,000
New Hampshire	292,000
Nashua	47,000
Portsmouth-Dover-Rochester	231,000
Manchester	8,000
Alabama	246,000
Mobile	39,000
Washington	1,441,000
Seattle-Everett	252,000

Note: Figures based on funding levels recommended in H.R. 7019, fiscal year 1983 DOT appropriations bill as passed by the House.●

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

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FRENZEL. 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 pro tempore. 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 290, nays 123, not voting 19, as follows:

[Roll No. 388]

YEAS—290

Addabbo	Coleman	Ferraro	Anderson	Goodling	Panetta	Scheuer	Holland	Mineta	Scheuer
Akaka	Conte	Fiedler	Archer	Gramm	Patman	Schneider	Hollenbeck	Minish	Schneider
Albosta	Corcoran	Fields	Ashbrook	Gray	Paul	Schumer	Holt	Mitchell (MD)	Schumer
Alexander	Coughlin	Findley	AuCoin	Gregg	Petri	Seiberling	Hopkins	Mitchell (NY)	Seiberling
Andrews	Courter	Fish	Bailey (MO)	Grisham	Pickle	Shamansky	Howard	Moakley	Shamansky
Annunzio	Coyne, James	Fithian	Bedell	Hamilton	Porter	Shannon	Hoyer	Moffett	Shannon
Anthony	Coyne, William	Flippo	Bennett	Hance	Pritchard	Shaw	Huckaby	Molinari	Shaw
Applegate	Craig	Florio	Bereuter	Harkin	Rahall	Simon	Hutto	Mollohan	Simon
Aspin	Crockett	Foglietta	Bonior	Hertel	Reuss	Skeen	Ireland	Montgomery	Skeen
Atkinson	Daniel, R. W.	Foley	Broomfield	Hiler	Rousselot	Smith (AL)	Jacobs	Moore	Smith (AL)
Bafalis	Daschle	Ford (MI)	Brown (CO)	Horton	Russo	Smith (IA)	Jeffords	Morrison	Smith (IA)
Bailey (PA)	Davis	Ford (TN)	Broyhill	Hubbard	Sabo	Smith (NE)	Jenkins	Murtha	Smith (NE)
Barnard	de la Garza	Fountain	Burton, John	Hughes	Savage	Smith (NJ)	Jones (NC)	Myers	Smith (NJ)
Barnes	Deckard	Fowler	Burton, Phillip	Hunter	Sawyer	Smith (PA)	Jones (TN)	Napier	Smith (PA)
Beard	DeNardis	Frost	Butler	Hyde	Schroeder	Snowe	Kazen	Natcher	Snowe
Benedict	Derrick	Fuqua	Carman	Jeffries	Schulze	Solarz	Kemp	Neligan	Solarz
Bethune	Derwinski	Garcia	Carney	Johnston	Sensenbrenner	Spence	Kennelly	Nelson	Spence
Bevill	Dicks	Gaydos	Chappie	Jones (OK)	Sharp	St Germain	Kogovsek	Nichols	St Germain
Biaggi	Dingell	Gejdenson	Clay	Kastenmeier	Shelby	Stangeland	Kramer	Nowak	Stangeland
Bingham	Dixon	Gilman	Coats	Kildee	Shumway	Stanton	LaFalce	O'Brien	Stanton
Bliley	Donnelly	Gingrich	Collins (IL)	Kindness	Shuster	Stokes	Lagomarsino	Obey	Stokes
Boggs	Dougherty	Ginn	Collins (TX)	Latta	Siljander	Stratton	Lantos	Ottinger	Stratton
Boland	Dowdy	Gonzalez	Conable	LeBoutillier	Skelton	Swift	Leach	Oxley	Swift
Bolling	Downey	Gore	Conyers	Lee	Smith (OR)	Synar	Leath	Parris	Synar
Boner	Duncan	Gradison	Crane, Daniel	Leland	Snyder	Tauzin	Lehman	Pashayan	Tauzin
Bonker	Dunn	Green	Crane, Philip	Lewis	Solomon	Taylor	Lent	Patterson	Taylor
Bouquard	Dwyer	Gunderson	Dannemeyer	Lowry (WA)	Stark	Tribie	Levitas	Pease	Tribie
Bowen	Dymally	Hagedorn	Daub	Lungren	Staton	Udall	Livingston	Pepper	Udall
Breaux	Dyson	Hall (OH)	Dellums	Martin (NC)	Stenholm	Vander Jagt	Loeffler	Perkins	Vander Jagt
Brinkley	Early	Hall, Ralph	Dornan	Matsui	Studds	Walgren	Long (LA)	Peyser	Walgren
Brodhead	Edwards (AL)	Hall, Sam	Dreier	McCollum	Stump	Wampler	Long (MD)	Price	Wampler
Brooks	Edwards (CA)	Hammerschmidt	Eckart	McCurdy	Tauke	Watkins	Lott	Pursell	Watkins
Brown (CA)	Emery	Hansen (ID)	Edgar	McDonald	Thomas	Waxman	Lowery (CA)	Quillen	Waxman
Brown (OH)	Erdahl	Hartnett	Emerson	McGrath	Vento	Weber (OH)	Lujan	Railsback	Weber (OH)
Burgener	Erlenborn	Hatcher	English	Miller (CA)	Volkmer	White	Luken	Rangel	White
Byron	Evans (DE)	Hawkins	Evans (GA)	Moorhead	Walker	Whitehurst	Lundine	Ratchford	Whitehurst
Campbell	Evans (IA)	Heckler	Frank	Mottl	Washington	Whittaker	Madigan	Regula	Whittaker
Chappell	Evans (IN)	Heftel	Frenzel	Murphy	Weaver	Whitten	Markey	Rhodes	Whitten
Cheney	Fary	Hefner	Gephardt	Neal	Weber (MN)	Williams (MT)	Marks	Rinaldo	Williams (MT)
Clausen	Fascell	Hendon	Gibbons	Oakar	Wolpe	Williams (OH)	Marlenee	Ritter	Williams (OH)
Clinger	Fazio	Hightower	Glickman	Oberstar	Wyden	Wilson	Marriott	Roberts (KS)	Wilson
Coelho	Fenwick	Hillis				Winn	Martin (IL)	Roberts (SD)	Winn
						Wirth	Martin (NY)	Robinson	Wirth
						Wolf	Mattox	Rodino	Wolf
						Wortley	Mavroules	Roe	Wortley
						Wright	Mazzoli	Roemer	Wright
						Wylie	McClory	Rogers	Wylie
						Yates	McDade	Rose	Yates
						Yatron	McEwen	Rosenthal	Yatron
						Young (AK)	McHugh	Rostenkowski	Young (AK)
						Young (FL)	McKinney	Roth	Young (FL)
						Young (MO)	Mica	Roukema	Young (MO)
						Zablocki	Michel	Roybal	Zablocki
						Zeferetti	Mikulski	Rudd	Zeferetti
							Miller (OH)	Santini	

NAYS—123

NOT VOTING—19

Badham	Dornan	Martinez
Bellenson	Edwards (OK)	McCloskey
Blanchard	Ertel	Traxler
Chisholm	Forsythe	Weiss
D'Amours	Goldwater	Whitley
Daniel, Dan	Guarini	
Dickinson	Hansen (UT)	

□ 1720

Messrs. CONYERS, WOLPE, CARMAN, HUNTER, GRAY, WASHINGTON, PORTER, WYDEN, VOLKMER, and EMERSON, Mrs. COLLINS of Illinois, Mr. LELAND, and Mr. OBERSTAR changed their votes from "yea" to "nay."

Messrs. FINDLEY, VOLKMER, and ERDAHL changed their votes from "nay" to "yea."

Mr. VOLKMER changed his vote from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 734) entitled "An act to encourage exports by facilitating the formation and operation of export trading companies, export trade associations, and the expansion of export trade service generally."

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 5447. An act to extend the Commodity Exchange Act, and for other purposes.

REMOVAL OF NAME OF A COSPONSOR OF H.R. 6467

Mr. LANTOS. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of the bill, H.R. 6467.

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

There was no objection.

CONFERENCE REPORT ON HOUSE JOINT RESOLUTION 599, CONTINUING APPROPRIATIONS, 1983

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore. The Clerk will report the first amendment in disagreement.

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that the Clerk designate Senate amendments reported in disagreement in lieu of reporting such amendments.

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

There was no objection.

The SPEAKER pro tempore. The Clerk will designate the first amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 15: Page 7, line 25, after "Act" insert: ": *Provided*, That whenever the amount which would be made available or the authority which would be granted in this subsection is different from that which would be available or granted under such Act for each pertinent project or activity, as reported to the Senate on September 22, 1983, the pertinent project or activity shall be continued under the lesser amount or the more restrictive authority.".

MOTION OFFERED BY MR. WHITTEN

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

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 15 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following: ": *Provided*, That notwithstanding the foregoing provision of this paragraph and notwithstanding any other provision of this joint resolution, such amounts as may be necessary for projects or activities provided for in the Military Construction Act, 1983 (H.R. 6968), at a rate for operations and to the extent and in the manner provided for in the conference report and joint explanatory statement of the committee of conference as filed in the House of Representatives on September 30, 1982, as if such Act had been enacted into law".

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

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

There was no objection.

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 30: Page 13, line 7, strike out all after "resolution," down to and including "acquisition" in line 25 and insert "for acquisition of strategic and critical materials and for transportation and other incidental expenses related to such acquisitions, $320,000,000, which shall be derived from moneys received in the National Defense Stockpile Transaction Fund established by section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h), as amended by Public Law 97-35 (95 Stat. 381), and shall remain available until expened: *Provided*, That of this amount $200,000,000 shall be obligated for the purchase of domestic copper mined and smelted in the United States after September 30, 1982.".

MOTION OFFERED BY MR. WHITTEN

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

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 30 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following: "moneys deposited into the National Defense Stockpile Transaction Fund under section 9(b) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(b)) are hereby made available, subject to such limitations as may be provided in appropriation Acts and in section 5(a)(1) of such Act, until expended for the acquisition of strategic and critical materials under section 6(a)(1) of such Act (and for transportation and other incidental expenses related to such acquisition). This paragraph applies without fiscal year limitation to moneys deposited into the fund before, on, or after October 1, 1982: *Provided*, That during the fiscal year ending on September 30, 1983, not more than $120,000,000 in addition to amounts previously appropriated, of which not to exceed $85,000,000 shall be available only until the termination of this joint resolution for the purchase of domestic copper mined and smelted in the United States after September 30, 1982, may be obligated from amounts in the National Defense Stockpile Transaction Fund for the acquisition of strategic and critical materials under section 6(a)(1) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98e(a)(1)) and for transportation and other incidental expenses related to such acquisition.".

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

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

There was no objection.

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 33: Page 14, strike out lines 89 to 20, inclusive

MOTION OFFERED BY MR. WHITTEN

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

The Clerk read as follows:

Mr. WHITTEN moves that House recede from it disagreement to the amendment of the Senate numbered 33 and concur therein with an amendment, as follows: Restore the matter striken by said amendment, amended to read as follows:

SEC. 114. (a)(1) Funds provided by this joint resolution for costs to continue the implementation of provisions contained in the District of Columbia Statehood Constitutional Convention Initiative (D.C. Law 3-171) shall be applied first toward ensuring voter education on the proposed constitution by (A) printing, by the Statehood Commission, of the proposed constitution together with objective statements both for an against its provisions as expressed by the Convention delegates taking such positions, (B) mailing of this information to the registered voters of the District of Columbia by October 22, 1982, and (C) preparing for publication as a public document a comprehensive legislative history of the proposed constitution.

(2) None of the funds provided by this joint resolution may be used to pay for the publication of any information or materials by the Statehood Commission which fail to

present objective arguments for and against the provisions of the proposed constitution.

(b) Notwithstanding section 102, the paragraph under the heading "LOTTERY AND CHARITABLE GAMES ENTERPRISE FUND" in the District of Columbia Appropriation Act, 1982 (Public Law 97-91; 95 Stat. 1175) is amended—

(1) in the second proviso, by striking out "payments of prizes" and inserting in lieu thereof "payment of fees to ticket agents, fees to contractors supplying gambling paraphernalia or services, and prizes";

(2) in the third proviso, by striking out "payments of prizes" and inserting in lieu thereof "payment of such fees and prizes";

(3) in the fourth proviso, by striking out "prizes and administration of the Board shall not exceed resources available to the Board from appropriated authority or revenues" and inserting in lieu thereof "administration of the Board shall not exceed resources available to the Board from appropriated authority: *Provided, further,* That the annual expenses for fees and prizes shall not exceed revenues"; and

(4) in the fifth proviso, by striking out "for prize money" and inserting in lieu thereof "for fees and prize money".

(c) Notwithstanding any other provision of this resolution, the Superior Court of the District of Columbia may continue to operate the Volunteer Attorney Program and the Community Workers Program, and may implement the hearing commissioner program, from existing resources and position authority. Upon passage of the fiscal year 1983 appropriation Act, full year program funding will be available to pay, retroactively, for program services performed on or after October 1, 1982.

(d) The Washington Convention Center may proceed at an annual rate of operation which does not exceed $5,275,000.

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

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

There was no objection.

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 57: Page 19, after line 2, insert:

SEC. 125. Notwithstanding any other provision of law or this joint resolution, except section 102, an amount for those International Financial Institutions referred to in title I of Public Law 97-121, the Foreign Assistance and Related Program Appropriations Act, 1982, as is equal to the total for such institutions in that title, may be allocated by the President among those institutions in a manner which does not exceed the limits established in authorizing legislation.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion. The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 57 and concur therein with an amendment, as follows: In lieu of the section number 125 named in said amendment, insert "129".

The motion was agreed to.

A motion to reconsider was laid on the table.

□ 1730

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 59: Page 19, after line 2, insert:

SEC. 127. Sections 308(g) and 308a(c) of title 37, United States Code, are amended by striking out "September 30, 1982" and inserting in lieu thereof "March 31, 1983".

MOTION OFFERED BY MR. WHITTEN

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

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 59 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

SEC. 131. Sections 308(g) and 308a(c) of title 35, United States Code, are amended by striking out "September 30, 1982" and inserting in lieu thereof "December 17, 1982".

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 69: Page 19, after line 2, insert:

SEC. 137. Notwithstanding section 5(b)(2) of the Act of September 30, 1950 (Public Law 874, 81st Congress), not later than thirty days after the beginning of the fiscal year, the Secretary of Education shall, on the basis of any application for preliminary payment from any local educational agency which was eligible for a payment during the preceding fiscal year on the basis of entitlements established under section 2 or 3 of such Act, make to such agency a payment of not less than—

(1) in the case of a local educational agency described in section 3(d)(1)(A) of such Act, 75 per centum of the amount that such agency received during such preceding fiscal year; and

(2) in the case of any other local educational agency, 50 per centum of the amount that such agency received during such preceding fiscal year.

MOTION OFFERED BY MR. WHITTEN

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

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 69 and concur therein with an amendment, as follows: In lieu of section number 137 named in said amendment, insert "140".

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 73: Page 19, after line 2, insert:

SEC. 141. Section 93 of title 14, United States Code, is amended by (1) striking out "and" at the end of subsection (p); (2) striking out the period at the end of subsection (q) and inserting in lieu thereof "; and"; and (3) adding at the end thereof the following new subsection: "(r) provide medical and dental care for personnel entitled thereto by law or regulation, including care in private facilities.".

MOTION OFFERED BY MR. WHITTEN

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

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 73 and concur therein with an amendment, as follows: In lieu of the section number 141 named in said amendment, insert "143".

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 75: Page 19, after line 2, insert:

SEC. 143. Notwithstanding any other provision of this joint resolution, the head of any department or agency of the Federal Government in carrying out any loan guarantee or insurance program shall enter into commitments to guarantee or insure loans pursuant to such program in the full amount provided by law subject only to (1) the availability of qualified applicants for such guarantee or insurance, and (2) limitations contained in appropriation Acts.

MOTION OFFERED BY MR. WHITTEN

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

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 75 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

SEC. 145. Notwithstanding any other provision of this joint resolution, the head of any department or agency of the Federal Government in carrying out any loan guarantee or insurance program shall enter into commitments to guarantee or insure loans pursuant to such program in the full amount provided by law subject only to (1) the availability of qualified applicants for such guarantee or insurance, and (2) limitations contained in appropriation Acts.

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

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

There was no objection.

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 76: Page 19, after line 2, insert:

SEC. 144. Notwithstanding any other provision of law or this joint resolution no change in the regulations subject to the moratorium required by section 135 of Public Law 97-248 shall be promulgated in final form until one hundred and twenty days after the expiration of the moratorium, during which period the Department of Health and Human Services shall seek public review and comment on any such pro-

posed regulations and consult with the appropriate Committee of Congress.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion. The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 76 and concur therein with an amendment, as follows: In lieu of the section number 144 named in said amendment, insert "146".

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 78: Page 19, after line 2, insert:

SEC. 146. Notwithstanding any other provision of this joint resolution or any other provision of law, appropriations for urban and nonurban formula grants authorized by the Urban Mass Transportation Act of 1964 (49 U.S.C. 1601 et seq.) shall be apportioned and allocated using data from the 1980 decennial census.

MOTION OFFERED BY MR. WHITTEN

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

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 78 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

SEC. 147. Notwithstanding any other provision of this joint resolution or any other provision of law, appropriations for urban and nonurban formula grants authorized by the Urban Mass Transportation Act of 1964 (49 U.S.C. 1601 et seq.) shall be apportioned and allocated using data from the 1970 decennial census for one-quarter of the sums appropriated and the remainder shall be apportioned and allocated on the basis of data from the 1980 decennial census.

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

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

There was no objection.

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 83: Page 19, after line 2, insert:

SEC. 151. (a) Section 4109 of title 5, United States Code is amended by adding at the end thereof the following new subsection:

"(c) Notwithstanding subsection (a)(1) of this section, the Administrator, Federal Aviation Administration, may pay an individual training to be an air traffic controller of such Administration, during the period of such training, at the applicable rate of basic pay for the hours of training officially ordered or approved in excess of forty hours in an administrative workweek.".

(b) Section 5532 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(f)(1) Notwithstanding any other provision of law, the retired or retainer pay of a former member of a uniformed service shall not be reduced while such former member is temporarily employed, during the period described in paragraph (2) or any portion thereof, under the administrative authority of the Administrator, Federal Aviation Administration, to perform duties in the operation of the air traffic control system or to train others to perform such duties.

"(2) The provisions of paragraph (1) of this subsection shall be in effect for any period ending not later than December 31, 1984, during which the Administrator, Federal Aviation Administration, determines that there is an unusual shortage of air traffic controllers performing duties under the administrative authority of such Administrator.".

(c)(1) Chapter 55 of title 5, United States Code, is amended by inserting after section 5546 the following new section:

"§ 5546a. Differential pay for certain employees of the Federal Aviation Administration

"(a) The Administrator of the Federal Aviation Administration (hereafter in this section referred to as the 'Administrator') may pay premium pay at the rate of 5 per centum of the applicable rate of basic pay to—

"(1) any employee of the Federal Aviation Administration who is—

"(A) occupying a position in the air traffic controller series classified no lower than GS-9 and located in an air traffic control center or terminal or in a flight service station;

"(B) assigned to a position classified not lower than GS-09 or WG-10 located in an airway facilities sector; or

"(C) assigned to a flight inspection crewmember position classified not lower than GS-11 located in a flight inspection field office,

the duties of whose position are determined by the Administrator to be directly involved in or responsible for the operation and maintenance of the air traffic control system; and

"(2) any employee of the Federal Aviation Administration who is assigned to a flight test pilot position classified not lower than GS-12 located in a region or center, the duties of whose position are determined by the Administrator to be unusually taxing, physically or mentally, and to be critical to the advancement of aviation safety.

"(b) The premium pay payable under any subsection of this section is in addition to basic pay and to premium pay payable under any other subsection of this section and any other provision of this subchapter.".

(2) The analysis of chapter 55 of such title is amended by inserting after the item relating to section 5546 the following new item:

"5546a. Differential pay for certain employees of the Federal Aviation Administration.".

(d) Section 5546a of title 5, United States Code (as added by section 152(c) of this joint resolution), is amended by adding at the end thereof the following new subsections:

"(c)(1) The Administrator may pay premium pay to any employee of the Federal Aviation Administration who—

"(A) is an air traffic controller located in an air traffic control center or terminal;

"(B) is not required as a condition of employment to be certified by the Administrator as proficient and medically qualified to perform duties including the separation and control of air traffic; and

"(C) is so certified.

"(2) Premium pay paid under paragraph (1) of this subsection shall be paid at the rate of 1.6 per centum of the applicable rate of basic pay for so long as such employee is so certified.

"(d)(1) The Administrator may pay premium pay to any air traffic controller of the Federal Aviation Administration who is assigned by the Administrator to provide on-the-job training to another air traffic controller while such other air traffic controller is directly involved in the separation and control of live air traffic.

"(2) Premium pay paid under paragraph (1) of this subsection shall be paid at the rate of 10 per centum of the applicable hourly rate of basic pay times the number of hours and portion of an hour during which the air traffic controller of the Federal Aviation Administration provides on-the-job training.

"(e)(1) The Administrator may pay premium pay to any air traffic controller or flight service station specialist of the Federal Aviation Administration who, while working a regularly scheduled eight-hour period of service, is required by his supervisor to work during the fourth through sixth hour of such period without a break of thirty minutes for a meal.

"(2) Premium pay paid under paragraph (1) of this subsection shall be paid at the rate of 50 per centum of one-half of the applicable hourly rate of basic pay.

"(f)(1) The Administrator shall prescribe standards for determining which air traffic controllers and other employees of the Federal Aviation Administration are to be paid premium pay under this section.

"(2) The Administrator may prescribe such rules as he determines are necessary to carry out the provisions of this section.".

(e) Section 5547 of title 5, United States Code, is amended by adding at the end thereof the following: "The first sentence of this section shall not apply to any employee of the Federal Aviation Administration who is paid premium pay under section 5546a of this title.".

(f) Section 8339(e) of title 5, United States Code, is amended by inserting before the period "unless such employee has received, pursuant to section 8342 of this title, payment of the lump-sum credit attributable to deductions under section 8334(a) of this title during any period of employment as an air traffic controller and such employee has not deposited in the Fund the amount received, with interest, pursuant to section 8334(d) of this title".

(g) Section 8344 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(h)(1) Subject to paragraph (2) of this subsection, subsections (a), (b), (c), and (d) of this section shall not apply to any annuitant receiving an annuity from the Fund while such annuitant is employed, during any period described in section 5532(f)(2) of this title or any portion thereof, under the administrative authority of the Administrator, Federal Aviation Administration, to perform duties in the operation of the air traffic control system or to train other individuals to perform such duties.

"(2) Paragraph (1) of this subsection shall apply only in the case of any annuitant receiving an annuity from the Fund who, before August 3, 1981, applied for retirement or separated from the service while being entitled to an annuity under this chapter.".

(h)(1) The amendments made by subsections 152(b), (c), (e), and (g) of this joint resolution shall take effect at 5 o'clock ante meridian eastern daylight time, August 3, 1981.

(2) The amendments made by the subsection 152(a) and subsection 152(d) of this

joint resolution shall take effect on the first day of the first applicable pay period beginning after the date of the enactment of this joint resolution.

(3) The amendment made by subsection 152(f) of this joint resolution shall take effect on the date of the enactment of this joint resolution.

MOTION OFFERED BY MR. WHITTEN

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

The Clerk read as follows:

Mr. WHITTEN moves that the House insist on its disagreement to the amendment of the Senate numbered 83.

PREFERENTIAL MOTION OFFERED BY MR. COUGHLIN

Mr. COUGHLIN. Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. COUGHLIN moves that the House recede from its disagreement to the amendment of the Senate numbered 83 and concur therein.

Mr. FORD of Michigan. Mr Speaker, I demand a division of the question.

The SPEAKER pro tempore. The question will be divided.

The Chair will state that the gentleman from Mississippi (Mr. WHITTEN) has the time. Does the gentleman wish to use his time for debate now?

Mr. WHITTEN. Mr. Speaker, I yield to the gentleman from Pennsylvania (Mr. COUGHLIN).

The SPEAKER pro tempore. If the gentleman from Mississippi does not seek to control debate time, the Chair will put the question on receding.

The question is, will the House recede from its disagreement to Senate amendment No. 83?

The House receded from its disagreement to Senate amendment No. 83.

The SPEAKER pro tempore. For what purpose does the gentleman from Michigan (Mr. FORD) seek recognition?

PREFERENTIAL MOTION OFFERED BY MR. FORD OF MICHIGAN

Mr. FORD of Michigan. Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. FORD moves that the House concur in Senate amendment numbered 83 with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SEC. . (a)(1) The Administrator of the Federal Aviation Administration (hereinafter in this section referred to as the "Administrator") may pay premium pay to any eligible employee of the Federal Aviation Administration for service as such an employee between August 3, 1981, and October 1, 1984. Any such premium pay shall be at the applicable rate determined under paragraph (3).

(2) For purposes of this subsection, an employee is an eligible employee if—

(A) the individual occupies a position the duties of which are determined by the Administrator to require the individual to be directly involved in or responsible for the operation or maintenance of the air traffic control system, and the position—

(i) is in an air traffic control center or terminal or in a flight service station, and is classified at a GS-9 level or higher in the air traffic control specialist series,

(ii) is in an airway facility sector and is classified at a GS-9 or WG-10 level or higher, or

(iii) is in a flight inspection field office and is a flight inspection crewmember position that is classified at a GS-11 level or higher;

(B) the individual occupies a flight test pilot position—

(i) the duties of which are determined by the Administrator to be unusually taxing and critical to the advancement of aviation safety, and

(ii) which is in a region or center and is classified as a GS-12 level or higher; or

(c) the individual occupies a position at the Federal Aviation Administration Academy, Oklahoma City, Oklahoma, the duties of which are determined by the Administrator to require the individual to be actively engaged in or responsible for training employees to be air traffic controllers, and the position is classified at a GS-13 level or higher.

(3) Premium pay under this subsection shall be—

(A) at 5 percent of the applicable rate of basic pay, for periods after August 3, 1981, and before October 1, 1983; and

(B) at 3 percent of the applicable rate of basic pay, for periods after September 30, 1983, and before October 1, 1984.

(4) Premium pay under this subsection is in addition to any other premium pay to which the individual involved may be entitled.

(5) Any eligible employee who, before the date of the enactment of this section, separated, or otherwise ceased to be an eligible employee, due to a disability shall not be disqualified from receiving premium pay under this subsection for such service.

(b)(1) Title 5, United States Code, is amended by inserting after section 5546 the following new section:

"§ 5546a. Air traffic controllers; premium pay for providing training

"(a) the Administrator of the Federal Aviation Administration may pay premium pay to any air traffic controller of the Federal Aviation Administration assigned to provide on-the-job training to another controller of the Administration while such other controller is actively engaged in the separation and control of air traffic.

"(b) Premium pay under this section for any controller providing on-the-job training shall be paid at the rate of 10 percent of the basic pay payable for the periods of time the controller provided such training.

"(c) Premium pay under this section is in addition to any other premium pay to which the individual involved may be entitled.".

(2) The analysis of chapter 55 of title 5, United States Code, is amended by inserting after the item relating to section 5546:

"5546a. Air traffic controllers; premium pay for providing training.".

(c)(1) The Secretary of Transportation shall take all practicable steps to assure that the Federal air traffic control system is at full capacity not later than April 30, 1983. The Secretary shall promptly certify to the Committee on Post Office and Civil Service of the House of Representatives and the Committee on Governmental Affairs of the Senate whenever—

(A) the air traffic allocation system of the Federal Aviation Administration ceases to be in effect, and

(B) the Federal Aviation Administration has employed adequate civilian personnel to operate, on a continuing basis, the Federal air traffic control system at full capacity.

(2) For purposes of this subsection, the term "full capacity" means the capacity to safely handle, on a daily basis and on a peak-hour basis, air traffic levels equal to those which existed during the 12-month period ending July 31, 1981, with workweeks and duty assignments comparable to those in effect during that period.

(d)(1) Title 5, United States Code, is amended by inserting after section 3385 the following new section:

"§ 3386. Personnel management improvement in the Federal Aviation Administration

"(a) For the purpose of this section—

"(1) 'Administration' means the Federal Aviation Administration;

"(2) 'Administrator' means the Administrator of the Federal Aviation Administration; and

"(3) 'employee' means any employee of the Federal Aviation Administration.

"(b) As soon as practicable after the date of the enactment of this section, the Administrator shall develop and thereafter implement a personnel management improvement program within the Administration. The program shall include the following elements (or elements which would provide similar results):

"(1) Improvement of communication in the Administration between employees and management and among various levels of management (A) through the services of individuals who have the demonstrated ability to improve such communications and (B) through the use of management-employee committees.

"(2) Planning for major technological changes which (A) permits and encourages employee participation and (B) takes into account the major personnel factors associated with implementing such changes, such as retraining, relocation, and organizational restructuring.

"(3)" Use of part-time employees, overtime, duty assignments, temporary seasonal transfers, or other comparable means to respond to variations in air traffic levels in a manner which is cost-efficient.

"(4) Periodic employee surveys to determine employee attitudes and opinions with respect to (A) the conditions within the organization which generally affect job performance, including organizational communications, coordination, and duty assignment methods, (B) the quality of supervisory leadership, (C) the quality of interaction among employees, and (D) the degree of employee teamwork, job satisfaction, and motivation.

"(5) Modification of criteria used for selection of supervisors to assure that selection occurs not merely on the basis of technical knowledge and proficiency but also on the basis of the respect accorded the individuals by other employees and the individuals' demonstrated management skills or potential.

"(6)" Modification of criteria used for performance appraisals of supervisors and managers to include (A) the extent to which employees have been kept informed of matters affecting employees, (B) the degree of participation by employees in appropriate decisions, (C) demonstrated employee teamwork, (D) employee morale and job attitudes, and (E) the general quality of the work environment.

"(c)" The Administrator shall annually report to the Congress, the Secretary of Transprotation, and the National Transportation Safety Board on the implementation of such program. Such report shall include for the annual period covered by such report—

"(1) a summary of the results of the employee surveys conducted under subsection (b)(4) of this section; and

"(2) relevant personnel statistics indicative of the success of the personnel management program established under subsection

(b) of this section, including number of employee grievances filed, extent of sick leave usage, and number of resignations and other separations.".

(2) Section 3384 of title 5, United States Code, is amended by inserting "preceding" before "provisions of this subchapter".

(3) The analysis for chapter 33 of title 5, United States Code, is amended by inserting after the item relating to section 3385 the following new item:

"3386. Personnel management improvement in the Federal Aviation Administration.".

(e) During the period beginning on the date of the enactment of this section and ending 180 days after the date of certification under subsection (c)(1) of this section, no employee of the Federal Aviation Administration who is an eligible employee (as defined in subsection (a)(2)) shall be subject—

(1) to furlough under subchapter II of chapter 75 of title 5, United States Code, or

(2) to any reduction-in-force action under action 3502 of title 5, United States Code.

(f) Air traffic controllers whose employment was terminated on account of the strike of air traffic controllers which began on or about August 3, 1981, shall not, as a class, be considered unsuitable for reinstatement or appointment to any position in the Federal Aviation Administration. Determinations of suitability for reinstatement or appointment to any such position shall be made on a case-by-case basis by the Office of Personnel Management in accordance with part 731 of title 5 of the Code of Federal Regulations (as in effect on January 1, 1982).

(g)(1) Except as provided in paragraph (2), this section shall take effect on the date of the enactment of this section.

(2)(A) Subsection (a) (relating to differential premium pay) shall take effect October 1, 1982.

(B) Subsection (b) (relating to on-the-job training premium pay) shall take effect on the first applicable pay period which begins after the date of the enactment of this section.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the preferential motion be considered as read and printed in the RECORD.

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

There was no objection.

The SPEAKER pro tempore. Since the house has receded, the gentleman from Mississippi's original motion has been preempted and he did not seek to control time therefore the gentleman from Michigan (Mr. FORD) will be recognized for 30 minutes, and the gentleman from Pennsylvania (Mr. COUGHLIN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Michigan (Mr. FORD).

Mr. FORD of Michigan. Mr. Speaker, the amendment I have offered gives Members a choice between two different roads which are both marked "road to a revitalized air traffic system." Unfortunately, one of these roads, the one proposed by the administration, is a dead end. The other, the one proposed by my amendment, may have some potholes due to a hard winter, but should the Secretary of Transportation proceed carefully, he will eventually achieve the goal of a revitalized system.

My colleagues know that I think the fired controllers should be rehired. In my view, the real problem is an intransigent administration which refuses to recede from a hastily arrived at and ill-conceived decision to fire over 11,000 employees. That decision, and the administration's refusal to change it, is forcing the Government to spend over $1 billion to train new controllers with the result that we will have a raw, inexperienced work force for years to come.

If I could pass a bill to accomplish rehiring I would. But the votes are not here. That is a political fact, and I recognize it. The amendment I have offered would not require that anyone be rehired; nor would it entitle any fired controller to a job. Those are the facts. The amendment simply would permit the administration to rehire former controllers in the future, should it decide it wishes to do so.

Unfortunately, the administration is misleading many Members of this House concerning my proposal. It claims my proposal would prevent fired controllers from being disqualified for employment on suitability grounds; it claims it would be forced to rehire all the fired employees; it claims courts would overturn its decisions not to rehire particular controllers. All of these claims are unfounded, unsupported, and untrue.

For months I have been pressing the Secretary and his General Counsel for any legal authority to support these claims. On August 26 I wrote the Secretary asking for any legal opinion or memorandum supporting these claims. I have received nothing. Not a single sheet of paper has been provided. Not a single case or statute cited.

I have authority to support my position that my amendment gives the administration all the discretion it could possibly want, should it decide to begin rehiring. My authority is the law, title 5 of the Code of Federal Regulations. My amendment overrules the President's suitability bar against controllers as a class and requires case-by-case suitability determinations. And here is what the Code says about these determinations:

§ 731.201 Authority.

Subject to Subpart C of this part OPM may deny an applicant examination, deny an eligible appointment, and instruct an agency to remove an appointee when OPM determines this action will promote the efficiency of the service.

§ 731.202 OPM determination.

(a) General. In determining whether its action will promote the efficiency of the service, OPM shall make its determination on the basis of:

(1) Whether the conduct of the individual may reasonably be expected to interfere with or prevent effective performance in the position applied for or employed in; or

(2) Whether the conduct of the individual may reasonably be expected to interfere with or prevent effective performance by the employing agency of its duties and responsibilities.

(b) Specific factors. Among the reasons which may be used in making a determination under paragraph (a) of this section, any of the following reasons may be considered a basis for disqualification:

(1) Delinquency or misconduct in prior employment;

(2) Criminal, dishonest, infamous or notoriously disgraceful conduct;

* * * * *

(c) Additional considerations. In making its determination under paragraph (a) of this section, OPM shall consider the following additional factors to the extent that these factors are deemed pertinent to the individual case:

(1) The kind of position for which the person is applying or in which the person is employed, including its sensitivity;

(2) The nature and seriousness of the conduct;

(3) The circumstances surrounding the conduct;

(4) The recency of the conduct;

* * * * *

How much more discretion does the administration believe it needs? What are they afraid of?

I think we all know that these unsupported claims of the administration are just a smokescreen thrown up to obscure its real problem. The real problem is that this administration, like all other administrations before it, does not want the Congress to correct its errors. It does not want the Congress to reverse the President's suitability bar. I think we should heed the words of the distinguished minority leader explaining his break with the administration over the Soviet pipeline sanctions. As the minority leader wrote, sometimes you have to provide "a way out for the President from a policy which is counterproductive."

My amendment contains other provisions to promote speedy recovery of the air traffic system. Specifically, it:

First, provides a 5-percent pay differential (retroactive to August 3, 1981) to be phased out by fiscal year 1985.

Second, provides a 10-percent OJT differential.

Third, directs the Secretary of Transportation to take all practicable steps to return the system to full capacity by April 30, 1983.

Fourth, insures implementation of the personnel management recommendations of the Jones' task force.

Fifth, prohibits RIF's or furloughs of essential employees during the rebuilding period.

The administration's proposal does nothing to speed recovery. And it presents the following significant problems:

Five-percent permanent pay differential (retroactive to August 3, 1981) for over 25,000 FAA employees—less than 10,000 are working controllers. This is a bad precedent which distorts the pay and classification system, and hurts morale of other Federal employees who are capped at 4 percent).

Civilian and military retirees employed by FAA can receive both full pay and full pensions (double dipping).

No provision insuring implementation of the Jones' report or to improve morale.

No provision to expedite rebuilding of the system.

I ask unanimous consent to insert in the RECORD at this point a full explanation of my amendment.

I should address one other argument the administration is making—that the House has once before passed its proposal. It is true that the House, by a 30-vote margin, passed the administration proposal last November. But a lot of things have changed since then. The training academy's dismal performance has continued for almost a year, and a Federal grand jury is investigating grade-fixing charges at the academy. Morale has deteriorated. The National Transportation Safety Board supported my committee's findings that the administration's rebuilding schedule was unrealistic. A special task force appointed by the Secretary of Transportation delivered a scathing attack on FAA management finding that poor personnel management was a major factor leading to the strike.

□ 1740

My amendment addresses these matters which have arisen over the last year. The administration's original proposal is unchanged and ignores these important developments.

I have seen "Dear Colleague" letters and I have seen handouts here that truly astound me because there would be, indeed, no compromise before us if they were truthful and they in fact represented what is in my amendment.

I see the gentleman from Illinois (Mr. DERWINSKI) and I took up with him a few moments ago a "Dear Colleague" that he sent to the Members which states, among other things, that my amendment would deny the people who stayed on the job during the strike their pay increase.

I would like to ask the gentleman if he would clarify the statement in his "Dear Colleague" letter at this point.

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

Mr. FORD of Michigan. I yield to the gentleman from Illinois.

Mr. DERWINSKI. A clarification is in order.

The gentleman's, at this time and politely I use the word compromise; would provide the same retroactive pay and then the pay for fiscal year 1983 proposed by the administration. It is from that point on, fiscal year 1984 and 1985, where the pay differential becomes an issue.

Mr. FORD of Michigan. I thank the gentleman for that clarification.

It is important that you understand that the substitute that I am offering is virtually everything that the administration has asked for. The difference is that the administration bill attached to this continuing resolution makes a permanent change in law with respect to the pay of 25,000 employees of the Federal Aviation Administration not just air traffic controllers.

A year ago when this same proposal was considered people were misled on this floor into believing that all it did was pay some overtime to the loyal workers who stayed on the job. But we were paying the overtime anyhow because Federal employees are covered by the Fair Labor Standards Act and we are required to pay, by law, overtime to people who work overtime just as private corporations are.

That confusion certainly should not exist in anybody's mind at this point.

What this proposal purports to do is revitalize the entire air traffic control system by giving all of the employees of the FAA a different GS pay schedule than all other Federal employees. Both Senator STEVENS on the other side and I have been concerned about the precedent of having a separate pay system.

Every argument that has been made for a better pay schedule from the top to the bottom of the FAA can certainly be made for the Department of Justice. No one would argue that the FAA has more professional people employed that they are trying to retain than the Department of Justice, the IRS, or NASA.

Our committee reported a bill, as an alternative to the administration bill, that would have given all of the employees who stayed on the job a 10-percent bonus calculated on their total pay from August 3, 1981, to January 3, 1983.

Where did the January 1983 date come from? That was the date that was promiscuously being thrown around the country by which the air traffic control system would be back in full operation and everything would by hunky-dory, and if we were paying these people for the extra work that they are now faced with because we are short of air traffic contr[illegible] and woefully short, then it was my feeling that that pay ought to be more generous than 5 percent. But it ought to be related to the people who were on the job on August 3, and not all future employees of the FAA.

We gave up on that. Now we have come around to the administration's point of view that they ought to give everybody in the FAA a 5-percent pay increase instead of a 10-percent bonus.

However, the difference between my proposal and the administration's is this: The administration makes it a permanent pay change so that for all time the pay structure in the FAA will be different than the pay structure of all of the rest of the civil service.

My alternative is to give every dollar and every penny to every employee that the FAA wants covered, but to sunset it by fiscal year 1985 on the theory that surely, if they were going to have the system up by January of 1983, they will have the system back to normal in 1985, and there is no further reason for this extraordinary treatment of these 25,000 employees out of the millions of Federal employees.

By contrast, the other day we had a considerable amount of discussion on the floor over the military pay increase. I am going along reluctantly with the administration to give all of the employees of the FAA this year a 9-percent increase while we give the military and civilian employees of every other agency of Government a 4-percent increase.

That is indeed generous. But unfortunately it is not going to buy us anything.

My substitute provides that the bar against hiring former controllers who struck will be removed. In short, any fired controller could now come in and apply for employment with FAA, as they now can, incidentally, with every other agency of the Government.

We are no longer punishing the strikers. We are punishing the American taxpayers and we are punishing the employees on the job. We still have people working 48 hour weeks. We have people on assignments away from their homes. We have retirees who have been called back.

There is nothing in my alternative that mandates the hiring of a single person who is a former controller and, indeed, it spells out specifically that they can refuse on a case-by-case basis to employ anyone who is found to be unsuitable.

Mr. JOHN L. BURTON. Mr. Speaker, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from California.

Mr. JOHN L. BURTON. I rise in strong support of the gentleman's motion.

I think by following through on the current practice we are not only punishing the American taxpayer and those workers who have gone out on strike but I think we are also punishing the air traffic safety system of this Nation.

I do not believe that air traffic control has come up to the safety standards that existed prior to the firing of all of the air traffic controllers.

It takes years of training, education, and work experience to have a safe traffic control system. From my experience on our subcommittee that is sadly lacking at this time.

I believe the gentleman's approach, which is just allowing the people to apply and allowing a determination to be made on an individual case-by-case basis is at least a half a step back toward getting our system where it was prior to that.

I think those who are concerned about a wholesale type of amnesty, as some of us would have preferred, should find at least this approach as a good compromise and I commend the gentleman for that.

Mr. FORD of Michigan. I thank the gentleman.

Of course I would like to pass a bill to accomplish the rehiring of all of the

employees who lost their jobs. But I think I know the temper of the Congress well enough to know that that would be futile and I have made no attempt to do that although my actions have been characterized in that fashion by people, for whatever purposes.

□ 1750

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

Mr. FORD of Michigan. I yield to the gentleman from Vermont.

Mr. JEFFORDS. As I understand the gentleman's amendment, then, this is no threat to anyone who now holds a job in the FAA, but merely allows those people who were, in a sense, let go or fired because they belonged to unions, to come in and apply, as anyone off the street, and then to fend for the jobs, as they may be able to, using whatever expertise they might have; is that correct?

Mr. FORD of Michigan. That is correct.

Mr. JEFFORDS. If it would appear that the hiring of an individual would cause disruption, it would not be required to hire that individual, is that correct?

Mr. FORD of Michigan. As a matter of fact, the regulations with respect to suitability specifically authorize the OPM to take into account any information about disruptive activites or disruptive action by that person applying for work in previous Government employment.

Mr. JEFFORDS. I commend the gentleman for his amendment. I think it is a very reasonable answer to a very difficult problem and, in my mind, cures what is counterproductive overkill.

Mr. FORD of Michigan. I thank the gentleman.

Mr. JEFFORDS. Mr. Speaker, on December 6, 1981, I introduced House Resolution 309, which asked for the relaxing of limitations placed upon the hiring of fired air traffice controllers. Obviously, I applaud Mr. FORD's hard work on this amendment. I feel as strongly now that the controllers have a right to apply for—not receive—their jobs back, as I did this past December. I feel as strongly today as I did in December that those controllers who worked all these months under adverse conditions deserve a pay increase and differential beyond that of the other controllers.

Mr. FORD's amendment is a simple and congenial way to honorably resolve the air traffic controller problem we now face. The air traffic control system of this country has not returned to normal in over a year's time. The people presently controlling the planes are overworked. Years will pass before the newly trained replacements will be qualified to guide aircraft alone. Pay increases promised to men and women who kept our airlanes open after the strike have not been forthcoming. These same workers, most of them supervisors, are still solely responsible for guiding out heavy air traffic. The economy has suffered because of the limitations imposed upon the strained and overworked system. Because of the difference in the type of work, and due to the heavy demand placed upon them by dual duty, the military controller assigned to help guide civilian traffic have not been as great an asset as was hoped. I agree that the air traffic control system is "safe," but the system is far from healthy.

I supported the President's action in ending the PATCO strike, and I would support it again today. But I do not believe—and I am certain neither do my colleagues here on the floor—that these highly trained, capable, and dedicated workers should be punished any longer. What the Professional Air Traffic Controllers Organization did was wrong. The courts of the United States agreed it was wrong. I say, it will be wrong to not allow those members of that decertified union, who request and who qualify, to be reinstated. The amendment before us does not force the Government to take back fired controllers. All it states is that a case-by-case review of controllers wishing to return to work is in order. The Ford amendment allows those controllers now working, to receive a 5-percent pay differential above and beyond that of other controllers, to be phased out by fiscal year 1985. Workers who serve their Nation as selflessly as those controllers who stayed on the job have, during less than desirable conditions, should be rewarded for their efforts. I support a pay increase for these people.

As I have said, the time has come to restore the normal system of controlling our air traffic. Air traffic controllers who walked off the job over 1 year ago deserve the right to ask for their jobs back. They have paid enough.

Thank you.

Mr. FORD of Michigan. Mr. Speaker, I just want to point out one other difference between their approach and ours. You remember the horrendous fight that we went through here this year on what we were going to do about Federal pensions. And there seems to be abroad in the land the idea that we have to get ahold of runaway Federal pensions.

Now, one of the things that probably irritates people when they hear about it, more than anything else, is the idea that you can get a Federal pension and a Federal paycheck at the same time, a practice called double-dipping. The administration proposes in their version of this bill to allow retired controllers to come back to work for the Government and receive their full pensions plus their full pay. And we would now, after the blood that was shed here over 4 percent adjustments this year, be going back and saying, "Except for one particular class of employees, any employee who was formerly an employee of the FAA, who is now retired, can come back, be employed and receive both pension and pay." Now, I cannot go for that, and I do not believe that Senator STEVENS and his people on the other side want it. We should not put the stamp of approval, I believe, on the idea of a new form of double-dipping.

Those are the basic differences between the bills.

In closing, I urge the Members to put aside the misleading statements of the administration and do what is right for rebuilding the air traffic control system. No administration likes to have Congress correct its ways, but sometimes the Congress must to discharge faithfully its responsibilities. This is such a case. I urge you to support my amendment.

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

Mr. FORD of Michigan. I yield to the gentleman from Georgia.

Mr. LEVITAS. I thank the gentleman for yielding.

Mr. Speaker, I have discussed this whole problem of the air traffic controller situation with the gentleman on a number of occasions, in my capacity as chairman of the Investigations and Oversight Subcommittee of the Committee on Public Works and Transportation, and I know the gentleman's genuine concern about the problem. We have certain differences about how I think it ought to be approached, different from those of the gentleman, but I think we are agreed on where we need to end up.

The provision in the gentleman's amendment that I would like to ask him about, however, relates to the significante of directing the Secretary of Transportation to take all practicable steps to return the system to full capacity by April 30, 1983.

In hearings which we had, in which Administrator Helms testified, it is my recollection that it was going to be 1984 before the system would be back in full capacity, using their phased-in program.

Now, if this language is adopted, would it not necessarily require the Administrator to rehire controllers who went out on strike in order to make that target date realistic?

Mr. FORD of Michigan. Well, I would just reply to the gentleman that there is nothing mandatory in that provision. It just said, "Get moving." He appointed the Jones Task Force, which I am sure the gentleman is familiar with. And, incidentally, that task force recommended against any pay increase for the employees, saying it was a vain and useless act, it would not produce any benefits. What is wrong in FAA is that it is notoriously poor in its management practices. This is not something invented by this Secretary, it has been a problem for years. We have reports and reports and reports selecting out the FAA as a poorly managed agency, from a personnel point of view.

The Jones Task Force recommended that the only thing that could be done is improve the quality of management. We are asking them to do that. There is no mandate in the April 30, 1983, provision. But I can assure the gentleman that at least by that date next year I will have the Secretary and the Administrator of the FAA in to ask them what they are doing. I will want to know, after they get this pay raise, "What are you doing to make things different than they were before?"

The Jones Task Force tells us that with or without a pay raise, unless there are serious changes made in the FAA, other workers are going to walk. The conditions that were intolerable in the past remain. And they are not being improved. The FAA has not kept pace with its ambitious plans for up-to-date equipment, and so on, and the gripes are still there.

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

Mr. FORD of Michigan. I yield to the gentleman from Georgia.

Mr. GINGRICH. I thank the gentleman for yielding.

Mr. Speaker, I just want to make two points: One, is that in the earlier colloquy with the gentleman from Vermont, I was concerned lest someone misunderstand the situation. I believe the gentleman from Vermont suggested that there were people who happened to be fired for belonging to a labor union. The reality is, you could easily belong to a labor union and be employed. In fact, a number of professional traffic controllers stayed on the job and are still working. The people who were fired were specifically fired for illegally breaking the law and endangering the system. I think it is important just to make that point clear.

Second, I would ask the gentleman: I happen to agree with almost everything the gentleman just said about the need of the FAA to clean up its house in midmanagment, the fact that the Jones report is not being heeded adequately, the fact that we have potential future problems. But most of the controllers I talked to—in fact, virtually without exception—who are currently working and who stayed on the job for the last year had indicated that while they would be willing to have very, very carefully selected rehiring of a very few, there is virtually no support under any circumstance for the scale of rehiring that the gentleman's amendment would direct. I would simply ask this question——

Mr. FORD of Michigan. Wait a minute. Where in my amendment? I just got through explaining it. Now, do not try to mischaracterize this thing further. There is no mandate or direction to hire anyone. Not one. Now, let us keep the record straight as long as we can. All I do is let them apply for employment. It does not direct the reemployment of anybody.

Mr. GINGRICH. It is our understanding that it directs the Secretary of Transportation to take all practical steps to return the system to full capacity by April 30.

Mr. FORD by Michigan. Yes. But what practical steps he takes is entirely his decision. All practical steps. Is that an unreasonable request?

Mr. GINGRICH. Let me pose this question, then: Should the Secretary of Transportation decide that the most practical step, given personnel considerations inside the system among currently operating air traffic controllers, is to keep in force the current ban, would you not then file suit?

Mr. FORD of Michigan. He does not have to keep in force the current ban. He can just not rehire any of them. He does not have to rehire anyone.

You see, I have been the insulation for the Secretary for almost a year. Once we pass either my amendment or the administration proposal, he loses me as protection, because right now he tells the airlines that the reason that the thing is not working well is because Congressman FORD, Chairman FORD, is holding up his legislation.

Now, I do not know what he is going to tell them by summer. And maybe by summer he is going to have to look around for other excuses. I want to give him all of the flexibility in the world. I do not want the Secretary to have to make a deliberate decision that he is forgiving somebody for striking or that he is hiring strikers. We are protecting him against that by simply saying that there is no ban against these people as a class.

Mr. GINGRICH. If the gentleman will yield one last time, I agree with the gentleman on his diagnosis about the concern about management and morale problems. I do think there will be morale problems after they receive the pay raise. I do not think that is a solution. But let me just suggest that in fact if you are serious about the Secretary's legal power to continue the ban, you already have a Secretary who is telling you that he will continue the ban, then surely in your position as chairman——

Mr. FORD of Michigan. I have a Secretary who tells me in direct conversation that the ban is not of his choosing.

Mr. GINGRICH. It seems likely that his President will continue the ban. Let me phrase it that way.

Mr. FORD of Michigan. That is exactly right. Let there be no question about that at all. It is the White House that is telling the Secretary not to hire these people back. And it may continue to do that. And if this Secretary wants to make that more important than getting the system back up, that is his choice.

Mr. GINGRICH. If next summer that Secretary decides that you are correct, then as chairman of that committee, you could surely report out an appropriate vehicle within a matter of 24 hours, so there is no need at this moment to do that.

Mr. FORD of Michigan. I must reclaim my time. The gentleman from Massachusetts has already started laughing. You have got to be pulling my leg. I did not come here last term. Are you talking about bringing out a bill containing only the provision the administration opposes. I did not fall off the tree yesterday, Mr. GINGRICH. That is almost insulting to suggest that to me.

Mr. GINGRICH. No one has accused you of that, Mr. FORD.

Mr. FORD of Michigan. Mr. Speaker, I reserve the balance of my time.

□ 1800

The SPEAKER pro tempore. The gentleman from Michigan (Mr. FORD) has consumed 23 minutes.

Mr. COUGHLIN. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts (Mr. CONTE).

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

Mr. CONTE. Mr. Speaker, on November 2, 1981, the Secretary of Transportation forwarded to the Congress legislation which would provide an average 6.6 percent pay increase to working controllers.

This same legislation, which will provide necessary tools to the FAA to rebuild the air traffic system and fairly compensate controllers for the outstanding work they do, passed the House last November 22 by a vote of 213 to 183 part of House Joint Resolution 357. Unfortunately, however, we have not yet been able to enact this measure into law to see that our Nation's controllers are recognized for their exceptional performance.

Enactment of this legislation is critically needed. We asked the controllers who honored their oaths of office to help keep our air traffic system going not only immediately following the air traffic control strike but while it was being rebuilt to former capacity levels. They have done just that. In fact, today's system is operating at about 90 percent of the nationwide prestrike commercial traffic levels. These dedicated employees have worked tirelessly to keep our air traffic system operating safely and efficiently; many have made personal sacrifices to accept relocations to facilities where greater staffing was necessary. In short, they have done everything we could possibly have asked of them. So far the Congress recognition of these exceptional efforts has consisted of rhetoric rather than money. It is important to remember that adoption of this package will not increase Federal expenditures. The cost will be absorbed by the FAA's fiscal year 1983 budget.

I ask my colleagues today to support the enactment of the Senate controller and select personnel benefit pay package which recognizes, although long overdue, the outstanding services that FAA controllers and related employees have performed on behalf of the American traveling public and

oppose the amendment of the gentleman from Michigan.

SEPTEMBER 21, 1982.

Subject: Pay legislation for Air Traffic Controllers.

HOUSE OF REPRESENTATIVES,
Washington, D.C.

DEAR REPRESENTATIVE: The undersigned organizations representing all segments of the aviation community—airlines, general aviation, airports, pilots—strongly urge your support for long-delayed compensation legislation for working air traffic controllers.

The pay legislation recognizes the vital job performed by controllers and related air traffic control personnel and will insure that these men and women are fairly compensated for the work they do. For more than a year, these FAA employees have been promised the increased benefits contained in the proposed pay package.

We urge you go support legislation identical to that which was passed by the House and Senate last year and approved by the Senate again during 1982. We hope you will join efforts to have the matter brought up and favorably voted on prior to adjournment in October.

The pay package approved by the House and Senate last year is fair, equitable and long-overdue. We are grateful for the professionalism and dedication demonstrated by working controllers and other air traffic control personnel who are serving the nation with loyalty and distinction. The promised benefits are well-deserved and should be promply approved.

Thank you for your consideration and support.

Sincerely,

S. L. Wright, Aerospace Industries Association; Paul R. Ignatius, Air Transport Association; John L. Baker, Aircraft Owners and Pilot Association; J. J. O'Donnell, Airline Pilots Association International; Donald Reilly, Airport Operators Council International; Edward Simpson, General Aviation Manufacturers Association; Frank L. Jensen, Jr., Helicopter Association International; Clifton F. von Kann, National Aeronautics Association; L. L. Burian, National Air Transportation Association; John Winart, National Business Aircraft Association; Duane Ehulabe, Regional Airlines Association.

Mr. FORD of Michigan. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Speaker, I just have to defend the people who stayed on the job. The gentleman is suggesting they stayed on the job in expectation of being paid for it. They stayed on the job because they were good Americans and refused to break the law. We were here a year ago, and that was the reason. Not the gentleman is telling me they only stayed on the job because they were waiting for this pay raise. That is a terrible insult to the working controllers.

Mr. CONTE. No; they stayed on the job because they were obeying the law. But at the same time you are not going to deny them pay because they obeyed the law. You are going to take it away from them because they are law-abiding citizens. That is wrong.

Let me read from a letter.

"The pay package approved by the House and Senate last year is fair, if is equitable, it is long overdue. We are grateful for the professionalism and dedication demonstrated by the working controllers and the other air traffic control personnel who are serving the Nation with loyalty and with distinction. The promised benefits are well deserved and should be promptly approved.

Signed by the Aerospace Industries Association. Signed by the Air Transport Association. Signed by the Aircraft Owners and Pilots Association. Signed by the Airline Pilots Association International. Signed by the Airport Operators Council International. Signed by the General Aviation Manufacturers, the Helicopter Association, the National Aeronautics Association, the National Air Transport Association.

Mr. COUGHLIN. Mr. Speaker, I yield 8 minutes to the gentleman from Illinois (Mr. DERWINSKI).

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

Mr. DERWINSKI. Mr. Speaker, this amendment is described as a compromise, but it is basically a rewording of proposals the Federal Aviation Administration could not live with. The amendment takes the same old position to ignore public opinion and rehire the strikers who have inflicted damage on themselves and the Nation. We have here the same old position to deny loyal air traffic controllers the permanent raise negotiated by PATCO to which the administration remains committed. This repeats the same same old confusion of getting back to prestrike capacity by a date deliberately set to force rehiring of at least some strikers; and the false implication, without real evidence, that the FAA is not taking "all practicable steps" to restore full capacity without compromising safety standards.

What this amendment does is statutorily reverse the President's decision that striking controllers are unsuitable for reemployment by the Federal Aviation Administration. Loyal air traffic controllers have made it clear that they do not want the strikers returned to their jobs. To permit such a situation could create administrative chaos. Furthermore, the selective case-by-case rehiring which the amendment permits is impractical. Different standards applied in different regions would lead to substantial legal challenges by former controllers who do not get rehired.

Most public officials at every level—State, county, township and city—applauded the President's decision in dealing with the air traffic controllers who went out on an illegal strike on August 3, 1981. The fact that they were misled by their union leaders does not diminish the fact that they violated their no-strike oath. We have to keep faith with the public which expects its public servants to obey the law.

The so-called compromise proposal would deny the administration's pay commitment to loyal air traffic controllers by providing for only temporary pay increases, then phase them down. The loyal men and women who remained on the job deserve to receive the pay package which was promised them despite the ill-advised strike.

Actually I apologize to the House for taking any time, because after the eloquent words of the gentleman from Massachusetts, which probably will go down as one of the more immortal House debates, nothing else really should have to be said.

But just in case he did not make his point completely, I would like to run through some items, and in the process remind the Members of some of the points made earlier by my good friend from Michigan (Mr. FORD).

First, let me explain that there is no real reason why we should have a problem in this continuing resolution. We passed a bill out of committee in May, a bill unacceptable to the administration, basically the same bill that my good freind, the gentleman from Michigan (Mr. FORD) proposes now as a so-called substitute.

The Senate passed their version on the 27th of May and incorporated that basic language into the continuing resolution.

So that is why we are in the legislative situation that we are.

Now, basically what we are trying to do is live up to the commitment made at the time of the negotiations prior to the strike, when the administration proposed a pay package to PATCO, which was accepted in negotiations by their leaders, and then rejected by the rank and file.

That basically is why we have to go back to August 3, 1981, the purpose being to then provide to those individuals who remained on the job, who did not engage in an illegal strike, to provide them with the pay package that, at that time was available to them and to their misdirected——

Mr. FORD of Michigan. Mr. Speaker, will the gentleman yield on that point?

Mr. DERWINSKI. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Speaker, I just want to correct that. That is one of the most common misconceptions that floats around this place. We heard it so many times, and heard people deny it that we now have an analysis.

For example, that pay package that was agreed to by the representatives of the union and the Secretary but then turned down by the union members, agreed to pay controllers time and a half after 36 hours during a normal 40-hour week. It agreed to change——

Mr. DERWINSKI. Just a minute. Let me reclaim my time. We are speaking of two different points here.

Mr. FORD of Michigan. The point is there are three major things that PAA gave to the employees in the agreement turned down that are not now in the administration bill. How does the

gentleman claim that this is just what they promised them before?

Mr. DERWINSKI. One of the points I was about to get to was the fact there was an implication that this was a budgetary problem because there were not the same degree of increases for the military. This item has been properly budgeted. This was the intent.

When I speak of the pay package, I am talking about the costs, the financial costs.

In the last 13 months you have had fewer people manning the airlanes and evidently doing so in a safe fashion. I hate to be personal, but I noticed our dear friend from California (Mr. JOHN L. BURTON) provided a valuable comment early in the debate. I had not noticed the gentlemen around for a few days. It is obvious he had to fly back from somewhere. So he was in the safe hands of the present personnel of the air traffic system.

Mr. JOHN L. BURTON. Mr. Speaker, will the gentleman yield?

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

Mr. JOHN L. BURTON. Mr. Speaker, my plane was delayed an hour and a half because of a slow down because they do not have enough competent controllers running the air traffic control system. And every Member of the Congress who has had a flight, every flight they have taken go on time like they used to before the strike, should vote with the gentlemen from Illinois. If the flights have been delayed, the Members know I am telling the truth.

□ 1810

Mr. DERWINSKI. I feel my point has been well made, because first of all, those of you who have any memory of the years you have been flying, that you have had fewer delays in the last 13 months than you had prior to that if you have a delay at the present time, it is for your safety.

Again I say, I am so pleased that my dear friend, the gentleman from California, is back with us to give me the support that he perhaps does not realize he is, but down deep in his heart he knows I am right.

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

Mr. DERWINSKI. Yes.

Mr. HYDE. Mr. Speaker, I cannot help but think, for our dear friend from California, that hour and a half delay may have taken them that long to strap him in the seat.

Mr. DERWINSKI. I just hope that we keep referring to our dear friend from California. We remember that he comes from northern California. He is not a Hollywood celebrity, so his ego is not yet out of control.

But I would like to point out, and this is something that is inherent in this entire debate that present data shows that the air traffic system is now operating at 90 percent of the prestrike level.

I reemphasize, the safety factors are being carefully maintained.

One of the points that the so-called substitute or compromise addresses, is that it sets an arbitrary date, the end of April 1983, for compliance. I do not think we should do anything like that. I do not know when the exact compliance will occur, whether it will be May, June, or July. The gentleman from Michigan is right. There has been a public relations factor in some of the statements, but the facts are that very methodically, very carefully, very properly, we are approaching 100-percent functioning of the system.

But what is the real issue? The real issue is that, on April 3, 1981, there was an illegal strike. The goal was to bring the Nation's airlines system to its knees. The President properly responded by keeping the airlines flying. When he did so, he had overwhelming public support. He also, I might add, had the support of State, local and township government officials, who recognized that this was a challenge to the very legality and authority of the government, when there was a no-strike provision that that law be maintained.

Now, the concern over the people who struck, may be justified. I think they were badly misled by their leaders. The point is that they violated their oath and they conducted an illegal strike. The courts have so ruled and we are at the point today, and this is going to be the key vote, and this is what you are voting on. You are voting to provide proper compensation as promised to those men and women who continued to legally meet their obligation as Federal Government employees. That is really the issue.

Do you want to reward the people who served legally or do you want to have your vote interpreted as associated with those illegal strikers who performed a disservice, not just to themselves, but to the Nation. That is the real issue before us. The real issue is shall we now once and for all rectify, clarify, properly meet the responsibility to the loyal Americans who served the public, who met their oath of office, who in a responsible fashion kept the airlines moving when they were faced with a deliberate, illegal strike. That is the issue before us.

Mr. COUGHLIN. Mr. Speaker, I yield 4 minutes to the gentleman from Georgia (Mr. LEVITAS).

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

Mr. LEVITAS. Mr. Speaker, I rise to oppose the proposal of the gentleman from Michigan and support the proposal that has been added by the other body to the appropriations bill.

My interest in this matter is totally and essentially directed to the safety of the air control system, the safety of the airways. When the air controllers, the PATCO organization, went on an illegal strike in August of last year, it was believed that the system could not be maintained with the remaining controllers who stayed on the job and that the economic problems and chaos that would result would soon bring the Government to its very knees. That did not occur. Steps were taken. Controllers stayed on the job, military controllers were brought in, and a tremendous effort was made by everyone connected with the air control system and it has functioned and it has been rebuilding right along.

But the gentleman from Michigan is correct in several points that he made and there are certain features, by the way, of his proposal that have merit, but essentially the gentleman is correct. There are problems in the air control system. There are problems that are going to increase and many of them are related to the morale of those controllers who have been dedicated and stayed on the job, have worked extra hours, have made that extra effort and feel that they have been double-crossed by their Government, who made certain commitments to them. Those problems of morale, not all of which are going to be addressed through keeping that commitment to them, but some of them will be, that problem of morale is going to get worse and, indeed, it could get worse to the point were the safety of the air control system, which is now I think in good condition, could rapidly and dangerously deteriorate.

I am not speaking hypothetically. I have had countless conversations with working controllers. Our committee staff has gone all over the country and spoken with those people. They are dedicated, but they feel like someone has welched on their agreement, and that someone is Uncle Sam.

I think it is our responsibility today to rectify that.

I would like to say one other thing. There are other changes that have to be made and I have discussed with Secretary Lewis and Administrator Helms some management changes that have to be brought in or else you are going to have another situation like existed before August 3, where there was bad morale and poor communication between management and the employees. Some of that is beginning to be manifested again and the Jones report, to which the gentleman from Michigan referred, has demonstrated that; but the first step is for the Government to keep its commitment to those people who stayed on the job, who have put out that extra effort. Many of them have told me that on August 3, 1981, when the strike began, the trouble walked out of the control room. The troubles that were plaguing the air control system were many of the dissatisfied and the disaffected members of PATCO. They left.

The system is running well now and it would be a disaster to create a situation where many of those problems were brought back into the control room.

Let us be frank about it, and the gentleman from Michigan has made no bones about it.

The SPEAKER pro tempore. The time of the gentleman from Georgia (Mr. LEVITAS) has expired.

Mr. COUGHLIN. Mr. Speaker, I yield 1 additional minute to the gentleman.

Mr. LEVITAS. I thank the gentleman.

The heart and soul of the gentleman's amendment are the provisions that first would permit the striking controllers to be rehired, which standing alone may not be such a bad idea on a case-by-case basis, but taken in conjunction with the April 30, 1983, date to get the system back to full capacity, it is simply saying that there would have to be a mass rehiring of the striking controllers who violated the law, many of whom were the problems that created the difficulties that led to that situation on August 3, 1981.

We cannot permit that to happen, but we should keep Uncle Sam's commitment to those controllers who have worked and I think many of the problems that we are now beginning to see will be eliminated and then we can get on with the rest of it and return the system to full capacity with improved morale on the part of the controllers.

I urge support of the Senate provision.

Mr. FORD of Michigan. Mr. Speaker, I yield 5 minutes to the gentleman from Florida (Mr. LEHMAN).

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

Mr. LEHMAN. Mr. Speaker, I rise in suport of the motion offered by my colleague from Michigan (Mr. FORD), the chairman of the Committee on Post Office and Civil Service.

I agree that our air traffic controllers are dedicated, hard-working employees. They have put forth an extraordinary effort during the past 14 months as our air traffic control system is being rebuilt. Clearly, they deserve a pay raise for these efforts.

Under the compromise motion offered by Mr. FORD, they would receive a pay increase and this increase would cover the time period during which the system is being rebuilt. It would not, however, establish a permanent, separate pay scale for these employees.

Those of you who are interested in balancing the budget in fiscal year 1984 and beyond should support the Ford compromise. It is clearly a less costly alternative and it is better legislation.

Mr. Speaker, I urge the House to support the Ford compromise motion.

□ 1820

Mr. COUGHLIN. Mr. Speaker, I yield 4 minutes to the gentleman from Kentucky (Mr. SNYDER).

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

Mr. SNYDER. Mr. Speaker, I rise in opposition to the motion of the gentleman from Michigan and support of the administration's proposal to increase the pay of those air traffic controllers who did not, like so many of their colleagues, go on strike last August. I believe the time has finally come for us in the Congress to recognize the outstanding contributions made by those controllers and to compensate them for their faithful and dedicated service rendered during a most difficult period.

As the ranking minority member of the Aviation Subcommittee, I am very well aware of the problems that have resulted from the controllers strike. Countless flights had to be canceled and airlines and general aviation alike have found access into our major cities extremely difficult. However, I would like to remind my colleagues that if it were not for the exemplary service rendered by those supervisors and journeyman controllers who did not strike, the disruptions would have been far more severe and widespread.

I will not repeat all of the provisions of the administration's proposal. Suffice it to say that the major element involves a 5-percent pay increase for all working controllers, as well as flight service station specialists, and the payment of various premiums for controllers who take on additional responsibilities.

The administration plan is essentially the same one which was adopted back in November by this House by a vote of 213 to 183. Most of you supported it then and almost a year later I submit to you that the reasons for your support are even more compelling today.

As you are aware, the gentleman from Michigan, the chairman of the Post Office and Civil Service Committee, has opposed the administration's plan and has attempted to encourage the administration to return the striking controllers to their jobs.

While I would like nothing more than to see the system at full capacity tomorrow, I also realize that if we were to rehire the controllers that did strike, we would only increase the tensions at ATC facilities throughout the country. Moreover, the Ford proposal provides for a smaller pay increase than does the administration's proposal and could require the FAA to rehire striking controllers if this were necessary to return the system to full capacity by April of 1983.

The FAA will achieve this full capacity but it may take somewhat longer before it believes the system can absorb the additional traffic. I, for one, would not want to create any incentive for the administration to rush the system back to full capacity.

When the FAA believes this can be accomplished, it will be done and, until then, capacity will be increased on an incremental basis as the new controllers are brought on line.

Adoption of the administration's plan would be better policy. It gives those controllers who stayed on the job what was promised to them before the strike and does not reward those who deserted the air trafic system and violated their oaths. Moreover, it continues to let FAA decide when the system is ready to return to full capacity—without creating any incentives to do this before the additional traffic can be safely accommodated.

Let me add this—I have personal friends who, within days of the strike, realized the error of their ways and sought to repent. I really would like to see them rehired for personal reasons. I hope the FAA can find a way to do that. However, I sincerely believe that for Congress to suggest this, as the gentleman from Michigan would do, is to invite other Federal employees to follow the PATCO course, relying on this action today as the precedent that Congress will give their tacit approval to striking against our Government. This we must not do.

Mr. FORD of Michigan. Mr. Speaker, will the gentleman yield?

Mr. SNYDER. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Speaker, I am compelled to respond to the gentleman from Kentucky. He is obviously not current with the situation, and I am certain he did not mean, by implication, to be repudiating—the President's action.

The President has announced to the American public that there is nothing inherently wrong with these people who went on strike; that they indeed can be employed by any agency of the Federal Government, as long as they do not go back to work for the agency for which they were trained to work. We have over $200,000 in training costs invested in each one of these people. The Post Office is hiring them. The Defense Department was the first Federal agency that started hiring the former strikers. The Department of Defense was the first to start putting them in jobs where they could use their controller's training.

Other agencies of the Government have been hiring these people since last summer when the President ordered that. So please do not repudiate that action by him. The President does not say they should not work for the Government; he says they should not work for the FAA.

All we are saying is that as a class they should not be barred, and the FAA ought to be able to pick the good ones that they would like to have back.

Mr. SNYDER. Mr. Speaker, I just want to say that the gentleman ought to appreciate the goodness of the heart of the President of the United States, because under the law that they violated, they could well all be behind bars, which they are not. He has been most gracious, and to now say that you now want to give them

encouragement to hire them back to their old jobs is to encourage every other Federal employee in this Government to take the same action which would shut down the whole Government, not just the airlines.

Mr. FORD of Michigan. Mr. Speaker, if the gentleman can explain the logic of taking people and spending a quarter of a million dollars apiece to train, and then employing them in other Federal agencies but not employing them for the job for which they were trained because they committed an illegal act, I would like to follow that.

And tell me who is being punished. We are talking about $1.4 billion. We are all paying that to replace these people. We are not punishing a union. The union has gone out of existence. We are no longer punishing controllers; we are punishing the American taxpayers. We are going to spend $1.4 billion to train people for whom we have a surplus of the same people, the jobs.

I remind the gentleman that at the President's press conference the other night, when he sought to clear up what he thought was a misimpression created last year when he talked about the 54 pages of want ads in the New York Times, he said he was misunderstood last year because people thought that he was denigrating the importance of unemployment. He said, "What I really wanted to point out is that we have to find a way to train people for the jobs that are out there."

Now here is the reverse side of the coin: We have spent money to train people to do these jobs, and we are going to prove what to whom by not hiring them back? Whom are we proving anything to? What are we doing to save taxpayers' money? What are we doing to make the system safer?

I do not know really what the point of all this is. The gentleman from Kentucky just said that his personal desire would be for the Secretary to be able, if he wanted to, to hire some of them back. I am trying to make it possible for the Secretary, if he wants to do that, to do so, and I suggest the gentleman, therefore, should vote for my substitute.

Mr. COUGHLIN. Mr. Speaker, I yield 2 minutes to the gentleman from Kansas (Mr. GLICKMAN).

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

Mr. GLICKMAN. Mr. Speaker, this is a very complicated issue. There may not be much logic in either position, but on balance I think I am going to support the position of the gentleman from Pennsylvania (Mr. COUGHLIN) and oppose the motion by the gentleman from Michigan (Mr. FORD).

Mr. Speaker, we are completely rebuilding the air traffic control system in America. My subcommittee on the Science Committee has been responsible for the enormously complex process of designing new hardware, new software for this system. Never before, in a non-defense-related function, has our Government bought and managed a computer system of the size and scope we are now proceeding on.

It looks to me as if we need a cadre, a group of air traffic controllers, who are happy in their jobs and desirous of cooperating in the managing and putting on line of that new system which will revolutionize the American air traffic system.

So, therefore, while I am not totally satisfied, and I have mixed feelings about opposing the proposal of my friend from Michigan, I think that the happiness, the morale, and the system of moving people in airplanes in America is better served by the proposal suggested by the Secretary of Transportation. If the Ford motion prevails there will be a potential for unhappiness among existing air traffic control personnel and, that could lead to difficulties in properly integrating this new, multibillion-dollar equipment into the system. The taxpayers would not be well served by such a problem.

□ 1830

So, I would urge a "no" vote on the motion of the gentleman from Michigan (Mr. FORD).

Mr. COUGHLIN. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. GINGRICH).

Mr. GINGRICH. Mr. Speaker, I think that the gentleman from Kansas has begun to carry us toward the bottom line on this issue. Rather than get involved in an extremely complicated situation that has all sorts of labor-management overtones, legal overtones, carries us back to the complexity both of the air traffic system we are trying to build, and also the complexity of relationships; it goes back to the illegal strike of last year—we have a chance by rejecting the amendment of the gentleman from Michigan to have a clean, simple, straightforward process.

Those men and women who obeyed the law, who served their country, who held together the air traffic system, who did the job, who put up with 6-day weeks and a lot of overtime, being away from their families, those people will get a little, small, tiny, little reward for all that long effort, and the simple way to get that done tonight is to vote no on the proposal of the gentleman from Michigan.

By voting no on the proposal of the gentleman from Michigan, we assure no complexity with the Senate, no complexity with the President. It is a simple, straightforward yes. It is saying that we are grateful to the men and women who stayed up long hours, stayed on their jobs, who obeyed the law, who did what they were supposed to do.

Now, everything the gentleman from Michigan has said may nor may not be accurate. We can take that up in the special session. As chairman of the committee, he can bring forward a bill at the appropriate time. He has many sorts of redress in the legislative process, but for tonight on this bill, the correct vote, I believe, is to vote no on the amendment of the gentleman from Michigan.

Mr. COUGHLIN. Mr. Speaker, I yield one-half minute to the gentleman from Illinois (Mr. DERWINSKI).

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

Mr. DERWINSKI. Mr. Speaker, as a young man I admired Al Smith. He used to say, "Let's look at the record."

The record should show that the Defense Department does not have any problem with air safety, despite any implication. But, here is the real point of the record: Mr. Jones, whose report was referred to by my good friend, Mr. FORD, testified before our committee on March 21. He was asked about his opinion of bringing back the striking controllers. He said, "This would be another blow to the air traffic control system. To rehire them would not be constructive."

So, I reemphasize a no vote against the pending motion is in order.

Mr. FORD of Michigan. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I believe that there is no possible way to be legislating something as complex as this. The gentleman from Georgia just said, but he did not, I think, mean to say what he said, we should not be here on a continuing resolution on the last day of a session discussing something that is frought with as many implications with respect to the policy of the personnel of the Federal Government as this bill is. That is what is wrong with legislating on an appropriations bill. That is why we try not to do it this way.

When a committee has difficulty coming to agreement with an agency—and I have been negotiating with the Secretary of Transportation for months, with an open offer to take any kind of suggestion he has that would lead us toward a solution and legislate in the regular way, and then we would have the members of my committee, some of whom have spent years on this; I would like to suggest that I am sure no one over there thinks the Post Office and Civil Service Committee is bereft of people who are concerned for the welfare of the Federal employees. I think that it is the greatest collection of protectors of the rights of Federal employees to be found in the House, on both sides of the aisle, including the gentleman from Illinois who just spoke, who is "notorious" for his support of Federal employees and their organizations, and they find him attractive as a result thereof.

So, what we are doing here is passing a major piece of legislation. We are authorizing about $70 million in the coming fiscal year programs, retroac-

tive pay to August 3, 1981, so we have got two fiscal years involved, about $60 million and $70 million.

It is no small piece of change, this little amendment that was just tacked on by the Senate. If Members want to teach the Senate that it is all right to run around the legislation, never compromise with the House, but just stick it on in the last minute like this, this is the way to do it. I guarantee the Members that when the next Congress is adjourning we will have five major pieces of legislation on a continuing resolution instead of one, so if for no other reason we ought to send it back.

The SPEAKER pro tempore. All time of the gentleman from Michigan (Mr. FORD) has expired.

The gentleman from Pennsylvania (Mr. COUGHLIN) has 3½ minutes remaining.

Mr. COUGHLIN. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, the motion of the gentleman from Michigan is being billed as a compromise motion. It is hardly a compromise—it is hardly a compromise. According to its own sponsor, the President's bar on rehiring controllers who violated the no strike provisions of the law would be lifted. That is no compromise. That lifts the President's ban on rehiring those who violated the no strike provisions.

It says here that this does not require any rehiring of air traffic controllers; does not require it. It directs the Secretary—directs the Secretary to take all practicable steps to return the system to full staffing by April 2, 1983. What is that requiring, but the Secretary to rehire these people? Who would he rehire? There would be lawsuits as to which one might be rehired and which not rehired.

The jobs are no longer there. Rehiring would mean two people on the job. We are almost back to full staffing now.

What kind of pay increase would the gentleman from Michigan provide? It is called a disappearing pay increase. Have the Members ever heard of a disappearing pay increase? It would be 5 percent, then going down to nothing by fiscal year 1985; not the 6.6-pay increase that was agreed to be given to the controllers.

Let me reiterate once more to my colleagues, this is the same pay package which passed the House last year by a vote of 213 to 183. The implementation of this proposal fulfills the Government's commitment to the nonstriking air traffic controllers who have kept the system operating safely since August 1981. The 6.6-percent improvement equals the tentative contract which was agreed to in the original negotiation with the controllers in June 1981. The package will not increase Federal expenditures. The cost will be absorbed by the FAA's operating budget. The nonstriking air traffic controllers deserve the benefits of this package for their loyalty and dedication of keeping the airways safe.

My colleagues, vote no on the Ford amendment. Vote no, let us finish up this continuing resolution and let us go home.

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

Mr. COUGHLIN. I yield.

Mr. MONTGOMERY. Mr. Speaker, I have been totally confused on this today. What do the air traffic controllers want, the ones that stayed on the job? Do they want Mr. FORD's resolution or do they want the proposal that the gentleman is making?

Mr. COUGHLIN. They do not want Mr. FORD's resolution. We want a no vote on that resolution and a yes vote on concurring with the Senate amendment.

Mr. MONTGOMERY. I thank the gentleman.

● Mr. GOLDWATER. Mr. Speaker, I rise in support of the controller pay package and urge my colleagues to join me in seeing that key FAA safety employees receive the overdue pay benefits they so richly deserve.

Much of my life has been spent in aviation. Along with many of my colleagues on both sides of the aisle, I have had many occasions to use the air traffic and other safety services provided by FAA employees. I have also spent many hours visiting FAA towers and centers. You cannot help but be impressed by the enormous responsibilities placed on controllers and by the dedication with which they assume those responsbilities. There is no question in my mind that the pay raise called for by this legislation is well deserved, particularly in light of the tremendous efforts we have seen put forth by our Nation's controllers following the strike of August 1981.

The 6.6-percent pay raise provided by this legislation is no more than what was promised the controllers' union before the strike, and is no less than what the loyal controllers who honored their oaths of office should expect.

Although long overdue, it is not too late for the Congress to send a positive signal, in the form of this legislation, to controllers and related FAA employees that we recognize the superb efforts they have made on behalf of the American traveling public.●

● Mr. WOLF. Mr. Speaker, I rise in support of the continuing appropriations conference report and the Senate amendment providing a pay raise for air traffic control personnel.

I would urge my distinguished colleagues to vote yes on this measure which includes a pay package for the Nation's air traffic controllers. I am especially concerned about this measure due to the large numbers of controllers in the 10th Congressional District. This is the same pay package which the administration offered last year before the PATCO strike. The men and women who did not violate their oaths and walk off in an illegal strike called by PATCO deserve no less than what they were offered before the strike.

I would remind my distinguished colleagues of the importance to the economy and to the Nation of the aviation industry.

I would also remind my colleagues that all segments of the aviation industry—from the airline pilots to the weekend pilot and 11 aviation organizations—are supporting the administration's pay package for the controllers.

All of us, I am sure, regret the action of PATCO. But all of us, I am equally sure, applaud the men and women who stayed in the control towers and centers to keep this vital transportation link functioning.

The system now is almost at prestrike levels, and before many months, will be at prestrike capacity.

It is just and right that we support this 6.6-percent pay increase. I do so without hesitation, and hope my fellow Members will also support this measure.●

● Mr. FRENZEL. Mr. Speaker, last night, the conference committee decided to throw out the air traffic controllers pay and benefit package from the continuing resolution, and force the issue to first be voted on individually as an item of dispute. By removing the pay package from the continuing resolution we have potentially eliminated one of the really meritorious components in an otherwise disorderly piece of legislation.

Actually, this item should never have been part of the continuing resolution. It should have been voted on and passed long before today. Instead, the House, specifically the leadership of the Post Office and Civil Service Committee, has chosen to politicize what should be a nonpolitical issue, in order to satisfy the desires of certain individual Members who apparently think the strike was a good idea.

I agree that the issue of the fired controllers is a problem that should be dealt with by the administration. Those who lost their jobs have been away for well over a year now, and there may be some cases in which rehiring is a good idea. However, rehiring the fired controllers is not the issue at hand. If the Ford motion is passed it will serve only to further delay what has already been postponed for far too long.

All of us have been dependent on the U.S. air system at some time in the last year. We are all indebted to the controllers who have maintained the airways in an efficient, and more importantly, safe, manner. These men and women have served their country in an exemplary fashion during a time of difficult challenge. We owe these individuals our respect and admiration, but more importantly, we owe them just, promised compensation for their extraordinary efforts.

The benefits package should not be considered a bonus, rewarding those

controllers who remained on the job. Instead, what we are considering merely provides the working controllers and associated personnel with the benefits they were offered by the Government in the summer of 1981. Last summer they deserved it. Now, after over a year of 6-day weeks, canceled vacations, and added shifts, they deserve it even more.●

● Mr. MINETA. Mr. Speaker, there are few issues that have been as divisive as the issues flowing from the ill-advised strike on August 3, 1981, by air traffic controllers.

The Chairman of the Post Office and Civil Service Committee has done an outstanding job in advocating his position and I commend him for the job he has done.

But whatever the issues of the strike, whatever sympathy or opposition each of us may feel toward those who struck, we now have an obligation to look at the men and women who have made such extraordinary efforts over the past 14 months to keep the system operating. No matter what our feelings on these other issues, we owe these men and women some extra recognition for the sacrifices they have made far above the call of duty.

As long as we continue the debate, as we have over the past year, these on-the-job controllers are not getting the compensation they deserve. I think the time has come to recognize that this debate can be ended in only one way, and that it is by concurring in the Senate amendment.

I will therefore oppose the motion to concur with an amendment and support the motion to concur.●

The SPEAKER pro tempore. All time has expired.

Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the preferential motion offered by the gentleman from Michigan (Mr. FORD).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. FORD of Michigan. 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 pro tempore. 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 128, nays 267, answered "present" 1, and not voting 36, as follows:

[Roll No. 389]

YEAS—128

Addabbo	Biaggi	Burton, Phillip
Akaka	Bingham	Clay
Albosta	Boiling	Collins (IL)
Annunzio	Bonior	Conyers
Applegate	Bonker	Coyne, William
AuCoin	Brodhead	Crockett
Bailey (PA)	Brooks	Daschle
Barnes	Brown (CA)	Dellums
Bedell	Burton, John	DeNardis
Dicks	Kildee	Ratchford
Dingell	Korovsek	Reuss
Dixon	LaFalce	Rinaldo
Donnelly	Lantos	Rodino
Downey	Lehman	Rosenthal
Dwyer	Leland	Roybal
Dyson	Long (MD)	Sabo
Early	Lowry (WA)	Savage
Eckart	Luken	Scheuer
Edwards (CA)	Lundine	Schneider
Evans (IN)	Markey	Schumer
Fary	Matsui	Seiberling
Fascell	Mavroules	Shannon
Fithian	McHugh	Sharp
Foley	Mikulski	Smith (IA)
Ford (MI)	Miller (CA)	Solarz
Frank	Mitchell (MD)	Stark
Frost	Moakley	Stokes
Garcia	Murphy	Studds
Gaydos	Murtha	Swift
Gejdenson	Nowak	Synar
Gephardt	Oakar	Udall
Gilman	Oberstar	Vento
Gonzalez	Obey	Washington
Hagedorn	Ottinger	Waxman
Heckler	Panetta	Weaver
Hefiel	Patterson	Whitten
Hertel	Pease	Williams (MT)
Hollenbeck	Pepper	Wirth
Hoyer	Peyser	Wolpe
Jacobs	Pickle	Wyden
Jeffords	Price	Yates
Kastenmeier	Rahall	Young (MO)
Kennelly	Rangel	

NAYS—267

Alexander	Duncan	Jeffries
Anderson	Dunn	Jenkins
Andrews	Dymally	Johnston
Anthony	Edgar	Jones (NC)
Archer	Edwards (AL)	Jones (OK)
Ashbrook	Emerson	Jones (TN)
Aspin	Emery	Kazen
Atkinson	English	Kemp
Bafalis	Erdahl	Kindness
Bailey (MO)	Erlenborn	Kramer
Barnard	Evans (DE)	Lagomarsino
Beard	Evans (GA)	Latta
Benedict	Evans (IA)	Leach
Bennett	Fenwick	Leath
Bereuter	Fiedler	LeBoutillier
Bethune	Fields	Lee
Bevill	Findley	Lent
Bliley	Fish	Levitas
Boggs	Flippo	Lewis
Boland	Florio	Livingston
Bouquard	Foglietta	Loeffler
Bowen	Fountain	Long (LA)
Breaux	Fowler	Lott
Brinkley	Frenzel	Lowery (CA)
Broomfield	Puqua	Lujan
Brown (CO)	Gibbons	Lungren
Brown (OH)	Gingrich	Madigan
Broyhill	Ginn	Marlenee
Burgener	Glickman	Marriott
Butler	Goodling	Martin (IL)
Byron	Gore	Martin (NC)
Campbell	Gradison	Martin (NY)
Carman	Gramm	Mazzoli
Carney	Green	McClory
Chappie	Gregg	McCollum
Cheney	Grisham	McCurdy
Clausen	Gunderson	McDade
Clinger	Hall, Ralph	McDonald
Coats	Hall, Sam	McGrath
Coelho	Hamilton	Mica
Coleman	Hammerschmidt	Michel
Collins (TX)	Hance	Miller (OH)
Conable	Hansen (ID)	Mineta
Conte	Harkin	Minish
Corcoran	Hartnett	Mitchell (NY)
Coughlin	Hatcher	Molinari
Courter	Hawkins	Mollohan
Coyne, James	Hefner	Montgomery
Craig	Hendon	Moore
Crane, Daniel	Hightower	Moorhead
Crane, Philip	Hiler	Morrison
Daniel, R. W.	Hillis	Motti
Dannemeyer	Holland	Myers
Daub	Holt	Napier
Davis	Hopkins	Natcher
de la Garza	Horton	Neal
Deckard	Howard	Nelligan
Derrick	Hubbard	Nelson
Derwinski	Huckaby	O'Brien
Dorgan	Hunter	Oxley
Dornan	Hutto	Parris
Dougherty	Hyde	Patman
Dreier	Ireland	Paul
Perkins	Shamansky	Tauzin
Petri	Shaw	Taylor
Porter	Shelby	Thomas
Pritchard	Shumway	Trible
Pursell	Shuster	Vander Jagt
Quillen	Siljander	Volkmer
Railsback	Simon	Walker
Regula	Skeen	Wampler
Rhodes	Skelton	Watkins
Ritter	Smith (AL)	Weber (MN)
Roberts (KS)	Smith (NE)	Weber (OH)
Roberts (SD)	Smith (NJ)	White
Robinson	Smith (OR)	Whitehurst
Roemer	Smith (PA)	Whittaker
Rogers	Snowe	Williams (OH)
Rose	Snyder	Wilson
Rostenkowski	Solomon	Winn
Roth	Spence	Wolf
Roukema	St Germain	Wortley
Rousselot	Stangeland	Wright
Rudd	Stanton	Wylie
Russo	Staton	Yatron
Santini	Stenholm	Young (AK)
Sawyer	Stratton	Young (FL)
Schulze	Stump	Zablocki
Sensenbrenner	Tauke	Zeferetti

ANSWERED "PRESENT"—1

Schroeder

NOT VOTING—36

Badham	Fazio	Mattox
Bellenson	Ferraro	McCloskey
Blanchard	Ford (TN)	McEwen
Boner	Forsythe	McKinney
Chappell	Goldwater	Moffett
Chisholm	Gray	Nichols
D'Amours	Guarini	Pashayan
Daniel, Dan	Hall (OH)	Roe
Dickinson	Hansen (UT)	Traxler
Dowdy	Hughes	Walgren
Edwards (OK)	Marks	Weiss
Erlel	Martinez	Whitley

□ 1850

The Clerk announced the following pairs:

On this vote:

Mr. Guarini for, with Mr. Badham against.

Mr. Moffett for, with Mr. Dickinson against.

□ 1850

Messrs. ZEFERETTI, HOLLAND, LONG of Maryland, and PERKINS changed their votes from "yea" to "nay."

Messrs. WIRTH, SCHEUER, LONG of Maryland, and BONKER changed their votes from "nay" to "yea."

So the preferential motion was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is, Will the House concur in Senate amendment No. 83?

The House concurred in Senate amendment No. 83.

PERSONAL EXPLANATION

Mr. HAGEDORN. Mr. Speaker, this evening on roll call 389, I am recorded as voting "yea." In fact Mr. Speaker, I voted "nay."

□ 1900

(By unanimous consent, Mr. LEVITAS was allowed to proceed for 1 minute out of order.)

H.R. 746, REGULATORY PROCEDURE ACT OF 1982

Mr. LEVITAS. Mr. Speaker, I asked for this time in order to engage in a colloquy with the distinguished majority leader.

A number of Members have spoken to me during the afternoon and evening of yesterday and today with respect to H.R. 746, the regulation reform bill which has a great deal of support, and which was in the midst of hearings before the Rules Committee yesterday at the time the balanced budget issue came up, and as a result of that and that alone, I am told further proceedings were suspended on the regulation reform bill rule.

The distinguished chairman of the Rules Committee, the gentleman from Missouri (Mr. BOLLING), this afternoon informed me that it was his intention to resume the hearings on the regulation reform bill during the lameduck session in a timely manner so that there would be adequate time to consider such a rule.

And my question to the distinguished majority leader is what would the intentions be of the leadership with respect to consideration of that bill.

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

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

Mr. WRIGHT. Mr. Speaker, I would like to point out that the bill to which the gentleman refers was scheduled by the leadership for consideration in the House this week subject to the granting of a rule. I know of no Member in the House who has been more diligent than the gentleman from Georgia in pursuit of that bill, and in the promotion of that legislation.

It is my understanding that due in large part to the diligence of the gentleman from Georgia many of the misunderstandings and concerns that earlier existed now have been resolved.

It still is the purpose of the leadership to schedule that bill upon the granting of a rule. If the understanding of the gentleman from Georgia is correct, assuming the granting of a rule, after this Congress returns in late November, it had been and will be the purpose of the leadership to schedule it for consideration in the House.

Mr. LEVITAS. I thank the majority leader for that information.

PERMISSION TO PRINT REMARKS OF PRESIDENT AND VICE PRESIDENT HONORING THE HONORABLE JOHN J. RHODES

Mr. RUDD. Mr. Speaker, on September 28, under a previous order of the House, it was my great pleasure to speak on the great accomplishments of my colleague, JOHN RHODES, who is retiring upon the completion of this Congress.

I have now received the comments of the President and the Vice President of the United States and I ask unanimous consent that these remarks be included in my special order of September 28 in the permanent RECORD.

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

There was no objection.

THE WHITE HOUSE,
Washington, October 1, 1982.

Hon. ELDON RUDD,
House of Representatives,
Washington, D.C.

DEAR ELDON: I appreciate your invitation to join with your colleagues in recognizing the numerous contributions and accomplishments of John J. Rhodes during his thirty years of service to the residents of Arizona's 1st District, which he so ably represented, and the people of the United States.

As the first Republican ever to be elected to the House of Representatives from Arizona, as Chairman of the 1976 and 1980 Republican National Conventions, and as the House Republican Leader from 1974 to 1981, John has won the respect and admiration of private citizens and public officials.

His thirty years of experience cannot be easily replaced. We Republicans are losing an able and faithful friend; the House is losing a skilled, veteran legislator; and the citizens of the 1st District are losing a dedicated Representative.

We all owe a great debt of gratitude to John for his loyal and unselfish service to our nation. His service is a badge of honor that shines with integrity and esteem.

Nancy and I extend to Betty and John our very best wishes for the future.

Sincerely,

RONALD REAGAN.

THE VICE PRESIDENT,
Washington, October 1, 1982.

Congressman ELDON RUDD,
House of Representatives,
Washington, D.C.

DEAR ELDON: I appreciate this opportunity to recognize John Rhodes' tremendous service to the Republican Party and to our country. John has served with the highest distinction and utmost dedication in the House since 1952. His exemplary record is one which serious legislators will both study and follow.

John served as minority leader in the House from 1973 through 1980 and earned the respect and admiration of colleagues on both sides of the aisle. Today, the Republican Party is strong and effective because of the decency and integrity of men like John Rhodes. While John's skills and experience will be missed in the House, I will always cherish his friendship and know full well that his service to country will continue beyond his public service.

Sincerely,

GEORGE BUSH.

PERMISSION FOR COMMITTEE ON SMALL BUSINESS TO HAVE UNTIL MONDAY, NOVEMBER 1, 1982, TO FILE INVESTIGATIVE REPORTS

Mr. MITCHELL of Maryland. Mr. Speaker, I ask unanimous consent that the Committee on Small Business have until November 1, 1982, to file two investigative reports with the Clerk of the House notwithstanding the adjournment date of the House.

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

Mr. WALKER. Mr. Speaker, reserving the right to object, I do so only to inquire of the gentleman whether or not this has been cleared with the minority.

Mr. MITCHELL of Maryland. Mr. Speaker, will the gentleman yield?

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

Mr. MITCHELL of Maryland. Yes, this has.

Mr. WALKER. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

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

There was no objection.

WITHDRAWAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 5133

Mr. WINN. Mr. Speaker, I ask unanimous consent to withdraw my name as a cosponsor of the bill, H.R. 5133.

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

There was no objection.

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 85: page 19, after line 2, insert:

SEC. 153. Title IV of the Tariff Act of 1930 (19 U.S.C. 1401 et seq.) is amended by adding after section 625 the following new section:

"SEC. 626. (a) In order to monitor and enforce export measures required by a foreign government or customs union, pursuant to an international arrangement with the United States, the Secretary of the Treasury may, upon receipt of a request by the President of the United States and by a foreign government or customs union, require the presentation of a valid export license or other documents issued by such foreign government or customs union as a condition for entry into the United States of steel mill products specified in the request. The Secretary may provide by regulation for the terms and conditions under which such merchandise attempted to be entered without an accompanying valid export license or other documents may be denied entry into the United States.

"(b) This section applies only to requests received by the Secretary of the Treasury prior to January 1, 1983, and for the duration of the arrangements.".

MOTION OFFERED BY MR. WHITTEN

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

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 85, and concur therein.

Mr. CONTE. Mr. Speaker, I seek recognition.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Massachusetts.

Mr. CONTE. Mr. Speaker, I yield 5 minutes to the gentleman from Minnesota (Mr. PRENZEL).

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

Mr. FRENZEL. Mr. Speaker, I thank the distinguished ranking minority Member from Massachusetts for the recognition.

Mr. Speaker, I take this time to discuss briefly amendment No. 85, which was the nongermane Senate amendment offered in the other body by the

senior Senator from Pennsylvania relating to a whole new system of steel import licensing. Of course, there have been no hearings and I think most Members of this body and probably of the other have no idea what it is all about.

The amendment was offered in the other body by its sponsor as a technical amendment. And it was mumbled through that body without what I would consider to be any kind of significant description.

The authority addresses the ability of the President under our antidumping and countervailing duty law to come to an agreement with a foreign government to eliminate the injurious effects of dumped or subsided products subject to an investigation by the Commerce Department.

The problem is the Senate amendment does not limit the authority to those products subject to a CVD or dumping investigation where a preliminary determination of injury has been made by the ITC. Therefore, a voluntary restraint agreement could be accepted on products not covered by a case and where no injury determination has been made.

The President has no authority to negotiate restraints in order to eliminate the injurious effects of dumping and subsidies not covered by cases, yet the authority to implement restraint agreements contained in the Senate amendment is so broad that the Customs Service would be able to monitor and thereby implement voluntary restraints on products not subject to cases, or having proved injury.

If implementing authority under our CVD and dumping laws is inadequate, these laws should be changed on an overall basis—not on an ad hoc, case-by-case or product-by-product basis.

Every other sector in the United States that has any kind of a grievance can seek similar treatment after this outrageous example. Those sectors should be able to expect voluntary restraints to be easily imposed whether they have filed a case or proven injury at all.

Mr. Speaker, the cost of implementing and monitoring the voluntary restraints under this Senate amendment could be outrageously high. Nobody can estimate how many new customs agents we will have to put to work to examine the shipments coming into this country.

The worst of it, of course, is that we are singling out a special industry which is in a difficult situation but has done very little to improve its own lot other than ask for protection. As a matter of fact, its negotiating posture through the past year with the EEC and with Commerce Department has been described by some observers as uncooperative.

To make this complicated system go into force and effect, an agreement will have to be negotiated between the United States and the European Community before January 1. I think if this provision is going to pass, and I am not going to ask for a vote on it, the eyes of the world are going to be on our steel industry to see how it cooperates in those negotiations. If it does not do better, there is not going to be any agreement and it is not going to deserve an agreement.

Since we are determined to embank on this unwise policy, I hope that there will be an agreement, and that our steel industry will begin to work itself out of its problem. I am disappointed that we will adopt this bad policy, but we will make the best of it. I am far more ashamed of the procedure that produced it.

I want to assure this body that I shall monitor the progress, or lack thereof, in these matters, and keep all parties advised.

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

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 86: Page 19, after line 2, insert:

SEC. 154. (a) Subpart J of part I of schedule 5 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by inserting after item 522.51 the following new item:

"[illegible]

(b) The amendment made by this section shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the date which is fifteen days after the date of enactment of this joint resolution.

MOTION OFFERED BY MR. WHITTEN

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

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 86, and concur therein.

Mr. CONTE. Mr. Speaker, I seek recognition.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Massachusetts.

□ 1910

Mr. CONTE. Mr. Speaker, I yield 5 minutes to the gentleman from Minnesota (Mr. FRENZEL).

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

Mr. FRENZEL. Mr. Speaker, we have another incursion on committee jurisdiction here for a duty-free importation of steam from the Senate.

It is fair to note that the Senate has received from the House of Representatives 59 of these duty suspension bills in which we try to suspend or eliminate the tariff to take care of special distress conditions in the United States for our Members. We go to great pains to take hearings, to pass bills that make some sense, that have some economic justice to them and do not hurt our economy.

The Senate, however, of those 59 bills, has returned only one. That means that there are hundreds of House Members who have a much better case than the Member who has submitted this bill, at least in the sense of a more timely filing. But they are not going to get their bills. Their constituents needs are not going to be met despite vaild bases although the Senate would take only one of our 59 bills, our intrepid defenders on the Appropriations Committee have saluted that Senate behavior by accepting the one bill that the Senate wants.

So I just want every member in here who has got a duty suspension bill, who is not going to get it, to know why you are not going to get it. It is wholly because our Appropriations Committee gives the Senate its bills and apparently does not care what happens to House Members' bills.

Mr. Speaker, I yield to the distinguished gentleman from Florida (Mr. GIBBONS).

Mr. GIBBONS. Mr. Speaker, first, I want to commend the gentleman from Minnesota for telling it like it is and telling it very effectively like it is.

What the Senate has done to the House is atrocious. The Senate has had House bills over there for a year and a half, relatively noncontroversial, but certainly important pieces of legislation.

Many Members of this body on both sides of the aisle and the industries in their districts are vitally affected by this legislation and the Senate has sat like a bunch of prima donnas over there and not even considered the bills, despite the fact that we have asked them to consider them, written them letters to consider them, and for the 20 years that I have been in Congress they have passed all these bills. They add something and they take something away and we have worked them out, but not this Senate. They have done nothing. They have hurt American industry. They have hurt America's competitive position and they have not done anything, but in the middle of the night, without any discussion, at the urging of the Secretary of Commerce, they have sneaked the steel cartel authorization through.

Now, there are lots of bills over in the Senate that they could have added it to, but they did not do it. They took advantage of the Senate by not fully explaining the position. They took advantage of the deadlines that this Congress faces and the closing down of the Government.

Our conference, our House Members and our appropriation members sent to the Senate a bill that did not have anything other than appropriation matters on it and in the middle of the night some hundred amendments were added. I do not know whether every

Senator got one or some got two or three or something, but they added a hundred of them to it.

Now, our conferees did the best they could. They did not want to close down the Government. They did not have time to consider these amendments.

The Ways and Means Committee at the same time was engaged in two conferences with the Senate Finance Committee, but nobody even said boo about these things to us.

Now, that is the way the House has been trampled on.

The gentleman from Minnesota is not going to ask for a vote. I am not going to ask for a vote and I do not want to delay the proceeding any further, but somewhere along the line, you know, enough is enough.

Mr. FRENZEL. Mr. Speaker, I thank the gentleman.

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

Mr. FRENZEL. I yield to the distinguished chairman.

Mr. WHITTEN. Mr. Speaker, I just would like to agree with my colleagues here.

I would like to explain the situation we are in, because we need to prevent this from happening again.

Yesterday our friends on the other side had 100 amendments offered on the Senate floor they finally just took them all so we could try to go to conference and get this through by midnight, so I am told.

So we have tried to do the best we can. We did fix it where we could have passed it by midnight last night.

So I just agree with the gentleman and hope we can do a better job in the future, but I hope above all we do not get put into this fix again.

Mr. CONTE. Mr. Speaker, I yield 1 additional minute to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, I thank the distinguished chairman for his contribution.

I do not expect perfection from this House, and I know we have difficulty dealing with the other body.

I will say, however, that next year when we have our 80 duty-suspension bills that the Members need, Shall we send them to the Appropriations Committee? Do you want to do the hearings on them and take care of them?

Well, I hope that in the future you will think about that a little bit when you are working with the Senate.

Mr. Speaker, I do not intend to request a vote. The gentlewoman from Maine, who is going to be affected by this, has every reason to have her bill passed, but so do all the other Members of the House who are going to be denied their relief.

Mr. CONTE. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Maine (Mrs. SNOWE).

(Mrs. SNOWE asked and was given permission to revise and extend her remarks.)

Mrs. SNOWE. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I am pleased to rise today in support of the motion to recede and concur and agree with the Senate action on this important amendment. This amendment would amend tariff schedules to allow duty-free importation of steam energy to a Madawaska wood pulp plant.

Fraser Paper Co. expects to complete a unique project this fall in which steam created during the pulping process in Fraser's Edmundston, New Brunswick, plant would be piped across the border and used to power the paper drying process at the company's Madawaska plant. The U.S. Customs Service has notified the company that an import tax of as much as $1 million per year could be levied on the steam.

If this amendment were not to pass then the Federal Government would be penalizing Fraser Paper Co. for having planned an inventive method of conserving energy through this project, and, in fact, the project could save as much as 400,000 barrels of oil annually. Furthermore, Fraser's plans would raise the company's thermal self-sufficiency in the Madawaska-Edmundston complex to 80 percent, up from 27 percent. The steam also would be used to heat the Madawaska plant. The efforts that Fraser has made to reduce its dependence on petroleum products and to employ new energy-saving techniques are commendable.

The bill which I introduced is embodied in this amendment, and not only can solve Fraser's problem, but also encourages other companies to explore similar technology for conserving energy. Therefore, Mr. Speaker, for all of these reasons, I urge the passage of this amendment.

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

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 88: Page 19, after line 2, insert:

SEC. 156. For the purposes of the Immigration and Nationality Act, Tessie and Enrique Marfori shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this joint resolution, upon payment of the required visa fee. Upon the granting of permanent residence to such aliens as provided for in this joint resolution, the Secretary of State shall instruct the proper officer to reduce by the required number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act or, if applicable, from the total number of such visas and entries which are made available to such natives under section 202(e) of such Act.

MOTION OFFERED BY MR. WHITTEN

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

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 88 and concur therein with an amendment, as follows: In lieu of the section number 156 named in said amendment, insert "155".

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment read as follows:

Senate amendment No. 89: Page 19, after line 2, insert:

SEC. 157. There is appropriated $518,000,000, to remain available until expended, for Department of Transportation Interstate Transfer grants-Highways, and $365,000,000, to remain available until expended, for Department of Transportation Interstate Transfer grants-Transit: *Provided*, That, allocations of these funds shall be distributed in accordance with House Report 97-783 or Senate Report 97-567, whichever is higher.

MOTION OFFERED BY MR. WHITTEN

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

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 89 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

SEC. 156. Notwithstanding any other provision of this joint resolution, there is appropriated $518,000,000, to remain available until expended, for Department of Transportation Interstate Transfer grants—Highways, and $365,000,000, to remain available until expended, for Department of Transportation Interstate Transfer grants—Transit: *Provided*, That allocations of these funds shall be distributed in accordance with House Report 97-783 or Senate Report 97-567, whichever is higher.

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

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

There was no objection.

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 90: Page 19, after line 2, insert:

SEC. 158. Since the United States Congress established the Social Security system in 1935 to provide for the general welfare by establishing a system of Federal old-age benefits; and

Since Medicare was made part of the Social Security system by Act of Congress in 1965 to provide for the general welfare through a system of health benefits for the aged; and

Since Medicare is an insurance program in which working Americans contributed their

Social Security payroll taxes and in which the elderly and disabled pay health insurance premiums in order to receive health benefits promised under this insurance plan; and

Since proposals to limit eligibility for Medicare health benefits to lower-income persons would profoundly alter the character of health insurance for the aged and disabled by removing the insurance principle from the Medicare program.

It is the Sense of the Senate that the Congress should reject any proposal to impose a "means test" on eligibility for the Medicare program or benefits provided by the Medicare program.

SEC. 158. The Senate finds that:

a. Wars are raging in several parts of the world inflicting incalculable loss of human lives and property, with unbearable human suffering and grief; and

b. The presence of huge nuclear arsenals in the world present an ever present threat to the survival of mankind; and

c. Though war in a very troubled and divisive world is an ever present possibility and threat, the United States has been at peace since the end of Vietnam conflict; and

d. The benefits of peace and the value of life should be ever present in the thoughts of all people; and

e. A day should be set aside for the American people to reflect on the values of peace and the horrors of war; and

f. The President should proclaim a day of peace and call on the people of the country to commemorate it with such ceremonies and activities as are appropriate and in keeping with an expression of gratitude for living in a great, free Nation at peace.

In view of these findings, it is the sense of the Senate that October 10, 1982, should be designated as "National Peace Day" and that the President of the United States should issue a proclamation calling upon Federal, State, and local government agencies, interest groups, organizations, and the people of the United States, to observe that day by engaging in appropriate activities and programs, thereby showing their commitment to peace.

MOTION OFFERED BY MR. WHITTEN

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

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 90 and concur therein with an amendment, as follows: In lieu of the section number 158 named in said amendment, insert "157" and in lieu of the section number 159 in said amendment, insert "158".

Mr. CONTE. Mr. Speaker, I seek recognition.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Massachusetts.

Mr. CONTE. Mr. Speaker, I yield to the gentleman from Illinois (Mr. PHILIP M. CRANE).

Mr. PHILIP M. CRANE. Mr. Speaker, I thank the distinguished gentleman for yielding.

Mr. Speaker, I rise in opposition to the motion. It is my intent if the motion is defeated, to introduce an amendment that preserves the existing section 158, which would, I gather, be redesignated as 157 and would otherwise strike the section 159 which is to be redesignated 158.

Mr. CONTE. Mr. Speaker, I have no further requests for time.

Mr. WHITTEN. Mr. Speaker, this is a matter involving the Senate. It is not a regular appropriations matter under our jurisdiction. Acting as chairman of the committee, I have offered a motion.

Mr. Speaker, I move the previous question on the motion.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

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

The motion was rejected.

MOTION OFFERED BY MR. PHILIP M. CRANE

Mr. PHILIP M. CRANE. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. PHILIP M. CRANE moves that the House recede from its disagreement to the amendment of the Senate numbered 90 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

SECS. 157-158. Since the United States Congress established the social security system in 1935 to provide for the general welfare by establishing a system of Federal old-age benefits; and

Since medicare was made part of the social security system by Act of Congress in 1965 to provide for the general welfare through a system of health benefits for the aged; and

Since medicare is an insurance program in which working Americans contribute their social security payroll taxes and in which the elderly and disabled pay health insurance premiums in order to receive health benefits promised under this insurance plan; and

Since proposals to limit eligibility for medicare health benefits to lower income persons would profoundly alter the character of health insurance for the aged and disabled by removing the insurance principle from the medicare program.

It is the Sense of the Senate that the Congress should reject any proposal to impose a "means test" on eligibility for the medicare program or benefits provided by the Medicare program.

Mr. PHILIP M. CRANE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

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

There was no objection.

The SPEAKER pro tempore. The gentleman from Illinois (Mr. PHILIP M. CRANE) is recognized for 30 minutes.

Mr. PHILIP M. CRANE. Mr. Speaker, I will not take more than 60 seconds of the busy time of the House.

Mr. Speaker, it is simply a desire to expedite the business this evening. I think this is a noncontroversial amendment that I have proposed. It deals with striking a sense of the Senate resolution, which I think is extraneous and does not deal with the sense of the Congress. Since there seems to be no great controversy involved, I will not occupy any further time.

Mr. Speaker, I move the previous question on the motion.

The previous question was ordered.

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The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. PHILIP M. CRANE).

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 93: Page 19, after line 2, insert:

SEC. 162. Section 2 of the International Coffee Agreement Act of 1980 (19 U.S.C. 1356k) is amended by striking out "October 1, 1982" and inserting in lieu thereof "October 1, 1983".

MOTION OFFERED BY MR. WHITTEN

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

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 93 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

SEC. 161. Section 2 of the International Coffee Agreement Act of 1980 (19 U.S.C. 1356k) is amended by striking out "October 1, 1982" and inserting in lieu thereof "the expiration of this joint resolution".

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

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

There was no objection.

The motion was agreed to.

A motion to reconsider was laid on the Table.

The SPEAKER pro tempore. The Clerk will designate the last amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 100: Page 19, after line 2, insert:

SEC. 169. Section 508 of the Airport and Airway Improvement Act of 1982 is amended by adding at the end thereof the following new subsection:

"(e) USE OF CERTAIN APPORTIONED FUNDS FOR DISCRETIONARY PURPOSES.—(1) Subject to paragraphs (2) and (3), if the Secretary determines, based upon notice provided under section 509(e) or otherwise, that any of the amounts apportioned under section 507(a) will not be obligated during a fiscal year, the Secretary may obligate during such fiscal year an amount equal to such amounts at his discretion for any of the purposes for which funds are made available under section 505.

"(2) The Secretary may make obligations in accordance with paragraph (1) only if the Secretary determines that the total of obligations for such fiscal year for purposes of section 505 will not exceed the amount authorized for such fiscal year under section 505(a) and if the Secretary determines that sufficient amounts are authorized under section 505(a) for later fiscal years for obligation for such apportioned amounts which

were not obligated during such fiscal year and which remain available under section 508(a).

"(3) For purposes of amounts apportioned for fiscal year 1982, the Secretary may make the determinatons under paragraphs (1) and (2) on or before October 30, 1982. For purposes of any limitation on obligations imposed by law, amounts obligated in accordance with this subsection on or before October 30, 1982, shall be deemed to have been obligated during fiscal year 1982 to the extent that such amounts, when added to amounts obligated on or after October, 1, 1981, and before October 1, 1982, for purposes of section 505, do not exceed $450,000,000.".

MOTION OFFERED BY MR. WHITTEN

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

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 100 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

SEC. 167. Section 508 of the Airport and Airway Improvement Act of 1982 is amended by adding at the end thereof the following new subsection:

"(e) USE OF CERTAIN APPORTIONED FUNDS FOR DISCRETIONARY PURPOSES.—(1) Subject to paragraphs (2) and (3), if the Secretary determines, based upon notice provided under section 509(e), or otherwise that any of the amounts apportioned under section 507(a) will not be obligated during a fiscal year, the Secretary may obligate during such fiscal year an amount equal to such amounts at his discretion for any of the purposes for which funds are made available under section 505.

"(2) The Secretary may make obligations in accordance with paragraph (1) only if the Secretary determines that the total of obligations for such fiscal year for purposes of section 505 will not exceed the amount authorized for such fiscal year under section 505(a) and if the Secretary determines that sufficient amounts are authorized under section 505(a) for later fiscal years for obligation for such apportioned amounts which were not obligated during such fiscal year and which remain available under section 508(a).

"(3) For the purposes of carrying out this subsection—

"(A) None of the funds provided in the joint resolution providing continuing appropriations for the fiscal year 1983 shall be available for the planning or execution of programs the commitments for which are in excess of $1,050,000,000 for the two fiscal years ending prior to October 1, 1983, for grants-in-aid for airport planning, noise compatibility planning and programs, and development; and

"(B) Section 506(e)(4) of this Act shall not in any manner whatsoever impair the limitation established by this paragraph."

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

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

There was no objection.

The motion was agreed to.

The motion to reconsider was laid on the table.

A motion to reconsider the votes by which action was taken on the conference report and the several motions was laid on the table.

AUTHORIZING THE MAKING OF A CERTAIN CORRECTION IN ENROLLMENT OF HOUSE JOINT RESOLUTION 599, CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1983

Mr. WHITTEN. Mr. Speaker, I offer a concurrent resolution (H. Con. Res. 420) authorizing that a certain correction be made in the enrollment of House Joint Resolution 599, making continuing appropriations for the fiscal year 1983, and ask unanimous consent for its immediate consideration.

The Clerk read the title of the concurrent resolution.

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

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 420

Resolved by the House of Representatives (the Senate concurring), That the Clerk of the House of Representatives is hereby authorized and directed, in the enrollment of the joint resolution (H.J. Res. 599), making continuing appropriations for the fiscal year 1983, to make the following correction: In section 101(c) of the joint resolution, in the second proviso after the word "Jamming" insert "Systems, $14,500,000; NATO Seasparrow Ordalt Kits, $33,000,000; continue".

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 6968, MILITARY CONSTRUCTION APPROPRIATIONS, 1983

Mr. GINN. Mr. Speaker, I call up the conference report on the bill (H.R. 6968) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1983, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

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

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of Thursday, September 30, 1982, at page H8122.)

Mr. GINN (during the reading). Mr. Speaker, I ask unanimous consent that the statement be considered as read.

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

There was no objection.

The SPEAKER pro tempore. The gentleman from Georgia (Mr. GINN) will be recognized for 30 minutes, and the gentleman from Ohio (Mr. REGULA) will be recognized for 30 minutes.

The Chair now recognizes the gentleman from Georgia (Mr. GINN).

Mr. GINN. Mr. Speaker, I yield myself such time as I may consume. We are presenting today the conference report on H.R. 6968, providing for military construction for the fiscal year 1983. The conference agreement provides $7.043 billion, which is $1.169 billion below the President's request, $56.668 million below the Senate recommendation, and $42.791 million above the amount recommended by the House. Additionally, the agreement is approximately $427 million below the fiscal year 1983 section 302 budget allocation.

Although I have just noted various reductions, the military construction conference agreement provides for one of the largest expenditures for defense construction ever recommended by Congress. The wide range of military construction projects funded in this agreement represents a confirmation of our commitment to provide the necessary resources for the men and women in our military and for the overall defense of the country.

The conference agreement reflects a series of changes to the House bill, but we have been able to bring the bill back to the House below the President's budget request and still keep intact the majority of the initiatives and concerns of the House. I will highlight some of the major proposals included in the conference agreement:

Quality of life in the military. The conferees agreed to fund almost $100 million in quality of life projects that had been deleted by the Senate. We felt that these projects were an essential portion of our emphasis to improve the working and living conditions for people in the military.

Ras Banas, Egypt. After debating for the past year the issue of whether to proceed with a rapid deployment base in Egypt, the conferees agreed to a compromise position. The Department will have available $91 million of the $178 million requested in fiscal year 1983 to proceed with a true bare base at this location. However, the Department is to provide further assurances on the use of the base, enter into negotiations with our NATO allies and Japan for direct or indirect offset funding, and reduce the scope of construction to a total of $350 million.

Europe. The conferees agreed to restore almost $100 million in projects cut by the Senate in Europe. We felt strongly on this side that it was important to take care of long neglected facilities that are for our own people overseas.

MX missile program. The conferees have not funded any construction for the basing of the MX missile. Also, we have agreed to retain the provision in the House bill that prohibits any site-specific design for an MX basing mode to proceed prior to fulfilling the re-

people and others without much resources.

It occurred to me that one way to resolve that is to suggest if, in fact, we had harassment by the creditors of any debtor who had taken bankruptcy, then you would have authority to assess attorneys' fees against the creditor. To me, that would preclude a lot of arbitrary and capricious efforts to try to tie up some future income of some poor debtor who was trying to get responsible relief in bankruptcy. But, if that is a possibility, we are faced with the October 4 deadline.

I am not certain whether or not a statement could be obtained to tide us over until after the election.

Mr. METZENBAUM. Can the Senator from Kansas consider eliminating this particular section from the bill? The critical issue we have before us has to do with the vacancies as of October 4. As far as that issue is concerned, and I cannot speak for the ranking member of our committee but it certainly can be brought to the floor, if we can eliminate that one section and then continue in the next section to attempt to deal with that, I think we could move this matter this afternoon, assuming that we had some understanding that it would not appear in the conference committee, of course.

I am perfectly willing to try to help the Senator from Kansas in every way possible in an attempt to move a bankruptcy bill to meet with this problem which is before us as of October 4.

Mr. DOLE. I understand that if, in fact, that were removed—and I am not suggesting that it should be—then there would be an objection to taking it up because it would have been in S. 2000.

Mr. METZENBAUM. I did not know there was anybody who felt that strongly that it had to be in. Maybe what we ought to try to do is to have a clean bill just dealing with the article 3 judges. I would be very happy to work with the Senator from Kansas in that respect only and not try to deal with the substantive bankruptcy law.

Mr. DOLE. As the Senator knows, there are some who think that the judges ought to be article 3 judges. That does not bother me but it bothers some, and it bothers the chief judges, I hear. It is all a matter of compromise.

What we are trying to do is to put together a package where everybody gave a little and contributed a little in an effort to resolve a rather delicate matter.

We are in a very tight timeframe. We could sunset certain provisions.

Maybe it is still worth pursuing for the remainder of the afternoon. I am certainly willing to discuss it with the Senator.

Mr. METZENBAUM. I will advise the Senator from Kansas it will not be difficult to find where I will be during the afternoon. I will be here.

NUCLEAR REGULATORY COMMISSION AUTHORIZATION—CONFERENCE REPORT

Mr. BAKER. Mr. President, the minority has cleared this matter.

Mr. President, I submit a report of the committee of conference on H.R. 2330 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

"The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2330) to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the House proceedings of the RECORD.)

Mr. SIMPSON. Mr. President, I am pleased to present for the consideration of the Senate the Conference report on the Nuclear Regulatory Commission authorization bill for fiscal years 1982 and 1983, H.R. 2330. The conferees have worked long and hard to resolve the many difficult issues contained in the House bill and the Senate amendment, and I am gratified to report that all issues committed to the conferees for consideration have been resolved. Accordingly, I now urge my colleagues to adopt the conference report on this measure.

Before the Senate actually moves to the question on agreeing to the conference report, Mr. President, I have a few brief comments that I would like to make about this bill. This bill contains a number of provisions of significance that, in my judgment, will enhance the ability of the Nuclear Regulatory Commission to carry out its fundamental statutory mission-protection of the public health and safety and the environment. In addition, this bill represents the first major piece of legislation to come out of this Congress regarding the regulation of the domestic nuclear power industry.

Mr. President, I should like to take a brief moment to mention a couple of the more important provisions of this bill. Section 11 of the conference report confers upon the NRC the authority to issue temporary operating licenses upon petition by a utility, in those cases where construction of a nuclear power reactor will be completed prior to completion of a required public hearing. After much discussion by the conferees, we have arrived at what I think is an equitable and much needed solution to the licensing backlog that developed at the NRC shortly following the Three Mile Island accident. This backlog has been addressed, to a significant degree, by administrative actions taken by the NRC, and I am gratified that these problems have been corrected in this fashion. Nevertheless, we are not out of the woods on this issue, and the authority conferred upon the NRC under section 11 will insure that such delays will not be an impediment to the issuance of a license for a reactor that received all of the other necessary approvals.

The second major provision that I would like to bring to the Senate's attention, Mr. President, is the so-called Sholly provision. Section 12 of the conference agreement reverses a recent District of Columbia Court of Appeals decision requiring the NRC to hold hearings, upon request, whenever it issued a license amendment, regardless of the safety significance of such amendment. Both the House bill and the Senate amendment included provisions addressing this issue, and the breadth of support for the Sholly provision is a clear indication, Mr. President, that a requirement to hold a hearing in these types of cases simply did not make sense. Accordingly, the conferees have agreed upon the provision which is set forth in section 12 which confers upon the NRC the authority to issue "no significant hazards consideration" amendments in advance of a hearing, notwithstanding the pendency of a request for such a hearing.

The third provision that I want to point out, Mr. President, is section 23 regarding uranium supply. This was the last provision upon which the conferees reached agreement, Mr. President, and it was only after a great deal of discussion and accommodation by all of the conferees that we managed to resolve this difficult issue. The compromise that we have agreed upon does an excellent job, in my judgment, of reconciling a number of important interests associated with this issue. Without belaboring this issue, let me say that this provision is intended by the conferees to insure that this country's essential security intersts are fully protected and, as agreed upon by the conferees, this provision accomplishes that important objective.

Finally, Mr. President, I would like to say a few words about sections 18, 19, 20, and 22 of the conference agreement, dealing with uranium mill tailings regulation.

Mr. President, the Senate bill included certain amendments to the Uranium Mill Tailings Radiation Control Act of 1978. These amendments had five principal elements. First, new deadlines were established for EPA to propose and finalize inactive and active uranium processing site standards. Under the 1978 act, EPA was given until November 8, 1979, and May 8, 1980, respectively, to promulgate inactive and active site standards. EPA

having failed to meet these deadlines, the Senate bill extended the deadlines to April 1, 1982, for final inactive standards and to April 1, 1983, for final active standards. Second, NRC uranium mill licensing requirements, which were issued in advance of EPA's standards on October 3, 1980, were suspended pending promulgation of EPA active site standards and NRC conformance with those standards. To assure prompt action by NRC, a timetable for such conformance was established. Third, the Senate provision clarified that NRC has authority to consider all relevant factors in issuing regulations, including effects on public health and safety and the environment, as well as economic costs of its requirements. Fourth, the authority of agreement States that elect to regulate uranium mill tailings was clarified to confirm that such States could adopt alternative requirements where those of NRC were determined by a State to be impracticable under local conditions. Fifth, the Senate bill limited NRC's ability to impose additional requirements in agreement States where such States had regulatory programs governing mill tailings that adequately protect public health and safety.

These provisions were adopted following a hearing before the Senate Environment and Public Works Committee on June 16, 1981. At that hearing, and a subsequent hearing before the House Armed Services Committee, the Congress was made aware of certain problems that had arisen in implementation of the 1978 act. Notwithstanding the clear mandate of EPA had failed to comply with lines for inactive and active site ards. NRC had proceeded to issue stringent standards and requirement in advance of EPA. NRC had also asserted that agreement States were required to adopt its uranium mill licensing requirements without consideration of the local practicability of such regulations. Substantial questions were also raised as to the need for NRC's stringent and costly regulations, particularly NRC's radon emanation and mill tailings cover requirements. Were these standards, which effectively reduced risks associated with mill tailings near zero, necessary, or were lesser requirements adequate to protect public health and safety and the environment in view of the isolated location of most, if not all, active uranium processing sites? Finally, Question were raised as to whether EPA in the proposed inactive site standards and NRC in mill licensing requirements had adequately considered the environmental and economic costs of their actions.

The House bill contained no provision amending the Uranium Mill Tailings Radiation Control Act or otherwise addressed the concerns of the senate bill with respect to mill tailings.

The bill, as reported by the conference committee, represents a reasoned agreement that adequately addresses the concerns in the Senate bill. The conference agreement includes four essential elements.

First, new deadlines are established for EPA standards under section 275 of the Atomic Energy Act, as amended. Final inactive site standards should be promulgated by October 1, 1982; proposed active site standards should be issued by October 1, 1982; and final active site standards should be in place by October 1, 1983. If EPA fails to timely issue inactive site standards, the Department of Energy may proceed with its remedial action program as provided in title I of the Mill Tailings Act based on EPA's proposed standards. This change in existing law was made because the conferees believe that this program should not be further delayed by EPA inaction. When final inactive standards are issued by EPA they will become the operative standards to be followed by DOE in all subsequent remedial action. If EPA fails to timely issue final active standards, its authority to do so is terminated. Upon EPA's failure, NRC would assume EPA's authority to determine appropriate standards for active uranium processing sites.

Second, the conference agreement provides for a suspension of NRC's uranium mill licensing requirements. A full prohibition on enforcement or implementation of these regulations will run only until January 1, 1983. After that date, NRC may implement and enforce all of its October 3 uranium mill licensing requirements except those that the Commission determines would require a major action or commitment by licensees which would be unnecessary if one, the active site standards proposed by EPA are promulgated in final form without modification, and two, the Commission's requirements are modified to conform to such standards.

The third major element of the conference agreement pertains to the responsibilities of EPA and NRC to promulgate, respectively, general environmental standards and uranium mill licensing regulations. In each instance, the conferees have agreed to include specific references in the appropriate sections of the Atomic Energy Act directing EPA and NRC, in promulgating such standards and regulations, to consider the risk to public health and safety, and the environment, the economic costs of such standards or regulations, and such other factors as EPA or NRC, respectively, determine to be appropriate. Essentially, we intend by this requirement that these agencies must balance the costs of compliance against the projected benefits to assure that there is a reasonable relationship between the two.

The fourth major element of the conference agreement involves implementation of the Federal standards and regulations of EPA and NRC at the State level. Under section 19 of the conference agreement, individual agreement States are authorized to adopt alternatives—including site-specific alternatives—to the Commission's regulations. These alternative State requirements, which may take into account local or regional conditions, must be submitted to the Commission for approval. If, after notice and opportunity for a public hearing, the Commission determines that the State alternatives will achieve a level of stabilization and containment of the site and a level of protection for public health and safety, and the environment, which is equivalent to, to the extent practicable, or more stringent than the level which would be achieved by the EPA and NRC standards and requirements, the State is to be allowed to implement such alternatives. The bill also corrects a deficiency in existing law which would allow NRC to terminate a State's authority over mill tailings without due process. In no other case does NRC have such authority over an agreement State. The conferees agreed that it should not have such authority with respect to mill tailings. Under the conference bill, a State regulatory program could be terminated only after application of the procedures provided in section 274 of the Atomic Energy Act. Section 20 of the conference agreement confers upon individual licensees a related but less independent ability to propose alternatives. Under this section, individual NRC licensees are authorized to propose alternatives to specific Commission requirements. The Commission may treat such alternatives as satisfying Commission requirements if it determines that such alternatives will achieve a level of protection of public health and safety, and the environment, which is equivalent to, to the extent practicable, or more stringent than the level which would be achieved by the EPA standards and requirements.

As I stated before, the conference agreement adequately addresses the concerns expressed in the Senate bill with implementation of the Mill Tailings Act. For this reason, I recommend the Senate's favorable consideration of the conference agreement.

Mr. STAFFORD. Mr. President, I am delighted that the conferees have reached agreement on a Nuclear Regulatory Commission authorization bill. I commend the conferees for their hard work and diligence in producing this report.

This bill is a major piece of legislation which will substantially improve the Commission's ability to pursue its most important responsibility regarding regulation of the health and safety aspects of nuclear facilities.

This bill is also important to those involved or affected by the nuclear industry, including those interested in improving the environment, and in improving this country's nonproliferation program.

I therefore strongly urge my colleagues to approve this report.

Mr. DOMENICI. Mr. President, on March 30 of this year the Senate passed the Nuclear Regulatory Commission authorization bill. In passing that bill the Senate approved an amendment offered by me relating to the use of imported uranium in domestic nuclear powerplants. As passed by the Senate, the amendment provided that the Nuclear Regulatory Commission develop criteria for the issuance of uranium import licenses that would provide for the maintenance of a viable domestic uranium industry. One of these criteria would have been a restriction on the use of foreign uranium in domestic nuclear reactors. More specifically, foreign uranium used in domestic nuclear reactors would have been limited to 20 percent of the total need for uranium for a given reactor in the course of its operation. The amendment provided further that the NRC would report annually on the amount of foreign uranium used and projected to be used in domestic reactors.

Mr. President, during the course of this long conference the uranium import restriction language I have just explained was the focus of a great deal of debate. The conference report before the Senate today contains a provision which is very different from that which passed the Senate and I would like to take this opportunity to explain the provision to my colleagues. For those who are concerned about the imposition of import restrictions, I believe that the provision I am about to describe will prove to be an acceptable combination of the use of existing law and provisions which recognize the unique national security implications of uranium production and use. Generally speaking, the Conference Committee compromise provides that the International Trade Commission study the economic consequences of imports as provided for in section 201 of the Trade Act of 1974, at such time as the Secretary of Energy believes that the imports may be a substantial cause of serious injury to the domestic industry. The compromise also provides that when imports reach a level of 37.5 percent of the domestic nuclear power demand for uranium that the Secretary of Energy request the Department of Commerce to investigate the national security implications of imports, as provided for by section 232 of the Trade Expansion Act of 1962. In addition, the Secretary of Energy would be required to encourage the increased use of domestic uranium through the modification of the operational policies employed in the Federal uranium enrichment plants. In doing this the Secretary would not be permitted to decrease the use of foreign uranium.

Before explaining the amendment in detail, I would like to review for my colleagues the legislative history of the issue of imported uranium and the maintenance of a viable domestic uranium industry. The provision before us is not the first time the Congress has spoken on the subject. In 1964 the President of the United States signed into law the Private Ownership of Special Nuclear Materials Act. That act amended the Atomic Energy Act so as to provide for the private ownership of special nuclear materials within the United States and to change the structure of the Atomic Energy Act in a way which would permit a civilian nuclear power program. As a part of that act a provision to the Atomic Energy Act was added which provided that the Secretary of Energy offer uranium enrichment services in a manner that would protect the viability of the domestic uranium industry. As a consequence of that legislation, the Atomic Energy Commission placed a total prohibition on the enrichment of foreign uranium which was intended to be used in domestic nuclear powerplants. The Joint Atomic Energy Committee said, in passing this legislation, that this measure was "in the national interest since the industry is closely related to our vital defense and security interests." In 1974 the Atomic Energy Commission decided to begin a phaseout of this enrichment restriction beginning in 1977. As of this year, the restriction stands at 60 percent and is scheduled to rise to 80 percent in 1983, with no restriction on the enrichment of foreign uranium for domestic use after 1984. Let me stress for my colleagues that we have in place today, at this moment, an import restriction. It stands at 60 percent of our domestic use. The provision that is before us in the Nuclear Regulatory Commission authorization is not, for those who take offense at such restrictions, as drastic as that.

Some of my colleagues might question why we need to address the issue of imports when the Atomic Energy Commission determined in 1973 that imports were no longer a threat to a viable domestic industry. One reason the finding of the Atomic Energy Commission can be called into question is that the projected demand calculated by the Commission turned out to be, for the year 1980, three times too high. As a consequence, demand has not grown as rapidly as projected and the domestic uranium industry is experiencing extreme economic hardship. In the past 2 years over half of the domestic miners have been laid off, exploration has dropped by 66 percent, and the number of operating mines in this country has dropped by over 63 percent. I do not stand here today arguing that these measures of the health of the domestic industry are being affected by uranium imports. What I would suggest to my colleagues is that, in the absence of some signal to the foreign producers of uranium that we in the United States will maintain a viable industry, those producers will capture our markets and discourage future development of the domestic uranium industry. This concern that foreign producers are rushing to capture our domestic market is not hypothetical. In the first 6 months of this year, well over 50 percent of the long-term contracts awarded for uranium were to Canadian producers alone. A recent update of the Department of Energy's "Uranium Marketing Survey" indicates that this trend toward increasing imports may be more real than the Department of Energy is willing to admit. As of January 1, 1982, the Department reported that approximately 24,800 short tons of uranium would be imported to this country over the next decade. The July 1, 1982 update of that survey indicates that that figure has grown to 38,700 short tons. Similarly, for the decade of the nineties, the previous figure had been 9,300 short tons. As of July 1, 1982, that figure had grown to 18,200 short tons. The Energy Information Administration has projected that such aggressive marketing could lead to foreign producers holding 80 percent of the domestic market by the late eighties.

Before I explain the import provision of this authorization bill, let me stress that the purpose of this legislation is to assure import independence for our domestic nuclear power industry. I need not remind my colleagues of the soaring price of electricity resulting from oil import dependence in New England. It might be necessary for me to point out that should this Nation decide sometime in the future, after a domestic production capacity has disappeared, that we do need to have production capability, it could take 5 to 10 years to bring on line sufficient production capacity.

Mr. President, the Conference Committee compromise provides that the President report to the Congress on the status of the domestic uranium mining and milling industry. This report would be done within 12 months of enactment of this provision. The report would include a number of factors to be considered in reviewing the industry.

First, the President would report on the projections of uranium requirements and inventories of the domestic utility industry for the future. To be meaningful, these projections would need to be done over at least a 10-year future period.

Second, the President would report on the present and future projected uranium production by the domestic mining and milling industry and again, this projection should be over at least a 10-year period. In the past, the Department of Energy has done reviews on the projected domestic production in their document entitled "Statistical Data of the Uranium Industry." What has been lacking in that report is a projection of future production.

Third, the President would report on the present and future probable penetration of the domestic market by for-

eign imports. Such calculation would be based on contracts executed, and I mean by that that they are signed, or executed options.

Fourth, the President would report on the size of domestic and foreign reserves, as they have been reported in the past by the Department of Energy, using a number of different forward cost categories.

Fifth, the President would report on present and projected uranium exploration expenditures and plans. In the past, those plans have been reported for only 1 year in the future. This report would need at least a 5-year forward projection.

Sixth, the report would include present and projected employment and capital investment in the uranium mining and milling industry.

Seventh, the report would have an estimate of the level of domestic uranium production necessary to insure the viability of the domestic uranium industry.

Eighth, the President should translate the information on the level of production necessary to maintain a viable domestic industry into that percent of the market needed to maintain this level of production which belongs to the domestic industry.

Ninth, the President should report on the price effects that import restrictions might have over what might be predicted to be the current price projections.

Tenth, the President should examine the effect that spent fuel reprocessing might have on the domestic uranium industry as reprocessing is likely to take place over the next 10 years.

The Conference Committee also provides that the Secretary of Energy monitor and report on the viability of the domestic uranium industry on an annual basis from now until 1992. In making that report the Secretary would be required to submit a determination as to whether or not the domestic uranium industry is viable. In the event that the Secretary were to find that the domestic industry was not viable, existing provisions in the Atomic Energy Act would provide the Secretary with the authority to help maintain the viability of the industry. In order to make this determination of viability the Secretary is required to promulgate criteria for such a finding. Those criteria would be promulgated within 9 months of enactment of this provision and a number of those criteria are specified in the compromise provision.

First, the Secretary would be required to assess whether or not executed contracts or options for source material or special nuclear material will result in 37.5 percent of the actual or projected domestic uranium requirements for any 2 consecutive-year period being supplied by foreign source material or foreign special nuclear material. The term domestic uranium requirements should be interpreted as the uranium necessary to fuel all operating domestic nuclear powerplants as licensed under sections 103 and 104b of the Atomic Energy Act. In projecting future imports the Secretary should also include projected future nuclear powerplant operations and the demand for uranium which would result.

Second, the criteria would include projections of uranium requirements and inventories for domestic utilities for a 10-year period forward from the year in which the annual report was being prepared. Again, uranium requirements refers to the amount of uranium necessary to fuel domestic nuclear powerplants licensed under sections 103 and 104b of the Atomic Energy Act.

Third, the Secretary would review the present and probable future use by the domestic market of foreign imports, again with a projected future of 10 years to be examined from the date in which the annual assessment was being performed.

Fourth, the Secretary would determine whether domestic economic reserves can supply all future needs for a future 10-year period from the date of the assessment. Economic reserves have been measured in the past by determining those reserves that would be economic to be used at the time of the projected demand.

Fifth, the Secretary would review present and projected domestic uranium exploration expenditures and plans, again using projections similar to those made by the Department in the past but projected further into the future than the Department's past estimates.

Sixth, the Secretary would review present and projected employment and capital investment in the uranium industry.

Seventh, the Secretary would review the level of domestic uranium production capacity sufficient to meet all projected domestic nuclear power needs for a 10-year forward period. Again, that 10-year forward period should be from the date of the annual report.

Eighth, the criteria should include a projection of the domestic uranium production and price levels which would result under different levels of imports. The Secretary would also have the authority to provide such other criteria as deemed appropriate and also the authority to gather such information as is necessary to carry out the monitoring and reporting requirements required by the provision.

As restatement of existing law, the Conference Committee compromise provides that the Secretary of Energy may determine, at any time, that imports are a threat or substantial cause of serious injury to the domestic industry. In that event the U.S. Trade Representative would request the U.S. International Trade Commission to initiate an investigation under section 201 of the Trade Act of 1974 (19 U.S.C. 2251). Under the Trade Act, if the Commission finds that statutory criteria are satisfied, it submits a report to the President with a recommendation for import relief. The Commission can recommend an increase in duty, the imposition of an import restriction, or certain other remedies. The President has discretion as to whether to impose relief, or to impose no relief at all. The conferees did not intend to affect, in any way the manner in which such sanctions would be applied to future contracts or to existing contracts. In other words, the conferees expect that the Commission and the President would treat existing and future contracts for uranium procurement just as they would treat any contracts for imports, either existing or future, which might be investigated under the International Trade Commission's authority.

The Conference Committee compromise further provides that upon a finding that executed imports or executed options for source material or special nuclear material of foreign origin have reached a level of 37.5 percent of actual or projected domestic uranium requirements, the Secretary of Energy shall revise criteria for the operation of the uranium enrichment plants so as to encourage the use of domestic origin uranium in domestic nuclear powerplants. The Conference Committee Statement of Managers provides three examples of the kind of modificaitons envisioned by the conferees. To the extent that criteria modifications result in the greater use of uranium, it is intended that that uranium be of domestic origin. So, for example, if the Secretary of Energy were to modify the tails assay for the operation of the enrichment plants in such a way as to increase the use of uranium, the increased uranium required would be of domestic origin. The conferees did not intend that the modifications undertaken by the Secretary in any affect existing contracts for the use, possession, or enrichment of foreign source material or foreign special nuclear material in utilization facilities licensed, or required to be licensed under section 103 or 104b of the Atomic Energy Act.

Once the Secretary of Energy has made the determination that present or future use of foreign uranium or foreign source material or special nuclear material accounted for 37.5 percent of domestic demand in any 2 consecutive-year period, the Secretary would be required to request the Secretary of Commerce to initiate an investigation under section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862). The conferees intended that the Secretary make this determination based on the annual assessment of present or future use of uranium from foreign sources. Under the Trade Expansion Act, if the Secretary concludes that imports threaten the national security, the President can

adjust imports to remove the threat. However, if the Secretary concludes that no threat to national security exists, the President has no power under the Trade Expansion Act to grant import relief. The Conference Committee compromise provides that during the course of this study, or 2 years, whichever is shorter, it would be unlawful to contract for imported uranium. I stress that this moratorium on contracting extends to new contracts only. Any foreign source material or special nuclear material previously contracted for would not be affected. The intent behind this provision is that, during the course of the investigation into whether or not imports are a threat to national security, it would not be appropriate to be contracting for more foreign uranium which might further threaten the national security. The conferees did not intend to affect, in any way, the manner in which such a study might affect future or existing contracts. In other words, the conferees expect that the recommendation of the Secretary of Commerce and the actions of the President would treat existing or future contracts for uranium procurement just as they might for any other commodity being imported to the United States which the Secretary found to be a threat to the national security. There would be no grandfathering of existing contracts from sanctions unless the Secretary of Commerce so recommended and the President instituted.

In conducting the investigation under section 232 of the Trade Expansion Act, the conferees intended that the Secretary of Commerce take into account the information provided by the Secretary of Energy. In particular, the Secretary of Commerce should take into account information regarding projected or executed contracts or executed options for foreign source material or special nuclear material. This prospective examination of the potential threat to our national security is necessary principally because of the long lead time involved in starting uranium mining and milling operations.

The provisions provides that the Secretary of Commerce could not initiate another investigation sooner than 3 years following the completion of any investigation by the Secretary of Commerce under the provision, if no recommendation had been made pursuant to such study for trade adjustments to assist or protect the domestic uranium industry. If the Secretary of Commerce were to undertake another investigation as triggered by the 37.5 percent level of imports, restrictions on contracting under the provision would not take effect unless the Secretary of Energy had determined that new information relating to the national security required that contracting be suspended.

Mr. SCHMITT. Mr. President, I compliment my colleagues who served on the conference committee on their efforts. Among many other essential issues addressed in this bill, two issues are of particular concern to me: The uranium import issue and the uranium mill tailings issue. I have followed these problems closely because of the large impact on my State and because of my background as a geologist. As you will recall, last year's NRC appropriation bill contained my amendment prohibiting the NRC from implementing the uranium mill tailings regulations. Finally, today before the Senate we have a perm nent reform that I hope will solve the serious problem of inconsistent, expensive and flawed uranium mill tailings regulations. The import restriction is also a vital concern to those of us familiar with U.S. strategic mineral requirements. Our domestic uranium industry is in a critical position. If we do not act now to preserve our domestic production capability, we will simply not have that capability without a 5-10 year lead-time warning. We need a viable domestic uranium industry.

We all support the principle that public health and safety must be protected from potential hazards of uranium mill tailings. The conference agreement seems to promote this goal, while also assuring a reasonable regulatory program for uranium mill tailings. Nonetheless, I believe some clarification is in order on certain aspects of the agreement. By requiring a consideration of environmental and economic costs, is my understanding correct that the Senator wants the regulatory agencies to consider more than just the feasibility of their standards and regulations?

Mr. SIMPSON. The Senator's understanding is correct. The direction to consider costs requires more than a perfunctory determination of whether a given cost can be borne by the uranium industry or a particular licensee. As indicated in the statement of managers, standards and requirements must bear a reasonable relationship to the expected benefits; that is, the costs to comply should be comm nsurate with the risks. This is not to say that an itemized cost-benefit or timization approach is required. In balancing costs and risks to assure a reasonable relationship between the two, judgment must be exercised by the agencies.

Mr. SCHMITT. In the st tement of managers, I read the follo ing: "The conferees note that this la guage reflects accurately the current regulatory approach of the agenices." Do I correctly understand this language to affirm as being sufficient to the prior agency consideration of costs of mill tailings stabilization and reclamation?

Mr. SIMPSON. The statement the Senator referred to must be taken in context of the preceding statement. Whether or not costs were sufficiently considered by NRC was disputed in litigation. We have expressly taken a neutral position on the issues raised in the litigation. By the amendments agreed to by the conference, the basis for consideration of costs by EPA in promulgating general standards and by NRC in issuing site specific regulations is now expressly established. Both of these agencies must establish that cost of compliance bears a reasonable relationship to expected benefits.

Mr. SCHMITT. I thank the Senator for his clarification. On this issue, I have but one further question. Should EPA fail to timely issue its final active standards, could NRC implement its existing mill licensing requirements?

Mr. SIMPSON. Only if the NRC determined after appropriate opportunity for comment and a public hearing that those regulations are reasonably related to the costs of implementation. In order to prevent such a potential result, the conference agreement requires both EPA and NRC to consider costs and be certain that they were reasonably related to expected benefits.

Mr. SCHMITT. The Senator's statements are reassuring. In view of those assurances, I am pleased to support the conference agreement.

Mr. WALLOP. Mr. President, I, too, compliment the conferees. A great deal of effort was expended on resolution of the differences between the Senate and House bills. The result appears worthy of the effort. I too, however, have a question on one aspect of the bill. I feel the provision that suspends NRC's regulations seems somewhat complex. Could the requirements of that provision be more simply stated?

Mr. DOMENICI. I believe I can answer that question. As the Senator will recall, the Senate bill suspended NRC regulations in full until that agency conformed to final EPA standards. The intent of the Senate suspension was to restore the order established in the 1978 act which called for EPA general standards followed by NRC site specific regulations. Some Members of the House felt that the Senate suspension was broader than was needed to achieve the purpose. On reflection, I had to agree with the House Members. Only those requirements which are dependent on EPA's standards should be suspended, and then only when reason exists to establish that NRC's requirements will be different than EPA's final standards and where licensees are required to take some significant action. As agreed to by the conference, a full suspension will be effective until January 1, 1983. After that date, the Commission must determine if a suspension is appropriate considering the factors I have just stated.

Mr. WALLOP. I thank the Senator for his explanation. It is my understanding that EPA and NRC have stated that they felt compelled by the Mill Tailings Act to impose stringent requirements, such as a 2-picocurie radon emanation standard, irrespective of costs, because of language in

the preamble to the 1978 Mill Tailing Act. From my reading of the applicable provision, the 1978 act directed the agencies to take "every reasonable effort" necessary to protect public health. Implicit in that language is a direction to exercise reasonable discretion. Have the amendment dispelled the misapprehension of the agencies on this point?

Mr. SIMPSON. I say to my fine Wyoming colleague that in, my best estimate, they have. The statement of managers clearly states that it is the agreement of the conferees that EPA and NRC, in promulgating standards and regulations, should exercise their best independent technical judgments. The agencies should determine the risks associated will mill tailings and the significance of those risks. They should also examine various regulatory approaches to deal with significant risks that are identified. Of course, we expect the approach ultimately adopted to be reasonably related to the risks in terms of costs. In short, Congress has not directed any specific regulatory program. On technical issues relating to the regulation of mill tailings, EPA and NRC should both exercise reasonable judgment on the appropriate course to accomplish the basic purpose of the act, which is to protect the public health and safety from unreasonable risks.

Mr. WALLOP. I thank the Senator for his clarification. I, too, am pleased to support the conference agreement.

Mr. DOMENICI. The last paragraph of section 6 of the conference report refers to the 1980 NRC Authorization Act. Is it the Senator's understanding that the act, Public Law 96-295, has expired?

Mr. SIMPSON. That is correct, since its authorized funds have been appropriated and spent.

Mr. DOMENICI. The same paragraph expresses the conferees' support of a continued effort by the NRC to promulgate demographic requirements for siting. What is the intent of this?

Mr. SIMPSON. The Nuclear Regulatory Commission intends to promulgate a nuclear safety goal in the near future. It also will be refining and updating radioactivity source terms relating to nuclear power reactors. Settling these matters will enable the Commission to revise its existing regulations and issue new regulations for the better protection of the public health and safety. Demographic considerations are logical and necessary considerations to take into account in this process.

Mr. DOMENICI. The paragraph also makes reference to demographic requirements for siting that are independent of facility design. What is meaning of the report in this respect?

Mr. SIMPSON. It is expected that, in order to achieve an acceptable level of health and safety, siting, design and emergency planning features all will be used. In addition, there could be health and safety considerations that go beyond and therefore could be referred to as independent of design—for example, some kind of accident that no one might ever anticipate and therefore engineer safeguards against. The NRC might also want to consider what, if any, demographic circumstances it would be worthwhile to take into account in relation to capabilities such as warning, evacuation, or sheltering in order to enhance public health and safety vis-a-vis such unknown contingency. However, it is expected that the Commission will implement its safety goals to achieve overall health and safety primarily by a combination of design, siting, and planning considered together.

It is my further understanding that the provision in question is entended to reverse the holding of the Court of Appeals for the District of Columbia in the case of Sholly against NRC. Thus, under this provision the NRC would be permitted to issue a license amendment prior to a public hearing for the type of activity which was the subject of that proceeding, assuming the Commission first determines that no significant hazard is involved. Is that correct?

Mr. SIMPSON. Yes, that is quite correct.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. STAFFORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

OMNIBUS VICTIMS PROTECTION ACT OF 1982

Mr. BAKER. Mr. President, a message from the House on S. 2420 is here and available for action. May I inquire if the minority leader is prepared to consider that item?

Mr. ROBERT C. BYRD. Mr. President, this side is ready to proceed.

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2420.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate, (S. 2420), entitled "An Act to protect victims of crimes," do pass with the following amendments:

Strike out all after the enacting clause, and insert:

That this Act may be cited as the "Comprehensive Victim and Witness Protection and Assistance Act of 1982".

VICTIM IMPACT STATEMENT

SEC. 2. Paragraph (2) of rule 32(c) of the Federal Rules of Criminal Procedure is amended to read as follows:

"(2) REPORT.—The presentence report shall contain—

"(A) any prior criminal record of the defendant;

"(B) a statement of the circumstances of the commission of the offense and circumstances affecting the defendant's behavior;

"(C) information concerning any harm done to or loss suffered by any victim of the offense; and

"(D) any other information that may aid the court in sentencing.".

PROTECTION OF VICTIMS AND WITNESSES FROM INTIMIDATION

SEC. 3. (a) Chapter 73 of title 18 of the United States Code is amended by adding at the end the following new sections:

"§ 1512. Tampering with a witness or an informant

"(a) Whoever knowingly uses physical force or threatens another person, or attempts to do so, or engages in misleading conduct towards another person, with intent to—

"(1) influence the testimony of any person in an official proceeding;

"(2) cause or induce any person to—

"(A) withhold testimony, or withhold a record document, or other object, from an official proceeding;

"(B) alter, destroy, mutilate, or conceal an object with intent to impair the object's integrity or availability for use in an official proceeding;

"(C) evade legal process summoning that person to appear as a witness, or to produce a record, document, or other object, in an official proceeding; or

"(3) hinder, delay, or prevent the communication to a law enforcement officer or judge of the United States of information relating to the commission or possible commis-

that if the courts can be deprived of jurisdiction over that question, they can be deprived of jurisdiction over any question—freedom of worship, civil rights, criminal law, anything. And in the long run that process can only mean destruction of our basic rights and our Federal system of government.

The courts exist to apply the accumulated wisdom of 205 years—embodied in our system of laws—to the political judgments of the day, as made by the elected Representatives of the people. That blending of long-term judgments and short-term desires has been a key to the effective functioning of our system of representative democracy. Although there are times when I am extremely frustrated by Federal court decisions, I am simply against making such a basic, fundamental change in our system.

I am certainly prepared to work with Senator HELMS and others in pushing for a constitutional amendment to restore prayer in the schools, as President Reagan has proposed. What I will not do is support a statute that seeks to restore school prayer by dismembering the court system. That is a bad means to a good end, and I simply could not support it.

NRC AUTHORIZATION BILL

Mr. MITCHELL. Mr. President, will the distinguished ranking minority member of the Subcommittee on Nuclear Regulation engage in a colloquy with me on the NRC authorization bill conference report?

Mr. HART. I would be delighted to engage in a colloquy with my good friend from Maine.

Mr. MITCHELL. The portion of the statement of managers discussing section 12 of the report, the so-called Sholly provision, stresses that, in determining whether a proposed amendment to a facility operating license involves no significant hazards consideration, the Commission "should be especially sensitive * * * to license amendments that have irreversible consequences." Is my understanding correct that the statement means the Commission should take special care in evaluating, for possible hazardous considerations, amendments that involve irreversible consequences?

Mr. HART. The Senator's understanding is correct. As you know, this provision seeks to overrule the holding of the U.S. Court of Appeals for the District of Columbia in Sholly against Nuclear Regulatory Commission. That case involved the venting of radioactive krypton gas from the damaged Three Mile Island Unit 2 reactor—an irreversible action.

As in this case, once the Commission has approved a license amendment, and it has gone into effect, it could prove impossible to correct any oversights of fact or errors of judgment. Therefore, the Commission has an obligation, when assessing the health or safety implications of an amendment having irreversible consequences, to insure that only those amendments that clearly raise no significant hazards issues will take effect prior to a public hearing.

Mr. MITCHELL. I thank the Senator. I also understand the amendments to the Uranium Mill Tailings Radiation Control Act, included in the NRC authorization bill conference report, differ significantly from those adopted by the Senate.

Mr. HART. The Senator is correct. The House-passed version of the NRC authorization bill for fiscal years 1982 and 1983 did not contain any amendments to the Uranium Mill Tailings Act. The provision in the conference report differs from the Senate provision in an important respect: The Senate provision suspended the NRC's final regulations for uranium mill tailings, promulgated October 3, 1980, until EPA issued its final standards for active uranium mill sites under section 275 of the Atomic Energy Act. The conference report suspends these final NRC regulations until January 1, 1983. On that date, they become immediately effective except for any NRC regulation that first, is inconsistent with the EPA standards, required to be proposed October 3, 1982, and second, would also require a significant commitment or action by the licensee. Although such a commitment or action could include financial obligations or expenditures, the conferees agreed not to state that a "major investiment" would trigger the suspension of a particular NRC regulation.

Mr. MITCHELL. Is my understanding correct, then, that this suspension of the NRC regulations until January 1, 1983, is only for the purpose of sorting out potential conflicts between the NRC regulations and the EPA standards?

Mr. HART. This Senator is absolutely correct.

Mr. MITCHELL. Is it also correct, then, that these amendments do not prejudge the validity or appropriateness of the NRC's final regulations, promulgated October 3, 1980?

Mr. HART. That is correct. The statement of managers underscored the point that where legislative language directed the NRC and the EPA to "consider the risk to public health, safety, and the environment, the environmental and economic costs of such standards or regulations, and such other factors as EPA or NRC, respectively, determine to be appropriate," this language "* * * reflects accurately the current regulatory approach of the agencies."

The statement of managers clearly recognized that the NRC and EPA are already considering these factors in their regulatory procedures. I might also point out that the 10th Circuit Court of Appeals, in its decision in Kerr-McGee Nuclear Corp. against Nuclear Regulatory Commission, upheld the legality and validity of the NRC regulations. In fact, it noted that the NRC had already considered costs when it proposed its uranium mill tailing regulations and found them economically feasible.

The Statement of Managers also is clear that although the Federal agencies involved should continue to consider these costs, they need not carry out a cost-benefit analysis nor should such considerations "* * * divert EPA or NRC from their principal focus of protecting the public health and safety."

I also note that none of these amendments affects the Findings and Purposes section of the Uranium Mill Tailings Act.

Mr. MITCHELL. I thank the Senator.

MILL TAILING LEGISLATION

Mr. SCHMITT. Mr. President, our domestic uranium industry is on the verge of total collapse. My State, New Mexico, is the Nation's most important uranium producer, but it now has fewer operating uranium mills than two decades ago. Thousands of miners are unemployed. New exploration has plummeted.

There are many causes for this disaster including the absence of a nation's commitment to energy security. One of the additional is the rapidly increasing tide of low cost foreign uranium. Indeed, almost all new contractual commitments by our utilities are with foreign suppliers and some domestic uranium companies are even shutting down their operations in order to purchase low cost foreign uranium to meet their contractual obligations. These developments pose a serious and immediate threat to the continued survival of our domestic uranium industry. Once mines and mills are shutdown, it is unclear whether they can ever be reopened. It will take as many as 10 years to bring new facilities on line.

Congress has long recognized that it is essential to our national security and to our policy of energy independence to assure the maintenance of a viable domestic uranium industry. Indeed, in 1964 Congress adopted legislation, codified in section 161(v) of the Atomic Energy Act, specifically for this purpose.

Nothing has occurred since 1964 to make the Nation's domestic uranium industry any less essential to our security interests. To the contrary, we now rely on nuclear power heavily for our electrical energy needs. It would be most unwise to place ourselves at the mercy of a handful of uranium exporting countries by undue dependence on foreign supplies. This is particularly the case since these countries pursue documented policies to support their own uranium industries and to assure their own uranium supplies.

Recognizing the urgency of this situation, I cosponsored an amendment to

the NRC Reauthorization Act to adjust future imports of uranium to a level compatible with preservation of a viable domestic industry and our vital national security interests. The conferees have modified the Senate proposal in many particulars. However, they have incorporated requirements that DOE promulgate criteria to determine the industry's viability and that DOE make an annual determination of viability. This will serve the important function of prompting implementation of section 161(v).

The conferees also have adopted language providing for a moratorium on new contracts of up to 2 years if foreign contractual commitments reach 37½ percent in any 2 consecutive years. This moratorium, although temporary, should provide the Department of Commerce and the President the time necessary to take appropriate action to protect the national security before it is too late.

Mr. President, I understand that there have been objections to this provision on grounds of free trade. I heartily endorse the principle of free trade. However, we must recognize that free trade is not an end unto itself but an interest which must be balanced against other important interests. Uranium is a unique resource which is particularly important for national security reasons. The United States must take appropriate action to protect its vital interests in this area.

Some have also attacked this legislation on grounds of impact on consumers. I believe that the impact on consumers will be favorable, particularly in the long-term, because the provision in question will assure the availability of a stable long term supply of uranium and will maintain the domestic industry as a viable competitor against foreign suppliers. This is particularly important in view of policies pursued by foreign governments, to which I have already alluded, to support to their own domestic uranium industries.

Mr. President, I am also pleased to note that the conferees have adopted language amending the Mill Tailings Act to require NRC and EPA to weigh the significance of the risk associated with mill tailings and to develop regulatory requirements whose burdens are reasonably related to the expected benefits. As the statement of managers indicates, this does not mean that cost-benefit analysis/optimization is mandatory. However, it does mean that agency requirements must be reasonably tailored to meet identifiable hazards and that if the hazards are slight, the burdens imposed by the regulations must be small as well. This should also lay to rest the position by some agency officials that they are required, under the preamble to the Mill Tailings Act, to impose certain kinds of controls on mill tailings regardless of risk and regardless of cost.

Because the conferees were anxious that the DOE remedial action program proceed, they have revised the law to permit certain NRC and DOE actions in advance of final EPA standards. However, the language of the bill and the statement of managers makes clear that the agencies are to coordinate their actions to minimize backtracking and churning. For example, DOE should avoid remedial actions predicated on those aspects of EPA inactive site standards which must be changed in light of the administrative record and the Mill Tailings Act as clarified by this legislation.

Another feature of the mill tailing legislation reported by the conferees bears special mention. Although requiring NRC and EPA to weigh costs, the conferees have deleted the provision in the Senate amendment calling on NRC and EPA to consider all relevant factors. I understand that the conferees were concerned that that language might lead to unwarranted litigation and unintended results. For example, that language might be interpreted to require or to permit the agencies to weigh not only actual hazards but also psychological factors as suggested in the recent Pane decision. The agencies should develop requirements whose burdens are reasonably related to actual risks, and not to mere fears or concerns.

Finally, the legislation reaffirms that agreement States may diverge from impracticable Federal requirements, and clarifies that no agreement State program is automatically terminated and that NRC may reassert regulatory jurisdiction only after notice and a hearing before the five commissioners as provided in subsection 274(j) of the Atomic Energy Act.

The language adopted by the conferees makes clear that there is no dual jurisdiction under the Mill Tailings Act. Mill tailings are regulated by a State as provided in section 274 or by the Commission, but not by multiple authorities. Moreover, the conferees have acknowledged that title I sites are not regulated under title II and that NRC and agreement States may exempt sand backfilling from land ownership requirements.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the ACTING PRESIDENT pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

DEFERRAL OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT—PM-184

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, was referred jointly to the Committee on the Budget, the Committee on Appropriations, the Committee on Foreign Relations, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Commerce, Science, and Transportation, the Committee on Armed Services, the Committee on Energy and Natural Resources, the Committee on Labor and Human Resources, the Committee on Finance, and the Committee on Governmental Affairs:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report twenty deferrals of fiscal year 1983 funds totaling $598,780,000. The deferrals are primarily routine in nature and do not, in most cases, affect program levels.

The deferrals are for programs in International Development Assistance, the Departments of Agriculture, Commerce, Defense, Energy, Health and Human Services, Interior, State, Transportation, Treasury, the District of Columbia, the Pennsylvania Avenue Development Corporation and the Railroad Retirement Board.

The details of each deferral are contained in the attached reports.

RONALD REAGAN.

THE WHITE HOUSE, *October 1, 1982.*

MESSAGES FROM THE HOUSE

At 10:30 a.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5930) to extend the aviation insurance program for 5 years.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6976) to amend title 28, United States Code, to require the Attorney General to acquire and exchange information to assist Federal, State, and local officials in the identification of certain deceased individuals and in the location of missing persons (including unemancipated persons).

The message further announced that the House agrees to the amendments of the Senate to the bill (H.R. 2035) to authorize certain employees of the U.S. Department of Agriculture charged with the enforcement of animal quarantine laws to carry firearms for self-protection.

The Ellender fellowships provide the basis for the participation of teachers and low- to middle-income students in the close-up program as well as providing the incentive for corporate gifts to the close-up program. This latter program is an outstanding program in which high school students spend approximately 1 week in Washington learning about the operation of the Federal Government.

The growth of the program attests to its success and effectiveness among high school students. Starting with 2,000 students in 1973, almost 14,000 students participated in the 1981–82 school year. Some 306 schools in 6 areas of the country originally participated whereas today 2,150 schools are actively engaged in the program from 43 areas of the country. The additional authorization of $500,000 per year will permit the program to expand to the remaining States so I urge my colleagues to vote for this most beneficial legislation.●

ASBESTOS VICTIMS OF AMERICA DAY

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 1, 1982

● Mr. PANETTA. Mr. Speaker, today, I am introducing a resolution to designate October 9, 1982, "Asbestos Victims of America Day". This resolution seeks to provide Federal recognition to the millions of victims suffering from asbestos related diseases.

We have become all too familiar with the harmful and terminal effects of asbestos related diseases. Day after day, we read of more workers who are found to have been exposed to asbestos in their workplace, and how this exposure has disrupted their normal and daily lives. Many productive and hard-working citizens have been forced to seek early retirement because the affliction of asbestos-related ailments.

The fact is that the recognition of the hazards of asbestos to the human health is not a recent phenomenon. In the first century, there were writings of a sickness of the lungs in workers whose occupation was the weaving of asbestos into cloth. However, the association of asbestos with chronic respiratory disease had to be rediscovered in the modern era. A series of case reports was followed by an epidemiologic study published in London in 1930, and the cancer producing potential of asbestos was established in 1949 when a report was published describing an excess of cancer of the lung and pleura among individuals dying from asbestosis. It has been proven that among asbestos workers, there is, in addition to the risk of asbestosis, a greatly increased risk of death from lung cancer and from pleural and peritoneal mesothelioma, malignancies that are seldom found in the general population. Moreover, asbestos has been linked with gastrointestinal, oropharyngeal, and laryngeal cancer.

Mr. Speaker, some of the statistics representing the effects of asbestos are discouraging. Since the beginning of World War II, over 27 million workers have been exposed to asbestos, and it is estimated that 50 percent of all asbestos insulation workers die of cancer. In addition, it has been concluded that asbestos workers who smoke have an incidence of lung cancer 90 times greater than workers who smoke but are not exposed to asbestos.

Beyond the debilitating effects of asbestos related diseases, these victims have been met with great difficulty in seeking appropriate compensation. Neither the Federal Government nor State governments provide adequate compensation for death or disability to asbestos victims. These persons are forced to seek appropriate recourse through legal remedies. However, this long and ardous process, many times, places additional stress on the asbestos victim, with out any measurable productive result in the end.

Santa Cruz, Calif. will be celebrating Asbestos Victims of America Day on October 9, 1982. This is the second year of this celebration. Appropriate resolutions commemorating this day have been adopted at the local level. Similar actions at the State level are being considered. Clearly, Federal recognition of this day, and recognizing the needs of asbestos victims is appropriate and deserving. I urge the support of my colleagues for this resolution. Following is the text of this resolution:

H.J. RES.—

To designate October 9, 1982, as "Asbestos Victims of America Day".

Whereas, over 27 million Americans working in industries since World War II have been exposed to asbestos;

Whereas, 45 percent of all those heavily exposed to asbestos may have asbestos related diseases;

Whereas, 50 percent of all asbestos victims will die of cancer;

Whereas, few States provide adequate benefits for the death or disability due to asbestos-related diseases;

Whereas, asbestos victims have been forced to seek legal remedies to acquire compensations; and

Whereas, Santa Cruz, California will officially recognized the plight of the million asbestos victims; now, therefore, be it

Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled, That October 9, 1982, hereby designated "Asbestos Victims of America Day", and the President of the United States is authorized and required to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.●

NRC AUTHORIZATION BILL

HON. RAY KOGOVSEK

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 1, 1982

● Mr. KOGOVSEK. Mr. Speaker, my district encompasses most of the uranium resource areas in Colorado. Unfortunately, the uranium industry in my State, like that in other States, has been caught in a devastating squeeze. In particular, it is faced with a flood of imported uranium offered at prices far below what it costs to produce uranium from domestic resources. As a result, domestic uranium prices have plummeted and now stand at only about $17 per pound. In the meantime, costs to produce uranium domestically are ballooning due in large part to more and more stringent Government regulations. Because of this squeeze, our domestic industry is being riddled with mine and mill closings. Thousands are unemployed. There is little or no new exploration.

This situation is simply intolerable. It is vital to our Nation's security and our overall energy program to maintain and to assure a viable domestic uranium industry. I am therefore extremely pleased to see that the conferees have adopted language to encourage DOE and the President to take appropriate action to adjust enrichment and importation of foreign uranium and to enhance the demand for domestic uranium. The principal objection to the import provision lodged by the administration is that it is purportedly inconsistent with free trade policies. I certainly believe that free trade is a good thing. However, trade in energy resources, and in uranium in particular, is anything but free. Under the circumstances, the Nation must take appropriate steps to assure that it can take care of its needs and protect its national security interests in this vital energy resource. My chief concern is that the provision does not go far enough. I understand that DOE even now has a draft report indicating that immediate action is required in order to preserve domestic uranium production capacity. I urge DOE and the administration to take appropriate steps in response to this legislation to assure the viability of our doemstic uranium industry.

I am pleased that the conferees have reported language clarifying that EPA and NRC neither can impose arbitrary requirements upon our domestic industry nor can shy away from careful analysis of the nature of the hazard involved and the appropriate form of remedial action required. I am troubled by testimony by numerous experts, including members of the NCRP, criticizing basic assumptions and approaches to mill tailings identified with NRC and EPA. I applaud the fact that the conferees have affirmed that although cost-benefit optimiz-

ation/analysis is not mandatory, the EPA and NRC must assure that the burdens imposed by their requirements are commensurate with the risks averted. This obviously means that insubstantial hazards need not be addressed. I believe that these clarifications should assure the agencies that they have the necessary flexibility to develop reasonable and responsible regulations. We all recognize that the primary duty of EPA and NRC is to protect the public health and the environment, and we all certainly want that duty to be discharged in the case of mill tailings. However, this is not, and cannot be, a blank check to impose unwarranted regulatory requirements or excuse the agencies from their duty to exercise their best technicial judgment based upon a sound factual record in evaluating the risks and in devising cost-effective and justifiable remedial actions.

I also note that the conferees have affirmed that NRC is not empowered to dictate terms to States which regulate their own mill tailings on pain of loss of their regulatory authority. The amendment clarifies that agreement States may diverge from requirements which the States find impracticable and the statutory and report language reaffirms that no dual regulatory jurisdiction is intended.

I wish to express my appreciation to the chairman of the conference committee, Mr. UDALL, for his good work in reporting these vital provisions and I encourage all my colleagues to support them.●

FARMERS ARE NOT HURTING—THEY ARE BROKE

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 1, 1982

● Mr. SIMON. Mr. Speaker, 2 years ago, while campaigning in Iowa for the office he now holds, President Reagan delivered a speech scoring the agricultural programs of the Carter administration and outlining what his own goals would be.

At the conclusion of that speech, he made two promises. He promised that the entire thrust of the 1981 farm bill would be to make farming profitable again and he promised that profit would be the keyword in his goal for American agriculture.

Two years later, net farm income—the measure of the profit the President promised—has dropped to its lowest levels since the Depression. And at a very instructive hearing on the state of the farm economy held by the House Committee on Agriculture earlier this week, the entire panel of witnesses, from independent economists and analysts to Dr. Lesher speaking on behalf of USDA, could not offer any hope that the farm situation looked any better for next year. When Dr. Lesher was repeatedly asked whether or not farmers are better off now than they were under the previous administration—one of President Reagan's favorite campaign questions—he could not offer a positive response.

In a letter I recently sent to some farmers in my district, I said that farmers are hurting. This week I got a letter back from one of them, disagreeing with me. He said, "Farmer aren't hurting—they're broke." The President's promises of support for the preservation of family farms are going to ring hollow this winter as family after family will face foreclosure.

We have given the President the economic package he asked for, but the economy continues to stagnate and unemployment continues to rise. We gave the President his farm bill, and have lower prices and lower net income in return. We heard promises to aggressively expand agricultural exports, then saw a push instead for only a short-term agreement with the Soviet Union.

Farmers need more than our words and our promises. Farm groups across the country are organizing and uniting to press upon us their concerns and plans for change. We need to work with them in our districts and work together here to turn the farm economy and our country around.●

A TRIBUTE TO CPL. DAVID LEE REAGAN, USMC

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 1, 1982

● Mr. WHITEHURST. Mr. Speaker, all of us are saddened by the news of the death of Cpl. David Lee Reagan and the injury of three other marines in Beirut yesterday.

It is always tragic when a young man is struck down so early in life, and yet we are inspired by Corproal Reagan's devotion to duty. He stands in line with thousands of marines who paid the supreme sacrifice for their country. On a distant shore, among people who have known untold horrors of death and destruction, Corporal Reagan came in the cause of peace. His death is a cruel twist of fate, for he fired no shot in anger, confronted no foe on the battlefield, yet his sacrifice is no less meaningful. Americans can take pride that they have men who, under any circumstances, are willing to step forth in the name of peace, as well as in conflict with our enemies.

I take this occasion also to extend my condolences to his family on their grievous loss. This body can only share their grief, while acknowledging its gratitude for Corporal Reagan's sacrifice.●

PENNSYLVANIA STATE SPORTS HALL OF FAME

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 1, 1982

● Mr. YATRON. Mr. Speaker, on October 30, five individuals from the Sixth Congressional District of Pennsylvania will be inducted into the Pennsylvania State Sports Hall of Fame. The ceremonies will take place in Hazleton, Pa.

From Schuylkill County, Joe Balsis, Jack Dolbin, Billy Rogers, and Thurman "Tubby" Allen will enter the ranks of the outstanding athletes of the Commonwealth of Pennsylvania. From Berks County, Ron Krick, an all-State basketball star who led West Reading High School to three State titles and then played at Cincinnati University will be inducted.

William G. "Billy" Rogers is a legendary athlete in Schuylkill County. He is universally acclaimed as one of our foremost football players and boxers. Mr. Rogers was a defensive-offensive end with the 1932-36 State champion Shenandoah Presidents. He holds many pass catching records and also gained considerable recognition as an accomplished heavyweight prize fighter and later as an outstanding fight referee and judge. His most memorable fight was with then AAU Heavyweight Champion, Al Swilp, whom Bill defeated. An extremely versatile athlete, Mr. Rogers also played baseball with the Mahanoy Plane Club. Billy Rogers is a close personal friend and I believe he is most deserving of this prestigious award.

The other athletes to be inducted are also outstanding representatives of their sports. Joe Balsis is a world champion billiard player, he has won many major tournaments and is considered one of the greatest of all times. Jack Dolbin was one of the best football players ever to come out of Pottsville High School. He went on to stardom in college and the National Football League as a player for the Denver Broncos. The late Tubby Allen was a renowned high school football and basketball coach, as well as an important professional football coach.

I know that my colleagues will join me in paying tribute to these fine athletes on the important occasion of their induction into the Pennsylvania State Sports Hall of Fame.●

IMMIGRATION EMERGENCY ACT, H.R. 7234

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 1, 1982

● Mr. McCOLLUM. Mr. Speaker, the memory of the Mariel boatlift in the

Mr. WARNER. I understand. I thank the Senator.

Mr. BAKER. Mr. President, I wonder if the minority leader would advise me as to whether we might delay a few minutes to see if some of these items are cleared or if that would seem not worth the investment of time.

Mr. ROBERT C. BYRD. I certainly want to cooperate with the majority leader in every way I can because he has been most cooperative with the minority throughout the year.

I hope, however, that we could get to the continuing resolution.

I know he shares that hope—as soon as possible.

Mr. BAKER. Yes, Mr. President.

Mr. ROBERT C. BYRD. Because a good many Senators are waiting around.

Mr. BAKER. Mr. President, I am told that a House message on H.R. 3787 is here and approved for action on both sides. Could I inquire of the minority leader if he is prepared to proceed to that item at this time?

Mr. ROBERT C. BYRD. Will the Senator withhold for just a moment?

Mr. BAKER. Yes.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, there is at the desk a conference report from the House on the continuing resolution making appropriations for the fiscal year 1983, is there not?

Mr. STENNIS. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. BAKER. Mr. President, I should like to make a statement before I ask the Chair to lay that message before the Senate.

There are a number of other items that are of urgent importance and which are tantalizingly close to clearance on both sides of the aisle. I am going to ask the Chair in a moment to lay before the Senate the conference report on the continuing resolution, but I hope the minority leader will accommodate me as we proceed, and if we find that some of these items have been cleared on both sides, I hope we can lay aside the continuing resolution debate for a few moments to take care of those items.

Mr. ROBERT C. BYRD. Mr. President, would the majority leader indulge me to make a countersuggestion?

Mr. BAKER. Yes.

Mr. ROBERT C. BYRD. That we proceed with the continuing resolution, because several Senators have been waiting, and they are wondering whether or not there will be a rollcall vote. I suggest that we dispose of the continuing resolution so that they can leave and not be kept around. I will be as accommodating as I can be with respect to the unanimous-consent request.

Mr. BAKER. Mr. President, I understand the minority leader's view. I am afraid that if we do not move before we finish the continuing resolution, there will be no possibility that the House will not act on some of these measures. So I hope he will not object if at some point I ask unanimous consent for a brief time to clear certain items.

Mr. ROBERT C. BYRD. All right.

CONTINUING APPROPRIATIONS, 1983—CONFERENCE REPORT

Mr. BAKER. Mr. President, I submit a report of the committee of conference on House Joint Resolution 599 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate joint resolution (H.J. Res. 599) making continuing appropriations for the fiscal year 1983, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of today, October 1, 1982.)

Mr. STEVENS. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. HATFIELD. Mr. President, the committee of conference met yesterday on House Joint Resolution 599, the continuing resolution for fiscal year 1983. Even though the Senate brought to the conference 100 amendments to the House-passed measure, we were able to complete our work in relatively short order and reach an acceptable agreement. All 28 Senate conferees signed the conference report, and only 1 of the 21 House conferees did not. That near-unanimous support is a demonstration that we have a sound product. We should deal with it expeditiously and send it on to the President to be signed into law. There is no doubt in my mind that the President will do so. We have an official statement of administration policy indicating there is no objection to this joint resolution as an interim spending measure.

So that we can move along quickly on this continuing resolution, I will be brief in summarizing the major actions of the conference. On the matter of defense spending, the conference agreed to a level of $228.7 billion in obligational authority, considerably more than the current level proposed by the House and only a few billion dollars below the amount recommended by the committee in its reported version of the fiscal year 1983 defense appropriations bill. On foreign assistance, the conferees agreed to a spending rate at the current rate or the budget request, whichever is lower, which was the position of the House. This will reduce foreign assistance funding below the level the Senate would prefer, but only for the duration of the resolution.

For military construction, the conferees agreed to set the spending rate at the level provided in the conference agreement on that bill, filed yesterday in the House, instead of the "lower of" formula originally proposed by the Senate. Since the HUD-independent agencies bill was signed into law yesterday, it was dropped out of the CONGRESSIONAL RECORD entirely. For energy and water appropriations, the conferees agreed to the Senate position of current rate, and the legislative bill, with Senate items included, was made effective for the full year.

These were the principal results of the conference relative to spending rates. Rather than attempt to relate the conferees' action on each of the 100 amendments, I will wait and respond to Senators' specific questions as they arise.

Finally, the conferees changed the expiration date of the resolution from December 22 as proposed by the Senate to December 17, which is a Friday. I hope this will allow us sufficient time to move regular fiscal year 1983 bills when we return from the post-election session.

Mr. President, the military construction measure has already been passed, so we have only 11 of the 13 bills to do during the lameduck session.

I yield to my distinguished ranking minority member, who has been a stalwart in these rather tedious days in getting this conference report completed. I appreciate very much his support.

Mr. PROXMIRE. Mr. President, the conference report we have before us today is a very complex piece of legislation, and the chairman of our Appropriations Committee, the distinguished Senator from Oregon (Mr. HATFIELD) deserves a great deal of credit for handling 50 or 60 amendments on the Senate floor and in conference over 22 hours. We would have been here into next week, in my judgment, if it were not for his expeditious and fair handling of all these amendments.

I recognize the fact that the continuing resolution does not meet all the problems that have been created by our inability to pass 1983 appropriations bills. This would have been impossible. But I do believe that on balance the conferees and the resolution did about as good a job as they could be expected to do and hope we will move to pass the resolution quickly so that the normal operations of the Federal Government can resume as soon as possible.

We should recognize that it has been almost 24 hours that the agencies of

our Government have been without official funding. So we must move and move fast.

Mr. President, I yield the floor.

Several Senators addressed the Chair.

Mr. STENNIS. Mr. President, may I have 2 minutes?

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. STENNIS. Mr. President, the conferees on House Joint Resolution 599, continuing appropriations for 1983, met yesterday and agreement has been reached. There were many important issues to be resolved, and it was essential to conclude the conference in a timely manner to insure continuation of funding for ongoing essential Government operations.

As in any conference committee, it is necessary to agree with a number of items during the negotiation process that many members do not necessarily agree with.

One item particularly is worthy of being mentioned. The conference report specifically prohibits availability of funding for initial production of the MX intercontinental ballistic missile until December 17, 1982.

Members will recall that a similar amendment was tabled during Senate consideration of the continuing resolution by a vote of 50 to 46.

I addressed the seriousness of the issue at that time, and I believe it necessary to mention once more the potential serious consequences of the conference provision relative to delaying the production of the MX missile.

S. 2951, the Department of Defense appropriations bill, 1983, includes $830 million to procure the initial five MX missiles. In addition, $158 million was included for basing and support equipment. These funds in support of the basing mode were properly "fenced" by language in the Department of Defense Authorization Act, 1983, to insure that the funds were not committed or obligated prior to a decision on long-term basing of the missile by the President on December 1, 1982.

This country has been working on the MX missile since 1974—a period of 8 years. It is a most important element of the Triad with the manned strategic bomber and the submarine-launched missile. There is little doubt concerning the capability of this missile or the improvement to our land-based ICBM force in terms of survivability and accuracy. The only question has been the proper basing mode, and this matter has been taken care of by the authorization act.

I submit the action of the conference committee could send an unfortunate signal to the Soviet Union at the worst possible time. The President is embarking on most important negotiations with the Soviet Union relative to the need to constrain further increases in nuclear arms. Strategic arms control is probably the most critical national security challenge today.

The business of negotiating a strategic arms reduction treaty with the Soviet Union is most serious. A review of our previous negotiations with the Soviet Union indicates that the only way to assure a successful conclusion is through a posture of strength and determination. In my opinion, the continued delay in producing these missiles can only be viewed from a perspective of weakness and uncertainty and will seriously undermine the President's efforts to secure a meaningful arms reduction.

Some have argued that the delay of approximately 70 days in initiating production of the missiles will not endanger the introduction to operational capability (IOC) date of 1986. Similarly, others have argued that it is improper to initiate production of the missiles when a basing mode has not been selected.

I submit that a potential delay in achieving the IOC date is very real, and there is little logic to the latter argument as we have to start the missile production now to insure this availability in 1986. The real impact is the weakening of the President's position when the START negotiations resume on October 6, 1982.

In summary, Mr. President, I believe the action of the conference committee is ill-advised. However, in the spirit of compromise, I must recommend that the conference report be adopted to insure that the essential operations of government are carried forward until the annual appropriation bills are enacted. I sincerely hope that the Defense appropriations bill for 1983 can be enacted prior to the end of this continuing resolution and a similar restrictive provision relative to the MX missile will not be required.

Mr. President, I yield the floor.

Mr. President, after a good debate night before last, we voted by a margin of four votes not to put restrictions on the amount of money that we had in the bill for production of the MX missile itself.

The main reason was that it was right on the eve of resumption of the negotiations that the President of the United States and his appointees are carrying on with reference to the possibility of achieving a meaningful arms limitation agreement.

I regret that we were unable to sustain the Senate position fully in the conference, but there are certain problems that the House conferees were confronted with. This bill is for approximately a 70-day period only. So I yield in the interest of the problem of continuing the operations of the Government. I hope it can be resolved within the 70 days. I regret that we have this question mark attached to this highly important item at this time.

Mr. President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, it is my opinion that the defense section of this continuing resolution provides what I consider to be a workable agreement on 1983 funding rates. It is far better than the severely restrained rate originally proposed by the House of Representatives, and it provides ample spending authority for the program expansion proposed by the President. It is certainly not as good as enacting a regular appropriation bill, but we have a commitment from the House of Representatives that they will return a week before Congress reconvenes and mark up the regular appropriation bill, and we are hopeful that we will be considering the full bill for 1983 fiscal year by the first week of December.

I am confident that this continuing resolution will support effective program levels for the Defense Department and avoid most of the costly, damaging disruptions until we can take up the regular bill next December.

We did find it necessary to accommodate the concerns of the conferees on the item just mentioned by the Senator from Mississippi, the MX missile procurement, and one of the two nuclear-powered aircraft carriers.

However, the funding limitation is only on new procurement of the MX and on the second carrier until December 17 without any further condition. I wish to point that out.

I have heard the comment from the Senator from Mississippi that the Senate did vote against a concept of not starting the MX. What we have done is to preserve until December 17 the option of the House of Representatives to bring us a bill and state its position on the MX. We have not fenced the MX. We have not stopped the MX. We have not taken action contrary to what the Senate did.

We were faced with the position from the Appropriations Committee in the other body that they had not had a chance to review the MX procurement in the House of Representatives and that they wanted an opportunity to review it before they agreed to our decision to fund it as is reported to the Senate in our appropriation bill.

Now I am told that the Air Force has indicated this will not create any program slowdown on the MX.

The agreement on the carrier I think keeps alive the two-carrier option that will save more than $750 million in construction cost by assuring the continued long-lead time procurement and initial production for the first carrier.

Mr. President, there are some questions about wide-bodied transport procurement, and I wish to settle that. I think the Senator from Georgia here has asked me the question, What is the situation on the C-5B and the B-1 which were suggested to be the items that were specifically stated to be solved and not be subject to any go-

ahead on procurement until the end of this continuing resolution or until the date that the new 1983 fiscal appropriation bill is enacted into law.

We rejected any stop on the C-5B and the B-1 and the House of Representatives has agreed with us that the only specific delay is on the one carrier and on the MX procurement.

I call the attention of the Members who wish to look at the managers' report to the statement that is contained on page 13 which reads as follows:

The managers were of the opinion that a more complete program list of funding prohibitions should not be included, therefore allowing needed flexibility for both the Congress and the Executive Branch. However, the managers direct the Department of Defense to consult with the Appropriation Committees of Congress on any funding decisions where there is a question as to the propriety of proceeding with such funding during the operation of this continuing resolution.

Mr. President, it was specifically agreed with regard to the C-5B and those items that were funded in the 1983 bill and whether these new higher levels would be allowed to continue. The C-5B would be permitted, in my judgment, and any other item that was funded in 1982 would be able to continue at the new level subject to the reduction that is prescribed in the Senate-reported Defense bill.

There are many items that are covered by that. We did not have a complete list of prohibitions. It is my opinion that the wide body procurement of the 747's using moneys that were authorized and appropriated in 1982 can continue and that the only thing unfortunately that did not come through was the decision of the Appropriations Committee to accelerate funding of the R&D on the C-17. That is a new decision and unfortunately, but there is prior money for the C-17 until we get the regular appropriations bills.

I am hopeful that it will be the decision of Congress that the C-17 will be funded. But I wish the record to be clear that while there is nothing in this bill that was stated specifically in the conference report for the C-17, there is the stated flexibility I mentioned earlier.

I invite other members of the Appropriations Committee to confirm it, and I remind the Senate that I opposed C-5B production, but I wish to make sure in the interest of fairness that everyone understands that there is no restriction on the funding of the C-5B under this continuing resolution. Nor is there any restriction on spending the existing money for wide-bodied aircraft procurement. That is not completely approved yet for the full purchase of the wide bodied. But I do hope that that statement in the RECORD will satisfy my good friend from Georgia and that there will be no question as to the C-5B.

I say to the chairman if there are any questions concerning our section I shall be happy to answer them.

I strongly urge the support of this continuing resolution, although I have rather severe feelings about any delay in the MX, even a delay until December 17.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. ARMSTRONG. Mr. President, I note with dismay that the committee on conference was not able to sustain a Senate amendment which I offered related to the community services block grant program, and I fear that the action of the conferees did not fully take into account the consequences for some 14 States that will, if the conference action is sustained, be preempted. The States involved, and I invite the attention of the Senators from these States because I expect they will be hearing rather promptly about it, are Arizona, Ohio, Georgia, Texas, Illinois, West Virginia, Missouri, Wisconsin, Alabama, Pennsylvania, North Carolina, Washington, Utah, Montana, and of course Colorado.

The background of it is this: The 1981 Reconciliation Act instructed the States to pass through community services block grant moneys for fiscal year 1983 to local political subdivisions; that is, to counties and States. Fifteen States which I have just mentioned have moved to comply with the current law by submitting plans to the department which involves passing the money through to the political subdivisions. Most of the planning has been devoted to developing these plans. Some States passed laws to provide various forms of enabling legislation pursuant to the Reconciliation Act.

Mr. President, with that in mind, I was surprised when I learned that the Appropriations Committee had reported in the continuing resolution section 135 of the continuing resolution which reversed the decision of the Reconciliation Act and in doing so brought to the floor a provision which clearly was legislation on an appropriations bill which was contrary to the authorization statute which was opposed by the administration, was opposed by the chairman of the authorizing committee and was opposed by the chairman of the subcommittee.

Therefore, I offered an amendment which said simply this, that this preemption contained in section 135 would not be effective with respect to those States which had submitted plans to the department prior to the start of the fiscal year, in other words, rather than having the money pass through as section 135 suggested for all States that at least those States which had complied with the law would be permitted to go forward.

For reasons which are simply not clear to me at all the conference committee did not go along with the Senate amendment. My initial disposition was to offer an amendment to the conference report, and it is my understanding that such an amendment would, in fact, be in order on some of the amendments which are brought back in disagreement. I am not so sure I am going to do that, and I simply call this to the attention of the Senators from the 15 States involved and to ask what they would like to do about this.

For my part, I have determined that Colorado will be able to receive the money notwithstanding the action of the conference committee. But legal counsel advises that is not true for all of the States involved. At least one State has come to my attention in which the State legislature has acted in reliance on the provisions of the 1981 reconciliation, and has done so in a way which in the opinion of counsel will make it impossible for them to receive money under either system. That is the system outlined in the 1981 Reconciliation Act or the system now contained in section 135 of the bill.

I seriously doubt if it was the intention of the conferees to create this catch-22 situation, but for that matter I cannot understand why the conferees would desire to preempt the States, overrule the action of the Senate, which was not controversial in the first place.

So, Mr. President, let me just state my own position, and then I leave it to the decision of other Senators as to what they would like to do.

First, I think the Senate was right in the amendment we adopted. Second, at some point in time, either tonight or the next time we have a continuing resolution before us, I intend to again introduce an appropriate amendment. Third, I have determined that my own State, while it will be inconvenienced, will not lose any money as a result of the action of the conferees. Fourth, I am advised by legal counsel that other States are not so fortunate and, in fact, will lose their funding altogether by the action of the conferees.

If anybody wants to know whether or not his State is one of those which may be in such a situation I will be happy to consult with him privately.

Mr. SCHMITT addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. SCHMITT. It is my disappointment that the Senator's amendment could not be sustained by the Senate conferees. The House was absolutely insistent that we recede on that point and, as the Senator knows, in any continuing resolution if one body wants to be absolutely insistent, usually it gets its way.

Now, I would say though in response to the Senator's suggestion that there may be some States that would not receive their funds as a result of existing State law, it is my understanding that other counsel believe that the money can in fact be passed to the Governor so long as it passed through directly to the individual community actions agencies, and the Governor can adhere to whatever requirements he or the

legislature may set so long as the money is passed through.

This is conceivably going to be a battle of lawyers on this issue, but it is the subcommittee's, at least, present opinion that no State need run into a problem so far as the funds are concerned. One State, and I believe the Senator has that in mind, does have a statute that requires the money to go to the counties. This statute would preempt that. The Governor still would get the money. It would have to go to the agencies, although he could apply the same restrictions as the counties might apply.

I would also remind the Senator from Colorado that we will revisit this issue on the regular bill, where I have made a commitment to my chairman, the House, and everyone, we are going to do something about having a regular bill on the floor of the Senate. I cannot make a commitment when the Senate works its will and the conference then works its will that the President will sign the bill for Labor, Health and Human Services and related agencies, but we are sure going to give it a try.

We can, if it turns out in the intervening time that the final judgment of the appropriate counsel, whoever they may be, is that certain States cannot receive this money we will certainly take that into account and do something about it.

Our current information is that no State need be deprived of the money, there may be a problem under State law or because of the preemption of State law of going directly to the counties as the State law might provide.

Mr. ARMSTRONG. Mr. President, if the Senator will yield to me——

Mr. SCHMITT. I would be happy to yield.

Mr. ARMSTRONG. I wonder if he would tell us who the legal counsel is who has given this assurance?

Mr. SCHMITT. The legislative counsel.

Mr. ARMSTRONG. Mr. President, I am reassured to know that and, for the record, let me just state the concern which I have expressed comes to me from Don Heirch, who is the associate general counsel for legislation in HHS. Lawyers make a living by disagreeing, but it is my understanding that one or more States, I know of one specifically and maybe others, have passed a statute saying that these funds have to be distributed in a certain way.

I do not see myself—I am not a lawyer, but I do not see myself—how a Federal statute can preempt that other than to simply establish the conditions under which a grant may be received.

So it does appear to me that at least there is a potential catch-22.

My initial interest in this, however, does not arise from the legal considerations but from a policy issue. We wisely in the 1981 Reconciliation Act established a new system for distributing these block grants. A number of States, 15 of them, went along with that and moved to comply with the law, and then at the 11th hour and 59th minute we turned around and have preempted it. So for policy reasons at the right moment I am going to offer an amendment. In the meantime, it would be my hope that no State is seriously inconvenienced or has its funds cut off, and the Senator's assurance proved to be well founded.

Mr. SCHMITT. I appreciate the Senator's comments. Yes; he is correct that legal counsel are bound to argue with each other apparently, but the legislative counsel of the Senate feels very strongly that the language in this bill does preempt State law and that the money would flow to the Governor and then to the individual community action agencies.

If that proves not to be the case, and even if it does, we will be looking at this very hard in the regular bill. The Senator has brought it to our attention, and we appreciate that very much, and we will resolve it one way or the other.

I would also say that the Senator from New Mexico as the chairman of the subcommittee is equally concerned about the policy implications and the primary reason we even address this issue with the 90-percent passthrough provisions in the Senate bill and then amended by the Senator from Colorado was because the States, for the most part, had not been able to use the fiscal year 1982 as the transition period for which it was intended, and we felt that one more year of transition—and it turns out in this case a couple months more of transition—and we assume that this may be continued in the regular bill to include one more year of transition—is important to make sure the States are fully prepared to assume the responsibility previously exercised by the Federal Government.

Mr. ARMSTRONG. Mr. President, I thank the Senator and I appreciate his interest in the problem and I trust we can work it our at an appropriate moment.

Mr. SCHMITT. I have all the confidence in the world we can work it out.

Mr. DANFORTH. Mr. President, I would like to address an inquiry to the distinguished Senator from North Dakota (Mr. ANDREWS) who is chairman of the Transportation Subcommittee of the Appropriations Committee.

As the Senator knows, we included in the bill here in the Senate a provision relating to ADAP, and the thrust of the provision was to make things that were unused or specific purposes under the ADAP program available to the Secretary of transportation for his discretinary fund. It was the purpose of the Senator from Missouri in offering this amendment to make available some further discretionary funds for use in the construction work now being done at Lambert-St. Louis International Airport.

I wonder if the Senator from North Dakota could explain to the Senate the intent of the conferees in including this provision in the conference report.

Mr. ANDREWS. Mr. President, if the Senator would yield, let me point out that, obviously, this provision was introduced as an amendment by the Senator from Missouri (Mr. DANFORTH), with the intent that it would provide the Department of Transportation with sufficient discretionary funds to make an $18 million grant to Lambert-St. Louis International Airport for modernization and expansion. The committee accepted the amendment and, in fact, it was the Senator from Missouri who offered it. We recognized the importance of the Lambert project to our national air transportation system.

The minor modifications made to Senator DANFORTH's original language during the House-Senate conference on this bill in no way reflect any change in the intent of purpose of Senator DANFORTH's provision. Rather, they are perfecting amendments made by the conferees in an effort to better accomplish the goals of the Senator from Missouri.

The upgrading of Lambert is, indeed, a national priority. It is fair to say that the conferees recognized the special circumstances surrounding the Lambert expansion and agreed that the availability of these new discretionary funds will give DOT the ability to provide meaningful help.

The PRESIDING OFFICER (Mr. CHAFEE). It is very difficult to hear the speaker. Will the Senate please be in order so that we might hear the colloquy being exchanged? It is necessary that we keep the noise down because this is very important and all Senators wish to hear it.

Mr. ANDREWS. I thank the Chair.

It is fair to say, Mr. President, that the conferees recognized the special circumstances surrounding the Lambert expansion and agreed that the availability of these new discretionary funds put in by Senator DANFORTH's amendment will give DOT the ability to provide meaningful help to Lambert officials in finishing this project—the largest airport improvement project in the Nation—as expeditiously as possible.

Mr. DANFORTH. I thank the Senator from North Dakota for his explanation.

Mr. MATHIAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. MATHIAS. Mr. President, I am wondering if the managers of the resolution would yield for a question.

Mr. HATFIELD. Mr. President, I am happy to respond.

Mr. MATHIAS. Mr. President, I have not seen a copy of the conference report. I am advised they are not avail-

able. But I am told that the conferees receded to the amendment of the Senator from Alaska (Mr. STEVENS), which deleted the garnishment provision for Federal employees' pay. I am wondering if the managers could advise the Senator whether or not that is accurate.

Mr. HATFIELD. That is correct. I would say to the Senator from Maryland.

Mr. MATHIAS. If Federal pay can be garnished, can the managers tell us under what conditions they could be garnished?

Mr. HATFIELD. Mr. President, let me refer to page 24 of the bill, line 21.

as determined by a court of the United States in an action or suit brought against such employee by the United States, the amount of the indebtedness may be collected in monthly installments, or at officially established regular pay period intervals, by deduction in reasonable amounts from the current pay account of the individual. The deductions may be made only from basic pay, special pay, incentive pay, or, in the case of an individual not entitled to basic pay, other authorized pay. Collection shall be made over a period not greater than the anticipated period of employment.

Mr. MATHIAS. Mr. President, I am wondering if the managers can tell us, can a Federal worker's pay be garnisheed if a judgment is rendered against him in some lower court, or does it have to be carried through to appeal and final judgment by the ultimately court of appeals, ultimatley by the Supreme Court?

From what the Senator has read, I would assume that the minute a judgment was obtained, someone in the Government, it is not quite clear who, but someone could simply send an order down to the paymaster of that particular employee's shop and say, "Cut off his water."

Mr. HATFIELD. I think the Senator is probably correct. If there is a judgment rendered, until that judgment is either appealed or not appealed, it would be very difficult to make a blanket prediction of what would happen.

Mr. MATHIAS. Suppose it was on appeal?

Mr. HATFIELD. But once a judgment was re dered by a court, I would imagine that the employing authority, if that judgment by that lower court is on appeal, would withhold any action until that appeal is settled. I think it would be a matter of just the reasonable men doctrine applying there.

Mr. MATHIAS. I think the Senator from Oregon is a reasonable man. I think it is important he say that in this proceeding because that is not what the resolution says. The resolution says if a court renders a judgment.

Mr. HATCH. I think the background of this is we wanted it to be an action by the court after an appropriate hearing rather than by an arbitrary action by, say, an agency director.

Mr. MATHIAS. As the Senator knows, you do not normally execute on a judgment or attempt to levy on a judgment unless there is some procedure for execution.

The PRESIDING OFFICER. Could we please have quiet in the Chamber? There are innumerable conversations taking place. Will those conversations please take place in the cloakroom? It is very difficult to hear the colloquy. Would those Senators who are conversing please move to the cloakroom? This is an important colloquy in which both Senators and others are interested.

Mr. HATFIELD. Let me say to the Senator, we are on a continuing resolution that has a life expectancy of December 17. The regular Treasury appropriation bill will give us an opportunity at that point to define that more clearly without any question remaining. But I do believe that we can say at this point that the number of judgments that might be rendered in this period of time between now and December 15 or 17 would be probably very improbable or very few. But, let me indicate that what we want to make clear is that this would have to be rendered by an action after a hearing by a court of law and thereby set that court into a mediating or a judgment role rather than this being determined purely by the employing authority.

Mr. MATHIAS. My concern here is that there is no provision for any kind of a garnishing proceeding or executing on the judgment in which the employee would even have notice that his pay was about to be docked.

Mr. STEVENS. Will the Senator yield?

Mr. MATHIAS. Surely.

Mr. STEVENS. Mr. President, it was my amendment that deleted the House provision that originally started this concept. And we had hoped the House would accede to that request that we approach this in a different manner, because it appears to place on Government employees, because of their employer, the Federal Government, a different relationship than employers in the private sector or non-Government sector would have on their employers. And it gives the Federal Government, as an employer, an extra advantage, you might say, over any debt that is owed by the employee to withhold from wages.

It has to be under a decision of the district court but it does seem that ought to come about as a result of an overall statute dealing with debt owed to the Federal Government and not just in the particular case of debt owed to the Federal Government by employees.

But the House refused to accede. I do agree with the chairman. Again, I see nothing in this that makes it permanent law. It is governed by the continuing resolution date, is it not? Is this continuing law?

Mr. HATFIELD. No, it is not. I would say to the Senator from Alaska. We do have the opportunity to supersede this action by the passage of a bill we could take up in the lameduck session.

Mr. STEVENS. May we have order?

The PRESIDING OFFICER. The Senator's point is well taken. It is very difficult for those participating and others in the Chamber to hear. Will the staff in the back of the room and others desist in the talking and repair to the cloakroom if they wish to converse?

The Senator from Alaska.

Mr. STEVENS. Mr. President, I have been directed, because of the initial language of this amendment that says notwithstanding any other provision of the joint resolution, which would include the provision that sets the date, to say that this language could, then, extend beyond December 15 and it makes it imperative that we either correct in the regular appropriations bill or in the next continuing resolution.

I will state to my friend from Maryland that, as chairman of the Subcommittee on Civil Service and Postal Services, I will ask my staff to prepare an amendment to restore the same protections for Government employees that exist throughout the economy with regard to debts owed to employees in general.

As I understand it, the House has acted on it and the item has been restored with the original House amendment. It is not in disagreement with the House, but they have refused to accept the amendment of the Senate. Is that correct?

Mr. HATFIELD. That is correct. I will join with the Senator from Alaska and the Senator from Maryland in saying that this matter will be urgent priority in our committee session.

Mr. MATHIAS. I thank the Senator. As a member of the Civil Service Subcommittee, I will keep in mind his enthusiastic support. As this resolution stands, there is a denial of due process to a substantial number of American citizens. I think that is a situation that needs to be rectified.

Mr. HATFIELD. May we say that for at least whatever role legislative history might play, we want to make certain that it is not the intent of the committee or the conference to do that which the Senator has raised. I think with appropriate language it can be taken care of and nailed down.

Mr. MATHIAS. It should be nailed down. There is no reason why honest mistakes should not be corrected but it should be done in accordance with the established procedures of law.

The PRESIDING OFFICER. The Senator from New Mexico.

CORRECTION OF THE PERMANENT RECORD REGARDING AMENDMENT 1330

Mr. SCHMITT. Mr. President, a statement by the distinguished Senator from Kansas, Mr. DOLE, was inadvertently omitted from the RECORD of Wednesday, September 29, 1982.

The statement, which is being submitted again today for printing in the

RECORD, deals with amendment No. 1320, related to a provision in the continuing resolution. The amendment concerned the payment of prior years claims under the Social Security Act programs.

I ask unanimous consent that the statement of the Senator from Kansas be printed in full, and made a part of the permanent RECORD of Wednesday, September 29, 1982.

The PRESIDING OFFICER. Without objection, it is so ordered.

The correct statement follows:

Mr. DOLE. Mr. President, the Senator from Kansas wishes to express his support for the compromise worked out with respect to payment of prior year claims under the Social Security Act programs.

The agreement, which prohibits payments for these claims during fiscal year 1983, does not in any way attempt to prejudice the pending court cases, nor does it attempt to change the policy set by the Senate Finance Committee, and the Senate in 1979. Nor does it question the validity of the claims. While recognizing the concern of the Department of Health and Human Services and the concern of the Appropriations Committee regarding the expenditure of funds, this Senator does not wish to prohibit the States from realizing the payments in the future for legitimate claims, if the courts so find.

This compromise leaves the decision with respect to scheduling of outyear payments, if they are to be made, to the Senate Finance Committee. This is reasonable given our responsibility for these programs.

Mr. ROBERT C. BYRD. Mr. President, once again we are faced with the necessity of passing a joint resolution to continue the operation of the Federal Government. Only one appropriation bill, the HUD-independent agencies for fiscal year 1983, which includes funding for veterans programs, has been sent to the President at this time. Without this continuing resolution, the functions of all those agencies not funded in the HUD bill would terminate on September 30, 1982. We witnessed the disruption that such a termination can cause last November when the President vetoed the continuing resolution and temporarily closed Government offices. That disruption in service to the American people was neither efficient nor practical. I sincerely hope that such a situation will not be repeated this year.

Passage of this continuing resolution will permit the ongoing operations of many programs which are important to the people of West Virginia. This resolution provides continued funding for rural housing loans, social security payments, black lung benefits, and assistance to unemployed workers as well as jobs for older Americans. The resolution also continues operations of the locks and dams on the Monongahela, Ohio, and Kanawha Rivers, a system of waterways essential to the transportation of coal and for other commerce. Construction on the Weirton-Steubenville and East Huntington Bridges as well as flood control projects on the Tug Fork will continue under this resolution. The Elkins weather station and the Cardinal passenger train are among other items which are supported. The resolution also insures that operations in the Monongahela National Forest and Harpers Ferry National Historical Park, including the police force, will be maintained at current levels.

I am pleased to note that this resolution also contains language requiring foreign steel imported into the United States to have an export license or similar documentation from the producing nation. This provision will permit closer monitoring and enforcement of trade agreements by the U.S. Government.

This joint resolution, which the Congress is sending to the President today, will continue all of these important matters until December 17, 1982. The Congress will return in November to resume work on the remaining appropriation measures.

Mr. KASTEN. Mr. President, the conference agreement as it affects foreign assistance can only be described an an irresponsible action, necessitated by the intransigence of the other body, and the pressures of time with the beginning of the new fiscal year.

The Senate conferees, while we receded to the House position on foreign assistance, did so only because we were running up against the deadline, and because we were dealing with a situation among the House conferees where there was no inclination to negotiate. The overall effect of this action is that foreign assistance under the continuing resolution is $2.2 billion below the current level. The Senate conferees were faced with arguments the equivalent of which are 2+2=5, and night is day. Somehow the House saw the Senate position, which totaled $11.152 billion as an increase in foreign aid, despite the fact that the current level is $12 billion.

We were also faced with arguments against the Senate position on the basis of legislation currently before the Senate Finance Committee and the House Ways and Means Committee, completely irrelevant to either the House or the Senate continuing resolutions. Unfortunately, we have faced similar situations in the past, although this time seemed to be worse, and it does not bode well for the future of U.S. foreign policy, especially as it is reflected in the very important foreign assistance and related programs appropriations bill.

Until rational and reasonable forces take control on this issue in the House, I am afraid we will be in for further editions of what happened yesterday. My very distinguished ranking member, the senior Senator from Hawaii, and I will continue in a bipartisan manner to try and provide the United States with a coherent and adequate foreign assistance policy.

Let me detail a few of the results of the House insistence on its position:

Funds for UNICEF—programs helping women and children—will be cut by 37 percent.

The United Nations Development Program—probably the primary United Nations program of interest to the United States—will be cut by 17 percent.

American schools and hospitals abroad program—of interest to many Members—will be cut by 63 percent.

The $50 million that would have been made available for Lebanon reconstruction and rehabilitation is out completely.

The Peace Corps, which for 20 years has received bipartisan, conservative and liberal support, will be cut by 7 percent.

The Inter-American Foundation, a creature of Congress and probably the best single development assistance program we fund, will be cut by 12 percent.

The military assistance programs, going to such countries as Greece, Portugal, Spain, Turkey, Jordan, Yemen, Egypt, Israel, Morocco, Pakistan, Liberia, Senegal, the Sudan, Zaire, the Philippines—will be cut by 12 percent.

And the Eximbank, again an item with wide bipartisan and philosophical support, will be cut by 13 percent.

COMMUNITY SERVICES BLOCK GRANT

Mr. DENTON. Mr. President, as chairman of the Aging, Family and Human Services Subcommittee, which authorizes the community services block grant, I join my colleague from Colorado in expressing dismay at the reinstatement of section 135 of the continuing resolution, which instructs States about the disbursement of CSBG money.

My colleagues may recall that the Senate Appropriations Committee added language to the original House resolution mandating that States pass 90 percent of their CSBG allotment to already existing Community Action agencies for fiscal year 1983. This is absolutely contrary to the authorizing language for the CSBG as contained in the Budget Reconciliation Act passed last year, which instructed States to pass money down to political subdivisions (counties and cities) in fiscal year 1983. I object to this practice of legislating on an appropriations bill because it usurps the responsibility of the authorizing committee and undermines the intent of block grant legislation.

As Senator ARMSTRONG points out, several States, including Colorado, drafted plans that conform to the reconciliation statute. Some States even passed laws that governed disbursement of the block grant funds. Many of these plans and laws would be overturned by this 11th hour change, and all the money spent for the months of planning completely wasted.

Senator ARMSTRONG and I proposed on Wednesday what we believed, and apparently the entire Senate believed, was an equitable compromise. It granted more time to States that are not quite ready to assume control of the block grant, while at the same time, allowing those States that have drafted plans to proceed with implementation without delay. The amendment passed by unanimous consent, and Senator SCHMITT, chairman of the HHS Appropriations Committee stated his support for it. No Senator objected to the amendment, and for good reason. It addresses the concerns of States that have not had experience with administering the block grant, and it does not penalize those States like Colorado and Utah that labored long and hard to conform to Federal law.

Mr. President, it appears that the reinstatement of the restrictive language will preclude at least one State, Montana, from receiving CSBG funds because their State law mandates distribution of money to counties. The State will not receive any money until the State legislature enacts conforming legislation, and the poverty community will suffer.

Mr. President, this is an example of what happens when the Congress abruptly changes course at the last moment possible. This provision has not had the benefit of close scrutiny, with the result that many States have been penalized for their hard work and at least one State has been shut out completely by virtue of complying with the authorization statute.

I emphasize again that the Armstrong amendment, which significantly altered the original Senate language, passed by unanimous consent. To drop this amendment in conference binds the Senate to the very language that was repudiated by this body on Wednesday. This makes no sense whatsoever.

By dropping the amendment, we have handed the States a serious setback and retarded unnecessarily the implementation of the community services block grant.

Mr. MATTINGLY. Mr. President, as chairman of the Appropriations Subcommittee on the Legislative Branch, I want to be sure my colleagues know what this continuing resolution means for the legislative branch.

The message is a mixed one. On the positive side, I am very proud of the funding record of the subcommittee. The conferees have agreed to a funding level for the legislative branch, including independent agencies such as the Library of Congress, the Government Printing Office, and the General Accounting Office, of approximately $1.336 billion. Compare this to the President's budget request of $1.410 billion, and the fiscal year 1982 total of $1.365 billion. We are $75 million under the President's request, and $30 million under the fiscal year 1982 level. Even if compensation accounts are included which were contained in last year's totals but are now subject to a permanent appropriation, we would still be $75 million under the President's request. And costs of the legislative branch would rise only $6 million from last fiscal year to this—less than one one-hundredth of 1 percent.

Mr. Speaker, the Senate has borne its share of the effort to hold down Federal spending. Of the 17 accounts which fund the salaries of Senate employees, 14 were held to the 1982 level, including supplementals. I want to express my appreciation to these offices for their cooperation.

While I am pleased with the spending totals of the legislative branch for fiscal year 1983, I am unhappy with the funding mechanism. For this continuing resolution funds the legislative branch for the entire fiscal year. As a result, for the fourth year in a row, there will not be a regular appropriation bill enacted for the legislative branch. During that hiatus, every other one of the 13 regular appropriation bills has been enacted at least once, most of them every year. In the 4 years since we have had a regular bill for the legislative branch, twice it has not been brought to the House floor, once it passed the House but was not reported by the Senate Committee, and once the bill was actually defeated on the House floor.

Clearly, Mr. President, there is a feeling that we are better off not forcing Members to vote on their own appropriations. But I feel we cheat the American people when we take the easy way out, and do not face up squarely to this issue. While the Senate receded to the House in allowing full year funding on this resolution, I would like to call to the attention of this Chamber the language used in the conference report on House Joint Resolution 599. Regarding the relevant amendment, No. 14, the conference report states "It is the intention of the conferees that fiscal year 1984 legislative branch funding will be acted upon in regular order by both Houses." Mr. President, this language clearly envisages that we will have consideration of the fiscal year 1984 legislative branch bill on the floor of both Houses. It is my intention to press for this, even if it means bringing a Senate-initiated bill to this Chamber, and passing it.

Finally, Mr. President, the legislative branch appropriation bill has become the annual vehicle for the Federal pay cap. While the balance of the legislative branch bill extends for the entire fiscal year, the pay cap provisions extend only for the duration of the continuing resolution—December 17, 1982. Because the cap covers all Federal employees, not just those of the legislative branch, I believe this is appropriate. But I want to be sure that my colleagues know that this is an issue which will have to be dealt with again later this year.

Mr. GORTON. Mr. President, I would like to make special note of an amendment to the continuing resolution which was offered by my distinguished colleague from Idaho, Senator MCCLURE, on behalf of himself, Senator HATFIELD, Senator SASSER, Senator JACKSON, and myself, and which was retained in the conference report to the continuing resolution. This amendment prohibits the funding of an administration study of the hydroelectric power pricing policies of the Federal power marketing administrations.

I was stunned to learn of this study through the press. The proposal being studied would alter the congressionally mandated policy of marketing Federal hydroelectric power at cost. It would shift this policy to a market price method of pricing. The long established policy of marketing power at cost has been reaffirmed several times by Congress, and it has never been the intention of Congress to change this policy.

The idea of raising revenues for the Federal Government by transforming Federal power marketing administrations into profitmaking organizations is foolish and completely contrary to the continuing position of Congress and the existing statutory pricing directives. Such a shift in pricing methods would have a catastrophic effect in the Northwest. My State is suffering from unemployment rates as high as 30 percent in some places, and has already been subject to recent large rate increases. A rate increase resulting from an enactment of the proposal under study would be intolerable.

I am overwhelmingly pleased that the amendment offered by my colleague and friend from Idaho has remained in the conference report to the continuing resolution, and I would like to extend my deepest thanks to Senator MCCLURE and to all those who were instrumental in the acceptance of this legislation.

Mr. HATFIELD. Mr. President, if no other Senator wishes to debate, I urge the Senate to adopt the conference report.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the conference report.

The conference report was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. PROXMIRE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, may we have order?

The PRESIDING OFFICER. The Senator's point is well taken. It is extremely difficult to hear.

The Senator from Oregon.

Mr. HATFIELD. Mr. President, I ask unanimous consent—and this has been cleared on both sides of the aisle—that

the amendments reported in disagreement be considered en bloc.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, will the clerk report the amendments in disagreement.

The PRESIDING OFFICER. The clerk will state the amendments in disagreement.

The legislative clerk read as follows:

Resolved, That the House agree to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the resolution (H.J. Res. 599) entitled "Joint resolution making continuing appropriations for the fiscal year 1983, and for other purposes."

Resolved, That the House recede from its disagreement to the amendments of the Senate numbered 83, 85, and 86 to the aforesaid resolution, and concur therein.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 15 to the aforesaid resolution, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert *"Provided*, That notwithstanding the foregoing provision of this paragraph and notwithstanding any other provision of this joint resolution, such amounts as may be necessary for projects or activities provided for in the Military Construction Act, 1983 (H.R. 6968), at a rate for operations and to the extent and in the manner provided for in the conference report and joint explanatory statement of the committee of conference as filed in the House of Representatives on September 30, 1982, as if such Act had been enacted into law".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 30 to the aforesaid resolution, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert "moneys deposited into the National Defense Stockpile Transaction Fund under section 9(b) of th strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h (b)) are hereby made available, subject to such limitations as may be provided in appropriation Acts and in section 5(a)(1) of such Act, until expended for the acquisition of strategic and critical materials under section 6(a)(1) of such Act (and for transportation and other incidental expenses related to such acquisition). This paragraph applies without fiscal year limitation to moneys deposited into the fund before, on, or after October 1, 1982: Provided, That during the fiscal year ending on September 30, 1983, not more than $120,000,000 in addition to amounts previously apropriated, of which not to exceed $85,000,000 shall be available only until the termination of this joint resolution for the purchase of domestic copper mined and smelted in the United States after September 30, 1982, may be obligated from amounts in the National Defense Stockpile Transaction Fund for the acquisition of strategic and critical materials under section 6(a)(1) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98e(a)(1)) and for transportation and other incidental expenses related to such acquisition."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 33 to the aforesaid resolution, and concur therein with an amendment as follows:

Strike out the matter stricken, and insert:

SEC. 114.(a)(1) Funds provided by this joint resolution for costs to continue the implementation of provisions contained in the District of Columbia Statehood Constitutional Convention Initiative (D.C. Law 3-171) shall be applied first toward ensuring voter education on the proposed constitution by (A) printing, by the Statehood Commission, of the proposed constitution together with objective statements both for and against its provisions as expressed by the Convention delegates taking such positions, (B) mailing of this information to the registered voters of the District of Columbia by October 22, 1982, and (C) preparing for publication as a public document a comprehensive legislative history of the proposed constitution.

(2) None of the funds provided by this joint resolution may be used to pay for the publication of any information or materials by the Statehood Commission which fail to present objective arguments for and against the provisions of the proposed constitution.

(b) Notwithstanding section 102, the paragraph under the heading "LOTTERY AND CHARITABLE GAMES ENTERPRISE FUND" in the District of Columbia Appropriation Act, 1982 (Public Law 97-91; 95 Stat. 1175) is amended—

(1) in the second proviso, by striking out "payments of prizes" and inserting in lieu thereof "payment of fees to ticket agents, fees to contractors supplying gambling paraphernalia or services, and prizes";

(2) in the third proviso, by striking out "payments of prizes" and inserting in lieu thereof "payment of such fees and prizes";

(3) in the fourth proviso, by striking out "prizes and administration of the Board shall not exceed resources available to the Board from appropriated authority or revenues" and inserting in lieu thereof "administration of the Board shall not exceed resources available to the Board from appropriated authority: *Provided further*, That the annual expenses for fees and prizes shall not exceed revenues"; and

(4) in the fifth proviso, by striking out "for prize money" and inserting in lieu thereof "for fees and prize money".

(c) Notwithstanding any other provision of this resolution, the Superior Court of the District of Columbia may continue to operate the Volunteer Attorney Program and the Community Workers Program, and may implement the hearing authority. Upon passage of the fiscal year 1983 appropriation Act, full year program funding will be available to pay, retroactively, for program services performed on or after October 1, 1982.

(d) The Washington Convention Center may proceed at an annual rate of operation which does not exceed $5,275,000.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 57 to the aforesaid resolution, and concur therein with an amendment as follows: In lieu of the section number 125 named in said amendment, insert "129".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 59 to the aforesaid resolution, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

SEC. 131. Sections 308(g) and 308a(c) of title 35, United States Code, are amended by striking out "September 30, 1982" and inserting in lieu thereof "December 17, 1982".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 69 to the aforesaid resolution, and concur therein with an amendment as follows: In lieu of the section number "137" named in said amendment, insert: "140"

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 73 to the aforesaid resolution, and concur therein with an amendment as follows: In lieu of the section number "141" named in said amendment, insert: "143"

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 75 to the aforesaid resolution, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

SEC. 145. Notwithstanding any other provision of this joint resolution, the head of any department or agency of the Federal Government in carrying out any loan guarantee or insurance program shall enter into commitments to guarantee or insure loans pursuant to such program in the full amount provided by law subject only to (1) the availability of qualified applicants for such guarantee or insurance, and (2) limitations contained in appropriation Acts.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 76 to the aforesaid resolution, and concur therein with an amendment as follows: In lieu of the section number 144 named in said amendment, insert: "146".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 78 to the aforesaid resolution, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

SEC. 147. Notwithstanding any other provision of this joint resolution or any other provision of law, appropriations for urban and nonurban formula grants authorized by the Urban Mass Transportation Act of 1964 (49 U.S.C. 1601 et seq.) shall be apportioned and allocated using data from the 1970 decennial census for one-quarter of the sums appropriated and the remainder shall be apportioned and allocated on the basis of data from the 1980 decennial census.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 88 to the aforesaid resolution, and concur therein with an amendment as follows: In lieu of the section number 156 named in said amendment, insert: "155".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 89 to the aforesaid resolution, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

SEC. 156. Notwithstanding any other provision of this joint resolution, there is appropriated $518,000,000, to remain available until expended, for Department of Transportation Interstate Transfer grants—Highways, and $365,000,000, to remain available until expended, for Department of Transportation Interstate Transfer grants—Transit: *Provided*, That allocations of these funds shall be distributed in accordance with House Report 97-783 or Senate Report 97-567, whichever is higher.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 90 to the aforesaid resolution, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

SEC. 157-158. Since the United States Congress established the Social Security system in 1935 to provide for the general welfare by establishing a system of Federal old-age benefits; and

Since Medicare was made part of the Social Security system by Act of Congress in 1965 to provide for the general welfare through a system of health benefits for the aged; and

Since Medicare is an insurance program in which working Americans contribute their Social Security payroll taxes and in which the elderly and disabled pay health insurance premiums in order to receive health benefits promised under this insurance plan; and

Since proposals to limit eligibility for Medicare health benefits to lower-income persons would profoundly alter the character of health insurance for the aged and disabled by removing the insurance principle from the Medicare program.

It is the Sense of the Senate that the Congress should reject any proposal to impose a "means test" on eligibility for the Medicare program or benefits provided by the Medicare program.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 93 to the aforesaid resolution, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

SEC. 161. Section 2 of the International Coffee Agreement Act of 1980 (19 U.S.C. 1356k) is amended by striking out "October 1, 1982" and inserting in lieu thereof "the expiration of this joint resolution".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 100 to the aforesaid resolution, and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert:

SEC. 167. Section 508 of the Airport and Airway Improvement Act of 1982 is amended by adding at the end thereof the following new subsection:

"(e) USE OF CERTAIN APPORTIONED FUNDS FOR DISCRETIONARY PURPOSES.—(1) Subject to paragraphs (2) and (3), if the Secretary determines, based upon notice provided under section 509(e), or otherwise that any of the amounts apportioned under section 507(a) will not be obligated during a fiscal year, the Secretary may obligate during such fiscal year an amount equal to such amounts at his discretion for any of the purposes for which funds are made available under section 505.

"(2) The Secretary may make obligations in accordance with paragraph (1) only if the Secretary determines that the total of obligations for such fiscal year for purposes of section 505 will not exceed the amount authorized for such fiscal year under section 505(a) and if the Secretary determines that sufficient amounts are authorized under section 505(a) for later fiscal years for obligation for such apportioned amounts which were not obligated during such fiscal year and which remain available under section 508(a).

"(3) For the purposes of carrying out this subsection—

"(A) None of the funds provided in the joint resolution providing continuing appropriations for the fiscal year 1983 shall be available for the planning or execution of programs the commitments for which are in excess of $1,050,000,000 for the two fiscal years ending prior to October 1, 1983, for grants-in-aid for airport planning, noise compatibility planning and programs, and development; and

"(B) Section 506(e)(4) of this Act shall not in any manner whatsoever impair the limitation established by this paragraph."

Mr. HATFIELD. Mr. President, I move that the Senate concur in the amendments of the House to the amendments of the Senate.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendments in disagreement were agreed to.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORIZING CORRECTION IN THE ENROLLMENT OF HOUSE JOINT RESOLUTION 599

Mr. HATFIELD. Mr. President, I have one post-measure to handle. I urge the adoption of House Concurrent Resolution 420 instructing the House enrolling clerk to make technical corrections in House Joint Resolution 599.

The PRESIDING OFFICER (Mr. CHAFEE) laid before the Senate, House Concurrent Resolution 420, authorizing that a certain correction be made in the enrollment of House Joint Resolution 599, making continuing appropriations for the fiscal year 1983.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution (H. Con. Res. 420).

The concurrent resolution (H. Con. Res. 420) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. PROXMIRE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. Mr. President, may we have order for a brief moment?

The PRESIDING OFFICER. May we have order in the Chamber? Will those conducting conversations, please retire to the cloakrooms?

EXPRESSION OF APPRECIATION

Mr. BAKER. Mr. President, I am sure I must speak for every Member of the Senate on both sides of the aisle when I express my profound appreciation to the distinguished chairman of the Appropriations Committee and the distinguished ranking minority member of that committee for the most expeditious manner in which they handled this piece of legislation. It was done in a responsible way. It was done in a thorough way. It was done promptly.

Mr. President, there will be no more votes tonight.

Now, Mr. President, there are a number of routine matters that may be dealt with.

AUTHORITY FOR ANNUAL RATES OF COMPENSATION OF EMPLOYEES OF THE SENATE UNDER AUTHORITY OF THE FEDERAL PAY COMPARABILITY ACT OF 1970

Mr. THURMOND. Mr. President, for the record, I am submitting the order of the President pro tempore of the Senate, signed by me on October 1, 1982, effecting the authority for annual rates of compensation of employees of the Senate.

The order follows:

ORDER: U.S. SENATE, OFFICE OF THE PRESIDENT PRO TEMPORE

By virtue of the authority vested in me by section 4 of the Federal Pay Comparability Act of 1970, it is hereby—

Ordered,

DEFINITIONS

SECTION 1. for purposes of this Order—

(1) "employee" includes an officer (other than a United States Senator); and

(2) "annual rate of compensation" does not include longevity compensation authorized by section 106 of the Legislative Branch Appropriation Act, 1963, as amended, or any other additional compensation that may hereafter be authorized by law.

RATE INCREASES FOR SPECIFIED POSITIONS

SEC. 2. (a) The annual rates of compensation of the Secretary of the Senate, the Sergeant at Arms and Doorkeeper, and the Legislative Counsel (as such rates were increased by prior orders of the President pro tempore) are further increased by 4.0 percent and, as so increased, adjusted to the next higher multiple of $1.00. Notwithstanding the provisions of this subsection, an individual occupying a position the annual rate of compensation for which is determined under this subsection shall not be paid at any time, by reason of the promulgation of this Order, at an annual rate in excess of either of the following: (1) the annual rate in effect for positions in level III of the Executive Schedule under section 5314 of title 5, United States Code, or (2) an annual rate of compensation which is $1,000 less than the annual rate of compensation of Senators.

(b) The annual rates of compensation of the Secretary for the Majority and the Secretary for the Minority (as such rates were increased by prior orders of the President pro tempore) are further increased by 4.0 percent and, as so increased, adjusted to the next higher multiple of $1.00. Notwithstanding the provisions of this subsection, an individual occupying a position the annual rate of compensation for which is determined under this subsection shall not be paid at any time, by reason of the promulgation of this Order, at an annual rate of compensation in excess of $500 less than the annual rate of compensation which is now or may hereafter be in effect for those positions referred to in subsection (a) of this section.

(c) The annual rates of compensation of the five Senior Counsels in the Office of the Legislative Counsel and the maximum annual rates of compensation of the Assistant Secretary of the Senate, the Parliamentarian, the Financial Clerk, the Assistant to the Majority Leader for Floor Operations, and the Assistant to the Minority Leader for Floor Operations (as such rates were increased by prior orders of the President pro tempore) are further increased by 4.0 percent and, as so increased, adjusted to the next higher multiple of $1.00. Notwithstanding the provisions of this subsection, an individual occupying a position the annual rate of compensation for which is determined under this subsection shall not be paid at any time, by reason of the promulgation of this Order, at an annual rate of compensation in excess of $1,000 less than the annual rate of compensation which is now or may hereafter be in effect for those positions referred to in subsection

Rulemaking Processes. Acc. No. 119211, HRD-82-89, August 17.

Weaknesses in Procurement Practices to Obtain Outside Professional Talent Services. ID-82-46, August 10.

Delegated Personnel Management Authorities: Better Monitoring and Oversight Needed. Acc. No. 119102, FPCD-82-43, August 2.

Award and Administration of Contracts for Job Corps Centers. PLRD-82-107, August 10.

Improved Billing and Collection Activities Would Increase District of Columbia's Revenues. Acc. No. 119138, GGD-82-68, August 6.

Special IRS Examination Procedures are Needed for Certain Returns Containing International Tax Issues. GGD-82-77, August 27.

Letter reports

Part-time employment in the Federal Government. Acc. No. 119159, FPCD-82-54, July 12.

Use of Federal employees as personal aides to Federal officials in selected departments and agencies. Acc. No. 119171, FPCD-82-52, July 14.

Alleged abuses in the U.S. Savings Bond Division of the Department of the Treasury. AFMD-82-70, July 26.

Consolidation of GSA's depot function can save millions in space costs. Acc. No. 119188, PLRD-82-109, August 16.

The President's fifteenth special message for fiscal year 1982 proposing two rescissions of budget authority totalling $63.6 million and a revision to one deferral previously reported. OGC-82-20, August 19.●

RURAL ENTERPRISE ZONE AND DEVELOPMENT ACT

HON. WES WATKINS

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 1, 1982

● Mr. WATKINS. Mr. Speaker, the concept of rural enterprise zones, an idea first advanced in my Rural Enterprise Zone and Development Act which I introduced on September 23, 1981, took a major step forward Tuesday night when the Senate Finance Committee approved a bill providing for the establishment of 25 enterprise zones each year and requiring that 8 of the 25 be reserved for rural areas.

I commend the Senate committee's recognition that rural areas have distinctive problems and needs, thus requiring special treatment in any enterprise zone legislation ultimately enacted. I have long maintained that rural areas cannot compete headon with urban areas and interests in Federal programs. Failure to recognize this fact results in an unfair and inequitable allocation of available Federal resources to help meet local needs, eliminate local problems, and provide jobs for the people of rural America.

As you know, Mr. Speaker, several bills have been introduced to establish enterprise zones in economically distressed areas as a means of stimulating the development of additional private sector jobs in these areas. This would be done by offering various kinds of economic and financial incentives, including tax breaks, to businesses and industries willing to locate within the zones or expand existing operations in the areas.

Enterprise zones were first proposed for distressed inner cities. My bill was the first to extend the concept to economically distressed and underdeveloped rural areas and the first to target its incentive provisions to small businesses and industries willing to locate within or expand existing operations in these areas. We also were instrumental in persuading President Reagan to make rural areas eligible for enterprise zone designation in the administration's bill. Unfortunately, the administration bill would require rural areas to compete with big cities for designation. As I have said many times—and experience has borne me out—rural America cannot compete on an equal basis with urban America for the allocation of resources in Federal programs.

Mr. Speaker, interest in enterprise zone legislation has been picking up considerably in recent weeks, as is reflected in the Senate committee's action this week. Hopefully, the logjam has been broken in getting favorable congressional action on enterprise zone legislation. Even if this legislation is not finally approved by the close of this session, favorable action now by both the Senate and House committees could herald quick action in the next session. I urge the appropriate committees to move toward this goal.●

ANWAR SADAT

HON. JACK BRINKLEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 1, 1982

● Mr. BRINKLEY. Mr. Speaker, President Anwar Sadat was a man who could cope with adversarial visitors and emerge with added respect—because he possessed a real insight into the common interests he held with them on a 1-to-1 basis. He built upon that common ground, and the ties of confidence and friendship would naturally follow. From that point, the relationship became one of steadfast loyalty.

Perhaps it was psychological, but one felt that Sadat had faith in his fellow man, even those who were adversarial, and an almost childlike trust. It would be difficult to disappoint him—in terms of objectivity, fairness, and understanding.

From the perspective of 1973 and the evidence which has come into being since that time, the works of President Sadat are prophetic. In 1973 he told us he was prepared to accept the existence and survival of Israel. He reminded us that the had been the first head of an Arab State to declare his willingness to make peace with Israel. He said his only desire was to be able to build the economy of this own country and to reduce the heavy burden of armaments. And remember—this was in the context of discussions with representatives of the United States, then assisting this ancient enemy and when, within the city of Cairo, there were captured American tanks on display.

His loss was a personal one to me. His death diminished us all. He was truly a man of peace and good will.●

BOONDOGGLE

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 1, 1982

● Mr. STARK. Mr. Speaker, when the Congress reconvenes in November, we will be considering the Energy and Water Development Appropriations bill of fiscal year 1983. This bill contains many good, sound, innovative projects. However, it also contains many of the worst kinds of projects, those deemed by all objective observers as "pork barrel." Two examples of what may be as many as five or six of these projects in the bill, are the Tennessee-Tombigbee Waterway, and the Clinch River breeder reactor.

The Tennessee-Tombigbee Waterway has already had $1.512 billion committed to it. The energy and water appropriations bill adds another $186 million. Scheduled to cost over $2 billion, some studies put the total cost of the waterway at closer to $3 or $4 billion. Tenn-Tom has been described as an effort to turn the Mississippi River into a double lane highway. All it does is provide barge transportation on a system of rivers a few hundred miles to the east of the Mississippi. Never have so few shippers been saved so few miles at the expense of so many.

In these times when we are eliminating student loans, veterans benefits, and a host of other programs, to continue to dump hundreds of millions of dollars into a waterway that is unnecessary not only seems foolish, but infinitely callous.

And then there is the project that has come to symbolize wasteful spending, the Clinch River breeder reactor. The cost of the breeder has gone from an original estimate of $400 million in 1972, to $3.57 billion in 1982. Some predict the final cost could go as high as $6 or $8 billion.

Six billion dollars for a demonstration reactor that even proponents say is not commercially viable, and a design that becomes more obsolete with each passing day? I cannot justify spending that kind of money to test a reactor design that will never be used again, and will be of unknown value in future breeder technology.

In these times of severe budget cuts in other areas, to support these excessive projects is unjustifiable. To do so

is an hypocrisy. We must prove to the American people that we are willing to cut spending where the savings will make a difference. Let's prove that we are serious about eliminating wasteful Government.●

VIETNAM VETERANS LEADERSHIP PROGRAM

HON. JOHN P. HAMMERSCHMIDT

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 1, 1982

● Mr. HAMMERSCHMIDT. Mr. Speaker, the Vietnam veterans leadership program within the ACTION Agency is making considerable progress in tapping the enormous resources of able and successful Vietnam veterans who stand ready, with the proper encouragement, to come forward to help their fellow veterans solve lingering problems associated with their military service. Among those problems is the very perplexing one of separating fact from fiction about themselves in terms of some often repeated public pronouncement.

The leadership program in Houston, Tex., has prepared a fact sheet about Vietnam veterans. It contains information which I believe our colleagues will find useful and I am pleased to insert it in the CONGRESSIONAL RECORD.

VIETNAM VETERAN FACTSHEET[1]

THE WAR

1. Fiction: Over 9 million Americans served in Vietnam.

Fact: a. 9,087,000 military personnel served on active duty during the Vietnam-era (Aug. 5, 1964—May 7, 1975). This figure includes servicemen who were stationed in the U.S.

b. 8,744,000 personnel were on active duty during direct U.S. involvement in the war (Aug. 5, 1964—Jan. 27, 1973).

c. 3,403,100 personnel served in the Southeast Asia Theater (Vietnam, Laos, Cambodia, flight crews based in Thailand, and sailor in adjacent South China Sea waters). This figure includes 514,300 offshore naval personnel.

d. 2,594,000 personnel served within the borders of South Vietnam (Jan. 1, 1965—March 28, 1973).

e. Another 50,000 men served between 1960 and 1964, during which time 246 servicemen were killed as a result of hostile action.

f. Of the 2.6 million, between 1 and 1.6 million (40–60 percent) either fought in combat, provided close combat support or were at least fairly regularly exposed to enemy attack.

g. Only about 20 percent of those men stationed in Vietnam actually served in the first echelon combat arms (infantry, armor, artillery, etc.) where they regularly pursued and engaged the enemy on the ground (March 8, 1965—August 11, 1972). The ratio was generally five support troops to every one combat soldier.

h. 7,484 women (6,250 or 83.5 percent were nurses) served in Vietnam. Eight women died in Vietnam—all were nurses. Women comprise 2.1 percent (197,513) of Vietnam-era veterans.

i. Casualties: Hostile deaths—47,258; Nonhostile deaths—10,446; Total=57,704 (included men formerly classified as MIA and Mayaguez casualties). Wounded: 303,704—153,329 hospitalized + 150,375 injured, required no hospital care.

j. Severely disabled: 75,000—23,214 100 percent disabled; 5,283 lost limbs; 1,081 sustained multiple amputations.

k. Missing in Action: Of 2,528 men not accounted for at the end of the war, the remains of only 80 have been returned by Vietnam.

2. Fiction: Draftees far outnumbered enlistees in Vietnam.

Fact: a. While draftees did form a disproportionate share of the U.S. Army's combat arms enlisted personnel, only 25 percent (648,500) of total forces in country were draftees.

b. As a comparison, 66 percent of our armed forces were drafted during WWII.

c. Draftees accounted for 27 percent (15,404) of combat deaths in Vietnam.

3. Fiction: Blacks fought and died in extraordinarily high proportions relative to the rest of the population.

Fact: a. 9.7 percent of Vietnam-era (1965–1972) forces were black.

b. 88.4 percent of the men who actually served in Vietnam were caucasian; 10.6 percent (275,000) were black; 1 percent belonged to other races.

c. 86.3 percent of the men who died in Vietnam were caucasian; 12.5 percent (7,241) were black; 1.2 percent belonged to other races.

d. 86.8 percent of the men who were killed as a result of hostile action were caucasian; 12.1 percent (5,711) were black; 1.1 percent belonged to other races.

e. 14.6 percent (1,530) of non-combat deaths were among blacks.

f. A full third (34 percent) of blacks who enlisted volunteered for the combat arms.

g. Overall, blacks suffered 12.5 percent of the deaths in Vietnam at a time when the percentage of blacks of military age was 13.5 percent of the total population.

4. Fiction: America sent mostly its poor to fight in Vietnam.

Fact: a. 76 percent of the men sent to Vietnam were from lower middle/working class backgrounds.

b. Three-fourths had family incomes above the poverty level; 50 percent of these men were from middle income backgrounds.

c. On the other hand, only 23 percent of Vietnam vets had fathers with professional, managerial or technical occupations.

5. Fiction: High school dropouts formed the largest proportion of U.S. forces in Vietnam.

Fact: a. 79 percent of the men who served in Vietnam had a high school education or better when they entered the military service.

b. This was the best educated army America has ever fielded. For comparison, 63 percent of Korean War vets and only 45 percent of WWII vets had completed high school upon separation from the military.

6. Fiction: Vietvets themselves, as well as the general public, believe that the combat performance of individual GIs determined and was responsible for the outcome of the war.

Fact: a. 82 percent of veterans who saw heavy combat strongly believe the war was lost because the nation's political leadership would not permit our troops to win a traditional military victory.

b. Nearly 75 percent of the general public agrees that it was a failure of political will, not of arms.

7. Fiction: The Vietnam War was in no way different from previous U.S. wars.

Fact: a. The average age of the Vietnam War GI was 19 compared to 26 for WWII.

b. Two-thirds of the men killed in Vietnam were 21 years old or younger when they died.

c. Vietnam was a very individual war—entrance into the military rotation to and from Vietnam and discharge back into society were all solitary experiences. The cohesive units of WWII trained, fought and returned home together were largely absent during Vietnam. Rapid return to society did not allow for "decompression" time—a period in which individual experiences could be shared and validated.

d. Permanently disabling wounds were sustained at a far greater rate in Vietnam. The percentage of Vietnam GIs who suffered amputation or crippling wounds to the lower extremities was 300 percent higher than in WWII and 70 percent higher than in Korea. Multiple amputations occurred at the rate of 18.4 percent compared to 5.7 percent in WWII.

8. Fiction: "Bad Paper" (less-than-honorable discharges) is widespread among Vietnam-era vets, much of it as a result of political acts of opposition to the war.

Fact: a. 97 percent of Vietnam-era veterans are honorably discharged.

b. Of the tiny minority who received "bad paper" for desertion, only 5 percent were attached to units in Vietnam.

c. During the entire Vietnam era, only 24 men were convicted in a court-martial of desertion to avoid hazardous duty.

d. Only 10 percent of AWOLs (Absent With Out Leave) were related to opposition to the war.

THE WAR'S AFTERMATH

9. Fiction: Veterans of the Vietnam War feel they were accorded the same respect and recognition as veterans of World War II.

Fact: a. 78 percent of Vietnam-era vets feel the reception they received was worse than that received by vets of earlier wars.

b. Less than half of Vietnam-era vets feel they received a very friendly reception.

c. Almost one-fourth feel even their own family and close friends did not provide a very friendly reception.

d. 63 percent of the general public agrees that the treatment of Vietnam veterans has not improved over the last decade.

10. Fiction: The larger proportion of Vietvets have dropped out of society and drift aimlessly, unable to readjust to a normal way of life.

Fact: a. Over 80 percent of Vietvets have made a successful transition to civilian society where they are leading perfectly normal and productive lives.

11. Fiction: A large percentage of Vietvets have rejected partiotism.

Fact: a. 91 percent of actual Vietnam War veterans and 90 percent of those who saw heavy combat are proud to have served their country.

b. 66 percent of Vietvets say that they would serve again if called upon.

12. Fiction: Guilt overwhelms most Vietnam veterans.

Fact: a. 66 percent of Vietvets reject the notion of guilt totally.

b. Only 14 percent of Vietvets feel unequivocally that "it is shamefully what my country did to the Vietnamese people."

13. Fiction: Political radicalism is more the rule than the exception among Vietnam veterans.

Fact: a. Only 15 percent of Vietvets identified themselves as radicals in 1973, a time when the so-called veterans anti-war movement was at its zenith.

b. Membership in the Vietnam Veterans Against the War (VVAW admitted everyone from college students to professors) prob-

[1] Sources of information are appended.

that if the courts can be deprived of jurisdiction over that question, they can be deprived of jurisdiction over any question—freedom of worship, civil rights, criminal law, anything. And in the long run that process can only mean destruction of our basic rights and our Federal system of government.

The courts exist to apply the accumulated wisdom of 205 years—embodied in our system of laws—to the political judgments of the day, as made by the elected Representatives of the people, That blending of long-term judgments and short-term desires has been a key to the effective functioning of our system of representative democracy. Although there are times when I am extremely frustrated by Federal court decisions, I am simply against making such a basic, fundamental change in our system.

I am certainly prepared to work with Senator HELMS and others in pushing for a constitutional amendment to restore prayer in the schools, as President Reagan has proposed. What I will not do is support a statute that seeks to restore school prayer by dismembering the court system. That is a bad means to a good end, and I simply could not support it.

NRC AUTHORIZATION BILL

Mr. MITCHELL. Mr. President, will the distinguished ranking minority member of the Subcommittee on Nuclear Regulation engage in a colloquy with me on the NRC authorization bill conference report?

Mr. HART. I would be delighted to engage in a colloquy with my good friend from Maine.

Mr. MITCHELL. I thank the Senator. I also understand the amendments to the Uranium Mill Tailings Radiation Control Act, included in the NRC authorization bill conference report, differ significantly from those adopted by the Senate.

Mr. HART. The Senator is correct. The House-passed version of the NRC authorization bill for fiscal years 1982 and 1983 did not contain any amendments to the Uranium Mill Tailings Act. The provision in the conference report differs from the Senate provision in an important respect: The Senate provision suspended the NRC's final regulations for uranium mill tailings, promulgated October 3, 1980, until EPA issued its final standards for active uranium mill sites under section 275 of the Atomic Energy Act. The conference report suspends these final NRC regulations until January 1, 1983. On that date, they become immediately effective except for any NRC regulation that first, is inconsistent with the EPA standards, required to be proposed October 3, 1982, and second, would also require a significant commitment or action by the licensee. Although such a commitment or action could include financial obligations or expenditures, the conferees agreed not to state that a "major investiment" would trigger the suspension of a particular NRC regulation.

Mr. MITCHELL. Is my understanding correct, then, that this suspension of the NRC regulations until January 1, 1983, is only for the purpose of sorting out potential conflicts between the NRC regulations and the EPA standards?

Mr. HART. This Senator is absolutely correct.

Mr. MITCHELL. Is it also correct, then, that these amendments do not prejudge the validity or appropriateness of the NRC's final regulations, promulgated October 3, 1980?

Mr. HART. That is correct. The statement of managers underscored the point that where legislative language directed the NRC and the EPA to "consider the risk to public health, safety, and the environment, the environmental and economic costs of such standards or regulations, and such other factors as EPA or NRC, respectively, determine to be appropriate," this language "* * * reflects accurately the current regulatory approach of the agencies."

The statement of managers clearly recognized that the NRC and EPA are already considering these factors in their regulatory procedures. I might also point out that the 10th Circuit Court of Appeals, in its decision in Kerr-McGee Nuclear Corp. against Nuclear Regulatory Commission, upheld the legality and validity of the NRC regulations. In fact, it noted th the NRC had already considered co when it proposed its uranium mill ta ing regulations and found them e nomically feasible.

The Statement of Managers also clear that although the Federal ag cies involved should continue to c sider these costs, they need not car out a cost-benefit analysis nor shou such considerations "* * * divert EI or NRC from their principal focus protecting the public health a safety."

I also note that none of the amendments affects the Findings a Purposes section of the Uranium M Tailings Act.

Mr. MITCHELL. I thank the Sen tor.

MILL TAILING LEGISLATION

Mr. SCHMITT. Mr. President, o domestic uranium industry is on t verge of total collapse. My State, N Mexico, is the Nation's most imp tant uranium producer, but it now h fewer operating uranium mills th two decades ago. Thousands of min are unemployed. New exploration h plummeted.

There are many causes for this d aster including the absence of a r tion's commitment to energy securi One of the additional is the rapidly i creasing tide of low cost foreign ura um. Indeed, almost all new contractu commitments by our utilities are wi foreign suppliers and some domes uranium companies are even shutti down their operations in order to pu chase low cost foreign uranium meet their contractual obligatio These developments pose a serious a immediate threat to the continu survival of our domestic uranium dustry. Once mines and mills are sh down, it is unclear whether they c ever be reopened. It will take as ma as 10 years to bring new facilities line.

Congress has long recognized that is essential to our national securi and to our policy of energy indepen ence to assure the maintenance of viable domestic uranium industr Indeed, in 1964 Congress adopted le islation, codified in section 161(v) the Atomic Energy Act, specifically f this purpose.

Nothing has occurred since 1964 make the Nation's domestic uraniu industry any less essential to our sec rity interests. To the contrary, we n rely on nuclear power heavily for o electrical energy needs. It would most unwise to place ourselves at t mercy of a handful of uranium expo ing countries by undue dependence foreign supplies. This is particular the case since these countries purs documented policies to support th own uranium industries and to assu their own uranium supplies.

Recognizing the urgency of this si ation, I cosponsored an amendment

AA61-2 PDR

Third, a fund for drug law enforcement consisting of the proceeds realized by the Government from forfeitures.

Fourth, a large increase in the fines for drug trafficking. Current fines are totally unrealistic.

Fifth, protections for innocent third parties who may have an interest in property subject to forfeiture. Obviously, the penalties imposed should not be at the expense of persons who were not involved in, or aware of, illegal activity.

Mr. Speaker, I believe that H.R. 7140 is a commendable first step by this Congress toward providing a substantial disincentive to drug-related activity. I am hopeful that this body will also pass other important crime measures which will have an adverse impact on drug trafficking, such as reforms of our bail procedures. I hope my colleagues will joing the gentleman from New Jersey and myself in votihg to suspend the rules and pass H.R. 7140.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. HUGHES) that the House suspend the rules and pass the bill, H.R. 7140.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 2330, AUTHORIZING APPROPRIATIONS TO NUCLEAR REGULATORY COMMISSION, FISCAL YEARS 1982 AND 1983

Mr. UDALL submitted the following conference report and statement on the bill (H.R. 2330) to authorize appropriation to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 97-884)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2330) to authorize appropriation to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, 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 House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

AUTHORIZATION OF APPROPRIATIONS

SECTION 1. (a) There are hereby authorized to be appropriated to the Nuclear Regulatory Commission in accordance with the provisions of section 261 of the Atomic Energy Act of 1954 (42 U.S.C. 2017) and section 305 of the Energy Reorganization Act of 1974 (42 U.S.C. 5875), for the fiscal years 1982 and 1983 to remain available until expended, $485,200,000 for fiscal year 1982 and $513,100,000 for fiscal year 1983 to be allocated as follows:

(1) Not more than $80,700,000 for fiscal year 1982 and $77,000,000 for fiscal year 1983 may be used for "Nuclear Reactor Regulation", of which an amount not to exceed $1,000,000 is authorized each such fiscal year to be used to accelerate the effort in gas-cooled thermal reactor preapplication review, and an amount not to exceed $6,000,000 is authorized each such fiscal year to be used for licensing review work for a fast breeder reactor plant project. In the event of a termination of such breeder reactor project, any unused amount appropriated pursuant to this paragraph for licensing review work for such project may be used only for safety technology activities.

(2) Not more than $62,900,000 for fiscal year 1982 and $69,850,000 for fiscal year 1983 may be used for "Inspection and Enforcement".

(3) Not more than $42,000,000 for fiscal year 1982 and $47,059,600 for fiscal year 1983 may be used for "Nuclear Material Safety and Safeguards".

(4) Not more than $240,300,000 for fiscal year 1982 and $257,195,600 for fiscal year 1983 may be used for "Nuclear Regulatory Research", of which—

(A) an amount not to exceed $3,500,000 for fiscal year 1982 and $4,500,000 for fiscal year 1983 is authorized to be used to accelerate the effort in gas-cooled thermal reactor safety research;

(B) an amount not to exceed $18,000,000 is authorized each such fiscal year to be used for fast breeder reactor safety research; and

(C) an amount not to exceed $57,000,000 is authorized for such two fiscal year period to be used for the Loss-of-Fluid Test Facility research program.

In the event of a termination of the fast breeder reactor plant project, any unused amount appropriated pursuant to this paragraph for fast breeder reactor safety research may be used generally for "Nuclear Regulatory Research".

(5) Not more than $21,900,000 for fiscal year 1982 and $20,197,800 for fiscal year 1983 may be used for "Program Technical Support".

(6) Not more than $37,400,000 for fiscal year 1982 and $41,797,000 for fiscal year 1983 may be used for "Program Direction and Administration".

(b) The Nuclear Regulatory Commission may use not more than 1 percent of the amounts authorized to be appropriated under subsection (a)(4) to exercise its authority under section 31 a. of the Atomic Energy Act of 1954 (42 U.S.C. 2051(a)) to enter into grants and cooperative agreements with universities pursuant to such section. Grants made by the Commission shall be made in accordance with the Federal Grant and Cooperative Agreement Act of 1977 (41 U.S.C. 501 et seq.) and other applicable law. In making such grants and entering into such cooperative agreements, the Commission shall endeavor to provide appropriate opportunities for universities in which the student body has historically been predominately comprised of minority groups.

(c) Any amount appropriated for a fiscal year to the Nuclear Regulatory Commission pursuant to any paragraph of subsection (a) for purposes of the program office referred to in such paragraph, or any activity that is within such program office and is specified in such paragraph, may be reallocated by the Commission for use in a program office referred to in any other paragraph of such subsection, or for use in any other activity within a program office, except that the amount available from appropriations for such fiscal year for use in any program office or specified activity may not, as a result of reallocations made under this subsection, be increased or reduced by more than $500,000 unless—

(1) a period of 30 calendar days (excluding any day in which either House of Congress is not in session because of an adjournment of more than 3 calendar days to a day certain or an adjournment sine die) passes after the receipt, by the Committee on Energy and Commerce and the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Environment and Public Works of the Senate, of notice submitted by the Commission containing a full and complete statement of the reallocation proposed to be made and the facts and circumstances relied upon in support of such proposed reallocation; or

(2) each such committee, before the expiration of such period, transmits to the Commission a written notification that such committee does not object to such proposed reallocation.

AUTHORITY TO RETAIN CERTAIN AMOUNTS RECEIVED

SEC. 2. Moneys received by the Nuclear Regulatory Commission for the cooperative nuclear research program and the material access authorization program may be retained and used for salaries and expenses associated with such programs, notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484), and shall remain available until expended.

AUTHORITY TO TRANSFER CERTAIN AMOUNTS TO OTHER AGENCIES

SEC. 3. From amounts appropriated to the Nuclear Regulatory Commission pursuant to section 1(a), the Commission may transfer to other agencies of the Federal Government sums for salaries and expenses for the performance by such agencies of activities for which such appropriations of the Commission are made. Any sums so transferred may be merged with the appropriation of the agency to which such sums are transferred.

LIMITATION ON SPENDING AUTHORITY

SEC. 4. Notwithstanding any other provision of this Act, no authority to make payments under this Act shall be effective except to such extent or in such amounts as are provided in advance in appropriation Acts.

AUTHORITY TO ISSUE LICENSES IN ABSENCE OF EMERGENCY PREPAREDNESS PLANS

SEC. 5. Of the amounts authorized to be appropriated under section 1, the Nuclear Regulatory Commission may use such sums as may be necessary, in the absence of a State or local emergency preparedness plan which has been approved by the Federal Emergency Management Agency, to issue an operating license (including a temporary operating license under section 192 of the Atomic Energy Act of 1954, as amended by section 11 of this Act) for a nuclear power reactor, if it determines that there exists a State, local, or utility plan which provides reasonable assurance that public health and safety is not endangered by operation of the facility concerned.

NUCLEAR SAFETY GOALS

SEC. 6. Funds authorized to be appropriated under this Act shall be used by the Nuclear Regulatory Commission to expedite

the establishment of safety goals for nuclear reactor regulation. The development of such safety goals, and any accompanying methodologies for the application of such safety goals, should be expedited to the maximum extent practicable to permit establishment of a safety goal by the Commission not later than December 31, 1982.

LOSS-OF-FLUID TEST FACILITY

SEC. 7. Of the amounts authorized to be used for the Loss-of-Fluid Test Facility in accordance with section 1(a)(4) for fiscal years 1982 and 1983, the Commission shall provide funding through contract with the organization responsible for the Loss-of-Fluid Test operations for a detailed technical review and analysis of research results obtained from the Loss-of-Fluid Test Facility research program. The contract shall provide funding for not more than twenty man-years in each of fiscal year 1982 and 1983 to conduct the technical review and analysis.

NUCLEAR DATA LINK

SEC. 8. (a) Of the amounts authorized to be appropriated under this Act for the fiscal years 1982 and 1983, not more than $200,000 is authorized to be used by the Nuclear Regulatory Commission for—

(1) the acquisition (by purchase, lease, or otherwise) and installation of equipment to be used for the "small test prototype nuclear data link" program or for any other program for the collection and transmission to the Commission of data from licensed nuclear reactors during abnormal conditions at such reactors; and

(2) the conduct of a full and complete study and analysis of—

(A) the appropriate role of the Commission during abnormal conditions at a nuclear reactor licensed by the Commission;

(B) the information which should be available to the Commission to enable the Commission to fulfill such role and to carry out other related functions;

(C) various alternative means of assuring that such information is available to the Commission in a timely manner; and

(D) any changes in existing Commission authority necessary to enhance the Commission response to abnormal conditions at a nuclear reactor licensed by the Commission.

The small test prototype referred to in paragraph (1) may be used by the Commission in carrying out the study and analysis under paragraph (2). Such analysis shall include a cost-benefit analysis of each alternative examined under subparagraph (C).

(b)(1) Upon completion of the study and analysis required under subsection (a)(2), the Commission shall submit to Congress a detailed report setting forth the results of such study and analysis.

(2) The Commission may not take any action with respect to any alternative described in subsection (a)(2)(C), unless a period of 60 calendar days (excluding any day in which either House of Congress is not in session because of an adjournment of more than 3 calendar days to a day certain or an adjournment sine die) passes after the receipt, by the Committee on Energy and Commerce and the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Environment and Public Works of the Senate, of notice submitted by the Commission containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

INTERIM CONSOLIDATION OF OFFICES

SEC. 9. Of the amounts authorized to be appropriated pursuant to paragraph 6 of section 1(a), such sums as may be necessary shall be available for interim consolidation of Nuclear Regulatory Commission headquarters staff offices.

(b) No amount authorized to be appropriated under this Act may be used, in connection with the interim consolidation of Nuclear Regulatory Commission offices, to relocate the offices of members of the Commission outside the District of Columbia.

THREE MILE ISLAND

SEC. 10. (a) No part of the funds authorized to be appropriated under this Act may be used to provide assistance to the General Public Utilities Corporation for purposes of the decontamination, cleanup, repair, or rehabilitation of facilities at Three Mile Island Unit 2.

(b) The prohibition contained in subsection (a) shall not relate to the responsibilities of the Nuclear Regulatory Commission for monitoring or inspection of the decontamination, cleanup, repair, or rehabilitation activities at Three Mile Island and such prohibition shall not apply to the use of funds by the Nuclear Regulatory Commission to carry out regulatory functions of the Commission under the Atomic Energy Act of 1954 with respect to the facilities at Three Mile Island.

(c) The Nuclear Regulatory Commission shall include in its annual report to the Congress under section 307(c) of the Energy Reorganization Act of 1974 (42 U.S.C. 5877(c)) as a separate chapter a description of the collaborative efforts undertaken, or proposed to be undertaken, by the Commission and the Department of Energy with respect to the decontamination, cleanup, repair, or rehabilitation of facilities at Three Mile Island Unit 2.

(d) No funds authorized to be appropriated under this Act may be used by the Commission to approve any willful release of "accident-generated water", as defined by the Commission in NUREG-0683 ("Final Programmatic Environmental Impact Statement" p. 1-23), from Three Mile Island Unit 2 into the Susquehanna River or its watershed.

TEMPORARY OPERATING LICENSES

SEC. 11. Section 192 of the Atomic Energy Act of 1954 (42 U.S.C. 2242) is amended to read as follows:

"SEC. 192. TEMPORARY OPERATING LICENSE.—

"a. In any proceeding upon an application for an operating license for a utilization facility required to be licensed under section 103 or 104 b. of this Act, in which a hearing is otherwise required pursuant to section 189 a., the applicant may petition the Commission for a temporary operating license for such facility authorizing fuel loading, testing, and operation at a specific power level to be determined by the Commission, pending final action by the Commission on the application. The initial petition for a temporary operating license for each such facility, and any temporary operating license issued for such facility based upon the initial petition, shall be limited to power levels not to exceed 5 percent of rated full thermal power. Following issuance by the Commission of the temporary operating license for each such facility, the licensee may file petitions with the Commission to amend the license to allow facility operation in staged increases at specific power levels, to be determined by the Commission, exceeding 5 percent of rated full thermal power. The initial petition for a temporary operating license for each such facility may be filed at any time after the filing of: (1) the report of the Advisory Committee on Reactor Safeguards required by section 182 b.; (2) the filing of the initial Safety Evaluation Report by the Nuclear Regulatory Commission staff and the Nuclear Regulatory Commission staff's first supplement to the report prepared in response to the report of the Advisory Committee on Reactor Safeguards for the facility; (3) the Nuclear Regulatory Commission staff's final detailed statement on the environmental impact of the facility prepared pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)); and (4) a State, local, or utility emergency preparedness plan for the facility. Petitions for the issuance of a temporary operating license, or for an amendment to such a license allowing operation at a specific power level greater than that authorized in the initial temporary operating license, shall be accompanied by an affidavit or affidavits setting forth the specific facts upon which the petitioner relies to justify issuance of the temporary operating license or the amendment thereto. The Commission shall publish notice of each such petition in the Federal Register and in such trade or news publications as the Commission deems appropriate to give reasonable notice to persons who might have a potential interest in the grant of such temporary operating license or amendment thereto. Any person may file affidavits or statements in support of, or in opposition to, the petition within thirty days after the publication of such notice in the Federal Register.

"b. With respect to any petition filed pursuant to subsection a. of this section, the Commission may issue a temporary operating license, or amend the license to authorize temporary operation at each specific power level greater than that authorized in the initial temporary operating license, as determined by the Commission, upon finding that—

"(1) in all respects other than the conduct or completion of any required hearing, the requirements of law are met;

"(2) in accordance with such requirements, there is reasonable assurance that operation of the facility during the period of the temporary operating license in accordance with its terms and conditions will provide adequate protection to the public health and safety and the environment during the period of temporary operation; and

"(3) denial of such temporary operating license will result in delay between the date on which construction of the facility is sufficiently completed, in the judgment of the Commission, to permit issuance of the temporary operating license, and the date when such facility would otherwise receive a final operating license pursuant to this Act.

The temporary operating license shall become effective upon issuance and shall contain such terms and conditions as the Commission may deem necessary, including the duration of the license and any provision for the extension thereof. Any final order authorizing the issuance or amendment of any temporary operating license pursuant to this section shall recite with specificity the facts and reasons justifying the findings under this subsection, and shall be transmitted upon such issuance to the Committees on Interior and Insular Affairs and Energy and Commerce of the House of Representatives and the Committee on Environment and Public Works of the Senate. The final order of the Commission with respect to the issuance or amendment of a temporary operating license shall be subject to judicial review pursuant to chapter 158 of title 28, United States Code. The requirements of section 189 a. of this Act with respect to the issuance or amendment of facility licenses shall not apply to the issuance or amendment of a temporary operating license under this section.

"c. Any hearing on the application for the final operating license for a facility required pursuant to section 189 a. shall be concluded as promptly as practicable. The Commission shall suspend the temporary operating license if it finds that the applicant is not prosecuting the application for the final operating license with due diligence. Issuance of a temporary operating license under subsection b. of this section shall be without prejudice to the right of any party to raise any issue in a hearing required pursuant to section 189 a.; and failure to assert any ground for denial or limitation of a temporary operating license shall not bar the assertion of such ground in connection with the issuance of a subsequent final operating license. Any party to a hearing required pursuant to section 189 a. on the final operating license for a facility for which a temporary operating license has been issued under subsection b., and any member of the Atomic Safety and Licensing Board conducting such hearing, shall promptly notify the Commission of any information indicating that the terms and conditions of the temporary operating license are not being met, or that such terms and conditions are not sufficient to comply with the provisions of paragraph (2) of subsection b.

"d. The Commission is authorized and directed to adopt such administrative remedies as the Commission deems appropriate to minimize the need for issuance of temporary operating licenses pursuant to this section.

"e. The authority to issue new temporary operating licenses under this section shall expire on December 31, 1983.".

OPERATING LICENSE AMENDMENT HEARINGS

SEC. 12. (a) Section 189 a. of the Atomic Energy Act of 1954 (42 U.S.C. 2239(a)) is amended—

(1) by inserting "(1)" after the subsection designation; and

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

"(2)(A) The Commission may issue and make immediately effective any amendment to an operating license, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person. Such amendment may be issued and made immediately effective in advance of the holding and completion of any required hearing. In determining under this section whether such amendment involves no significant hazards consideration, the Commission shall consult with the State in which the facility involved is located. In all other respects such amendment shall meet the requirements of this Act.

"(B) The Commission shall periodically (but not less frequently than once every thirty days) publish notice of any amendments issued, or proposed to be issued, as provided in subparagraph (A). Each such notice shall include all amendments issued, or proposed to be issued, since the date of publication of the last such periodic notice. Such notice shall, with respect to each amendment or proposed amendment (i) identify the facility involved; and (ii) provide a brief description of such amendment. Nothing in this subsection shall be construed to delay the effective date of any amendment.

"(C) The Commission shall, during the ninety-day period following the effective date of this paragraph, promulgate regulations establishing (i) standards for determining whether any amendment to an operating license involves no significant hazards consideration; (ii) criteria for providing or, in emergency situations, dispensing with prior notice and reasonable opportunity for public comment on any such determination, which criteria shall take into account the exigency of the need for the amendment involved; and (iii) procedures for consultation on any such determination with the State in which the facility involved is located.".

(b) The authority of the Nuclear Regulatory Commission, under the provisions of the amendment made by subsection (a), to issue and to make immediately effective any amendment to an operating license shall take effect upon the promulgation by the Commission of the regulations required in such provisions.

QUALITY ASSURANCE

SEC. 13. (a) The Nuclear Regulatory Commission is authorized and directed to implement and accelerate the resident inspector program so as to assure the assignment of at least one resident inspector by the end of fiscal year 1982 at each site at which a commercial nuclear powerplant is under construction and construction is more than 15 percent complete. At each such site at which construction is not more than 15 percent complete, the Commision shall provide that such inspection personnel as the Commissions deems appropriate shall be physically present at the site at such times following issuance of the construction permit as may be necessary in the judgment of the Commission.

(b) The Commission shall conduct a study of existing and alternative programs for improving quality assurance and quality control in the construction of commercial nuclear powerplants. In conducting the study, the Commission shall obtain the comments of the public, licensees of nuclear powerplants, the Advisory Committee on Reactor Safeguards, and organizations comprised of professionals having expertise in appropriate fields. The study shall include an analysis of the following:

(1) providing a basis for quality assurance and quality control, inspection, and enforcement actions through the adoption of an approach which is more prescriptive than that currently in practice for defining principal architectural and engineering criteria for the construction of commercial nuclear powerplants;

(2) conditioning the issuance of construction permits for commercial nuclear powerplants on a demonstration by the licensee that the licensee is capable of independently managing the effective performance of all quality assurance and quality control responsibilities for the powerplant;

(3) evaluations, inspections, or audits of commercial nuclear powerplant construction by organizations comprised of professionals having expertise in appropriate fields which evaluations, inspections, or audits are more effective than those under current practice;

(4) improvement of the Commission's organization, methods, and programs for quality assurance development, review, and inspection; and

(5) conditioning the issuance of construction permits for commercial nuclear powerplants on the permittee entering into contracts or other arrangements with an independent inspector to audit the quality assurance program to verify quality assurance performance.

For purposes of paragraph (5), the term "independent inspector" means a person or other entity having no responsibility for the design or construction of the plant involved. The study shall also include an analysis of quality assurance and quality control programs at representative sites at which such programs are operating satisfactorily and an assessment of the reasons therefor.

(c) For purposes of—

(1) determining the best means of assuring that commercial nuclear powerplants are constructed in accordance with the applicable safety requirements in effect pursuant to the Atomic Energy Act of 1954; and

(2) assessing the feasibility and benefits of the various means listed in subsection (b);

the Commission shall undertake a pilot program to review and evaluate programs that include one or more of the alternative concepts identified in subsection (b) for the purposes of assessing the feasibility and benefits of their implementation. The pilot program shall include programs that use independent inspectors for auditing quality assurance responsibilities of the licensee for the construction of commercial nuclear powerplants, as described in paragraph (5) of subsection (b). The pilot program shall include at least three sites at which commercial nuclear powerplants are under construction. The Commission shall select at least one site at which quality assurance and quality control programs have operated satisfactorily, and at least two sites with remedial programs underway at which major construction, quality assurance, or quality control deficiencies (or any combination thereof) have been identified in the past. The Commission may require any changes in existing quality assurance and quality control organizations and relationships that may be necessary at the selected sites to implement the pilot program.

(d) Not later than fifteen months after the date of the enactment of this Act, the Commission shall complete the study required under subsection (b) and submit to the United States Senate and House of Representatives a report setting forth the results of the study. The report shall include a brief summary of the information received from the public and from other persons referred to in subsection (b) and a statement of the Commission's response to the significant comments received. The report shall also set forth an analysis of the results of the pilot program required under subsection (c). The report shall be accompanied by the recommendations of the Commission, including any legislative recommendations, and a description of any administrative actions that the Commission has undertaken or intends to undertake, for improving quality assurance and quality control programs that are applicable during the construction of nuclear powerplants.

LIMITATION ON USE OF SPECIAL NUCLEAR MATERIAL

SEC. 14. Section 57 of the Atomic Energy Act of 1954 (42 U.S.C. 2077) is amended by adding at the end thereof the following new subsection:

"e. Special nuclear material, as defined in section 11, produced in facilities licensed under section 103 or 104 may not be transferred, reprocessed, used, or otherwise made available by any instrumentality of the United States or any other person for nuclear explosive purposes.".

RESIDENT INSPECTORS

SEC. 15. Of the amounts authorized to be appropriated under section 1, the Nuclear Regulatory Commission shall use such sums as may be necessary to conduct a study of the financial hardships incurred by resident inspectors as a result of (1) regulations of the Commission requiring resident inspectors to relocate periodically from one duty station to another; and (2) the requirements of the Commission respecting the domicile of resident inspectors and respecting travel between their domicile and duty station in such manner as to avoid the appearance of a conflict of interest. Not later than 90 days

after the date of the enactment of this Act, the Commission shall submit to the Congress a report setting forth the findings of the Commission as a result of such study, together with a legislative proposal (including any supporting data or information) relating to any assistance for resident inspectors determined by the Commission to be appropriate.

SABOTAGE OF NUCLEAR FACILITIES OR FUEL

SEC. 16. Section 236 of the Atomic Energy Act of 1954 (42 U.S.C. 2284) is amended to read as follows:

"SEC. 236. SABOTAGE OF NUCLEAR FACILITIES OR FUEL.—

"a. Any person who intentionally and willfully destroys or causes physical damage to, or who intentionally and willfully attempts to destroy or cause physical damage to—

"(1) any production facility or utilization facility licensed under this Act;

"(2) any nuclear waste storage facility licensed under this Act; or

"(3) any nuclear fuel for such a utilization facility, or any spent nuclear fuel from such a facility;

shall be fined not more than $10,000 or imprisoned for not more than ten years, or both.

"b. Any person who intentionally and willfully causes or attempts to cause an interruption of normal operation of any such facility through the unauthorized use of or tampering with the machinery, components, or controls of any such facility, shall be fined not more than $10,000 or imprisoned for not more than ten years, or both.".

DEPARTMENT OF ENERGY INFORMATION

SEC. 17. (a) Section 148 a. (1) of the Atomic Energy Act of 1954 (42 U.S.C. 2168(a)(1)) is amended by inserting after " 'Secretary')" the following: ", with respect to atomic energy defense programs,".

(b) Section 148 of the Atomic Energy Act of 1954 (42 U.S.C. 2168) is amended by adding at the end thereof the following new subsections:

"d. Any determination by the Secretary concerning the applicability of this section shall be subject to judicial review pursuant to section 552(a)(4)(B) of title 5, United States Code.

"e. The Secretary shall prepare on a quarterly basis a report to be made available upon the request of any interested person, detailing the Secretary's application during that period of each regulation or order prescribed or issued under this section. In particular, such report shall—

"(1) identify any information protected from disclosure pursuant to such regulation or order;

"(2) specifically state the Secretary's justification for determining that unauthorized dissemination of the information protected from disclosure under such regulation or order could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of illegal production of nuclear weapons, or theft, diversion, or sabotage of nuclear materials, equipment, or facilities, as specified under subsection a.; and

"(3) provide justification that the Secretary has applied such regulation or order so as to protect from disclosure only the minimum amount of information necessary to protect the health and safety of the public or the common defense and security.".

STANDARDS AND REQUIREMENTS UNDER SECTION 275

SEC. 18. (a) Section 275 of the Atomic Energy Act of 1954 is amended—

(1) by striking in subsection a. "one year after the date of enactment of this section" and substituting "October 1, 1982" and by adding the following at the end thereof: "After October 1, 1982, if the Administrator has not promulgated standards in final form under this subsection, any action of the Secretary of Energy under title I of the Uranium Mill Tailings Radiation Control Act of 1978 which is required to comply with, or be taken in accordance with, standards of the Administrator shall comply with, or be taken in accordance with, the standards proposed by the Administrator under this subsection until such time as the Administrator promulgates such standards in final form.";

(2) by striking in subsection b. (1) "eighteen months after the enactment of this section, the Administrator shall, by rule, promulgate" and inserting in lieu thereof the following: "October 31, 1982, the Administrator shall, by rule, propose, and within 11 months thereafter promulgate in final form,";

(3) by adding the following at the end of subsection b. (1): "If the Administrator fails to promulgate standards in final form under this subsection by October 1, 1983, the authority of the Administrator to promulgate such standards shall terminate, and the Commission may take actions under this Act without regard to any provision of this Act requiring such actions to comply with, or be taken in accordance with, standards promulgated by the Administrator. In any such case, the Commission shall promulgate, and from time to time revise, any such standards of general application which the Commission deems necessary to carry out its responsibilities in the conduct of its licensing activities under this Act. Requirements established by the Commission under this Act with respect to byproduct material as defined in section 11 e. (2) shall conform to such standards. Any requirements adopted by the Commission respecting such byproduct material before promulgation by the Commission of such standards shall be amended as the Commission deems necessary to conform to such standards in the same manner as provided in subsection f. (3). Nothing in this subsection shall be construed to prohibit or suspend the implementation or enforcement by the Commission of any requirement of the Commission respecting byproduct material as defined in section 11 e. (2) pending promulgation by the Commission of any such standard of general application.";

(4) by adding the following new subsection at the end thereof:

"f. (1) Prior to January 1, 1983, the Commission shall not implement or enforce the provisions of the Uranium Mill Licensing Requirements published as final rules at 45 Federal Register 65521 to 65538 on October 3, 1980 (hereinafter in this subsection referred to as the 'October 3 regulations'). After December 31, 1982, the Commission is authorized to implement and enforce the provisions of such October 3 regulations (and any subsequent modifications or additions to such regulations which may be adopted by the Commission), except as otherwise provided in paragraphs (2) and (3) of this subsection.

"(2) Following the proposal by the Administrator of standards under subsection b., the Commission shall review the October 3 regulations, and, not later than 90 days after the date of such proposal, suspend implementation and enforcement of any provision of such regulations which the Commission determines after notice and opportunity for public comment to require a major action or major commitment by licensees which would be unnecessary if—

(A) the standards proposed by the Administrator are promulgated in final form without modification, and

(B) the Commission's requirements are modified to conform to such standards.

Such suspension shall terminate on the earlier of April 1, 1984 or the date on which the Commission amends the October 3 regulations to conform to final standards promulgated by the Administrator under subsection b. During the period of such suspension, the Commission shall continue to regulate by product material (as defined in section 11 e. (2)) under this Act on a licensee-by-licensee basis as the Commission deems necessary to protect public health, safety, and the environment.

"(3) Not later than 6 months after the date on which the Administrator promulgates final standards pursuant to subsection b. of this section, the Commission shall, after notice and opportunity for public comment, amend the October 3 regulations, and adopt such modifications, as the Commission deems necessary to conform to such final standards of the Administrator.

"(4) Nothing in this subsection may be construed as affecting the authority or responsibility of the Commission under section 84 to promulgate regulations to protect the public health and safety and the environment.".

(b)(1) Section 108(a) of the Uranium Mill Tailings Radiation Control Act of 1978 is amended by adding the following new paragraph at the end thereof:

"(3) Notwithstanding paragraphs (1) and (2) of this subsection, after October 31, 1982, if the Administrator has not promulgated standards under section 275 a. of the Atomic Energy Act of 1954 in final form by such date, remedial action taken by the Secretary under this title shall comply with the standards proposed by the Administrator under such section 275 a. until such time as the Administrator promulgates the standards in final form.".

(2) The second sentence of section 108(a)(2) of the Uranium Mill Tailings Radiation Control Act of 1978 is repealed.

AGREEMENT STATES

SEC. 19. (a) Section 274 o. of the Atomic Energy Act of 1954 is amended by adding the following at the end thereof: "In adopting requirements pursuant to paragraph (2) of this subsection with respect to sites at which ores are processed primarily for their source material content or which are used for the disposal of byproduct material as defined in section 11 e. (2), the State may adopt alternatives (including, where appropriate, site-specific alternatives) to the requirements adopted and enforced by the Commission for the same purpose if, after notice and opportunity for public hearing, the Commission determines that such alternatives will achieve a level of stabilization and containment of the sites concerned, and a level of protection for public health, safety, and the environment from radiological and nonradiological hazards associated with such sites, which is equivalent to, to the extent practicable, or more stringent than the level which would be achieved by standards and requirements adopted and enforced by the Commission for the same purpose and any final standards promulgated by the Administrator of the Environmental Protection Agency in accordance with section 275. Such alternative State requirements may take into account local or regional conditions, including geology, topography, hydrology and meteorology.".

(b) Section 204(h)(3) of the Uranium Mill Tailings Radiation Control Act of 1978 is amended by inserting the following before the period at the end thereof ": Provided, however, That, in the case of a State which has exercised any authority under State law

pursuant to an agreement entered into under section 274 of the Atomic Energy Act of 1954, the State authority over such byproduct material may be terminated, and the Commission authority over such material may be exercised, only after compliance by the Commission with the same procedures as are applicable in the case of termination of agreements under section 274 j. of the Atomic Energy Act of 1954.".

AMENDMENT TO SECTION 84

SEC. 20. Section 84 of the Atomic Energy Act of 1954 is amended by adding the following at the end thereof:

"c. In the case of sites at which ores are processed primarily for their source material content or which are used for the disposal of byproduct material as defined in section 11 e. (2), a licensee may propose alternatives to specific requirements adopted and enforced by the Commission under this Act. Such alternative proposals may take into account local or regional conditions, including geology, topography, hydrology and meteorology. The Commission may treat such alternatives as satisfying Commission requirements if the Commission determines that such alternatives will achieve a level of stabilization and containment of the sites concerned, and a level of protection for public health, safety, and the environment from radiological and nonradiological hazards associated with such sites, which is equivalent to, to the extent practicable, or more stringent than the level which would be achieved by standards and requirements adopted and enforced by the Commission for the same purpose and any final standards promulgated by the Administrator of the Environmental Protection agency in accordance with section 275.".

EDGEMONT

SEC. 21. Section 102(e) of the Uranium Mill Tailings Radiation Control Act of 1978 is amended by adding the following at the end thereof:

"(3) The Secretary shall designate as a processing site within the meaning of section 101(6) any real property, or improvements thereon, in Edgemont, South Dakota that—

"(A) is in the vicinity of the Tennessee Valley Authority uranium mill site at Edgemont (but not including such site), and

"(B) is determined by the Secretary to be contaminated with residual radioactive materials.

In making the designation under this paragraph, the Secretary shall consult with the Administrator, the Commission and the State of South Dakota. The provisions of this title shall apply to the site so designated in the same manner and to the same extent as to the sites designated under subsection (a) except that, in applying such provisions to such site, any reference in this title to the date of the enactment of this Act shall be treated as a reference to the date of the enactment of this paragraph and in determining the State share under section 107 of the costs of remedial action, there shall be credited to the State, expenditures made by the State prior to the date of the enactment of this paragraph which the Secretary determines would have been made by the State or the United States in carrying out the requirements of this title.".

ADDITIONAL AMENDMENTS TO SECTIONS 84 AND 275

SEC. 22. (a) Section 84 a. (1) of the Atomic Energy Act of 1954 is amended by inserting before the comma at the end thereof the following: ", taking into account the risk to the public health, safety, and the environment, with due consideration of the economic costs and such other factors as the Commission determines to be appropriate,".

(b) Section 275 of the Atomic Energy Act of 1954 is amended—

(1) in subsection a., by inserting after the second sentence thereof the following new sentence: "In establishing such standards, the Administrator shall consider the risk to the public health, safety, and the environment, the environmental and economic costs of applying such standards, and such other factors as the Administrator determines to be appropriate."; and

(2) by adding at the end of subsection b. (1) the following new sentence: "In establishing such standards, the Administrator shall consider the risk to the public health, safety, and the environment, the environmental and economic costs of applying such standards, and such other factors as the Administrator determines to be appropriate.".

URANIUM SUPPLY

SEC. 23. (a)(1) Not later than 12 months after the date of enactment of this section, the President shall prepare and submit to the Congress a comprehensive review of the status of the domestic uranium mining and milling industry. This review shall be made available to the appropriate committees of the United States Senate and the House of Representatives.

(2) The comprehensive review prepared for submission under paragraph (1) shall include—

(A) projections of uranium requirements and inventories of domestic utilities;

(B) present and future projected uranium production by the domestic mining and milling industry;

(C) the present and future probable penetration of the domestic market by foreign imports;

(D) the size of domestic and foreign ore reserves;

(E) present and projected domestic uranium exploration expenditures and plans;

(F) present and projected employment and capital investment in the uranium industry;

(G) an estimate of the level of domestic uranium production necessary to ensure the viable existence of a domestic uranium industry and protection of national security interests;

(H) an estimate of the percentage of domestic uranium demand which must be met by domestic uranium production through the year 2000 in order to ensure the level of domestic production estimated to be necessary under subparagraph (G);

(I) a projection of domestic uranium production and uranium price levels which will be in effect both under current policy and in the event that foreign import restrictions were enacted by Congress in order to guarantee domestic production at the level estimated to be necessary under subparagraph (G);

(J) the anticipated effect of spent nuclear fuel reprocessing on the demand for uranium; and

(K) other information relevant to the consideration of restrictions on the importation of source material and special nuclear material from foreign sources.

(b)(1) Chapter 14 of the Atomic Energy Act of 1954 is amended by adding the following new section at the end thereof:

"SEC. 170B. URANIUM SUPPLY.

"a. The Secretary of Energy shall monitor and for the years 1983 to 1992 report annually to the Congress and to the President a determination of the viability of the domestic uranium mining and milling industry and shall establish by rule, after public notice and in accordance with the requirements of section 181 of this Act, within 9 months of enactment of this section, specific criteria which shall be assessed in the annual reports on the domestic uranium industry's viability. The Secretary of Energy is authorized to issue regulations providing for the collection of such information as the Secretary of Energy deems necessary to carry out the monitoring and reporting requirements of this section.

"b. Upon a satisfactory showing to the Secretary of Energy by any person that any information, or portion thereof obtained under this section, would, if made public, divulge proprietary information of such person, the Secretary shall not disclose such information and disclosure thereof shall be punishable under section 1905 of title 18, United States Code.

"c. The criteria referred to in subsection a. shall also include, but not be limited to—

"(1) an assessment of whether executed contracts or options for source material or special nuclear material will result in greater than thirty-seven and one-half percent of actual or projected domestic uranium requirements for any two consecutive year period being supplied by source material or special nuclear material from foreign sources;

"(2) projections of uranium requirements and inventories of domestic utilities for a 10 year period;

"(3) present and probable future use of the domestic market by foreign imports;

"(4) whether domestic economic reserves can supply all future needs for a future ten year period;

"(5) present and projected domestic uranium exploration expenditures and plans;

"(6) present and projected employment and capital investment in the uranium industry;

"(7) the level of domestic uranium production capacity sufficient to meet projected domestic nuclear power needs for a ten-year period; and

"(8) a projection of domestic uranium production and uranium price levels which will be in effect under various assumptions with respect to imports.

"d. The Secretary of Energy, at any time, may determine on the basis of the monitoring and annual reports required under this section that source material or special nuclear material from foreign sources is being imported in such increased quantities as to be a substantial cause of serious injury, or threat thereof, to the United States uranium mining and milling industry. Based on that determination, the United States Trade Representative shall request that the United States International Trade Commission initiate an investigation under section 201 of the Trade Act of 1974 (19 U.S.C. 2251).

"e. (1) During the period 1982 to 1992, if the Secretary of Energy determines that executed contracts or options for source material or special nuclear material from foreign sources for use in utilization facilities within or under the jurisdiction of the United States represent greater than thirty-seven and one-half percent of actual or projected domestic uranium requirements for any two consecutive year period, then the Secretary shall immediately revise criteria for services offered under paragraph (A) of section 161 v. to enhance the use of source material of domestic origin for use in utilization facilities licensed, or required to be licensed, under section 103 or 104b. of this Act within or under the jurisdiction of the United States.

"(2) In revising criteria pursuant to paragraph (1), the Secretary shall not affect in any way the right to deliver, use, or enrich foreign source material or foreign special nuclear material, including any such right

arising under existing contracts or option contracts.

"(3) Subsequent to the determination under paragraph (1), or if the Secretary of Energy determines the level of contracts or options involving source material and special nuclear material from foreign sources threatens to impair the national security, the Secretary of Energy shall request the Secretary of Commerce to initiate under section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862) an investigation to determine the effects on the national security of imports of source material and special nuclear material. The Secretary of Energy shall cooperate fully with the Secretary of Commerce in carrying out such an investigation and shall make available to the Secretary of Commerce the findings that lead to this request, the basis for them and such other information that will assist the Secretary of Commerce in the conduct of the investigation.

"(4) The Secretary of Commerce shall, in the conduct of any investigation requested by the Secretary of Energy pursuant to this section, take into account any information made available by the Secretary of Energy, including an assessment of whether projected or executed contracts or options for source material or special nuclear material from foreign sources threaten to impair the national security or whether domestic production capacity is sufficient to supply projected national security or defense requirements.

"(5) No sooner than 3 years following completion of any investigation by the Secretary of Commerce under paragraph (3), if no recommendation has been made pursuant to such study for trade adjustments to assist or protect domestic uranium production, the Secretary of Energy may initiate a request for another such investigation by the Secretary of Commerce, except that restrictions on contracting under subsection f. shall not take effect by reason of such additional investigation unless the Secretary of Energy determines that new information related to national security requires that contracting be suspended pursuant to subsection f.

"f. In order to protect essential security interests of the United States, upon the initiation of an investigation under subsection e. to determine the effects on the national security of imports of source material or special nuclear material pursuant to section 232 of the Trade Expansion Act of 1962, it shall be unlawful to execute a contract or option contract resulting in the import of additional source material or special nuclear material from foreign sources, which is intended to be used in domestic utilization facilities licensed, or required to be licensed, under section 103 or 104 b. of this Act. This prohibition shall remain in effect for a period of two years or until the President has taken action to adjust the importation of source material and special nuclear material so that such imports will not threaten to impair the national security, whichever first occurs.".

(2) The table of contents for such chapter 14 is amended by adding the following at the end thereof:

"Sec. 170B. Uranium supply.".

And the Senate agree to the same.

MO UDALL,
JONATHAN B. BINGHAM,
JOHN F. SEIBERLING,
EDWARD J. MARKEY,
JOHN D. DINGELL,
RICHARD OTTINGER,
TOBY MOFFETT,
MANUEL LUJAN, JR.,
DAN MARRIOTT,
JAMES T. BROYHILL,
CARLOS J. MOORHEAD,
Managers on the Part of the House.

AL SIMPSON,
PETE V. DOMENICI,
STEVE SYMMS,
ROBERT T. STAFFORD,
GARY HART,
GEORGE J. MITCHELL,
JENNINGS RANDOLPH,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2330), to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, 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:

TOTAL NRC AUTHORIZATION

Section 1 of the conference agreement authorizes the appropriation of funds for the salaries and expenses of the Nuclear Regulatory Commission (NRC) during fiscal years 1982 and 1983.

Subsection 1(a) of the agreement authorizes a total of $485,200,000 for fiscal year 1982, and $513,100,000 for fiscal year 1983. For each fiscal year, the two houses recommended differing total funding levels for the NRC. The conference agreement incorporates the lesser of the two total authorization levels for each of the fiscal years; the effect is to use the Senate-approved authorization for FY-1982, and the House-approved total for FY 1983. For FY 1982, the authorization total is in excess of the amount appropriated for NRC under Public Law 97-88. For fiscal year 1983, the amount authorized for the agency is in excess of the amount requested in January 1982 by the Administration for the NRC.

The table below summarizes the various total authorization levels recommended for NRC.

	Fiscal year—	
	1982	1983
NRC request submitted January 1981	$560,700,000	$530,000,000
NRC request submitted January 1982		479,500,000
Public Law 97-88, Energy and Water Appropriation Act (passed Dec. 4, 1981)	485,700,000	
H.R. 2330 (passed by House Nov. 5, 1981)	485,871,000	513,100,000
S. 1207 (passed by Senate (Mar. 30, 1982)	485,200,000	530,100,000
Conference agreement	485,200,000	513,100,000

NUCLEAR REACTOR REGULATION

Paragraph 1 of subsection 1(a) of the conference agreement authorizes funds for the NRC's Office of Nuclear Reactor Regulation (NRR).

The House bill authorized $74,097,800 for NRR in fiscal year 1982, and $76,714,400 in fiscal year 1983. The House also specified that up to $1,000,000 in each fiscal year was available to accelerate the effort in gas-cooled thermal reactor preapplication review.

The Senate amendment authorized $85,100,000 for NRR during fiscal year 1982, and $78,280,000 during fiscal year 1983. The Senate amendment, like the House bill, specified that an amount not to exceed $1,000,000 in each fiscal year be available to accelerate the effort in gas-cooled thermal reactor preapplication review. The Senate amendment also designated up to $6,500,000 in each fiscal year for licensing review work for a fast breeder reactor project.

The conference agreement recommends an authorization for Nuclear Reactor Regulation which in each fiscal year falls between the amounts recommended by the House and Senate in their respective bills. The compromise authorizes $80,700,000 during fiscal year 1982, and $77,000,000 during fiscal year 1983.

The conference agreement retains the specification of $1,000,000 to be available in each fiscal year for gas-cooled reactors. These funds have been earmarked because the conferees believe that, in comparison with light water reactors, gas-cooled reactors are potentially advantageous with respect to safety, uranium requirements, and cooling water requirements.

Based upon a review of the NRC's current regulatory needs for the fast breeder reactor program, the agreement reduces from $6,500,000 to $6,000,000 the maximum amount available for license review work related to the fast breeder reactor (i.e., Clinch River) project. Also, the compromise requires that in the event of a termination of the Clinch River project, the amounts designated for this purpose are to be used only for NRR safety technology activities. NRR's safety technology activities include work in the following areas; unresolved generic safety issues; generic issues; risk assessment; research and standards coordination; operating experience evaluation; regulatory requirements; and, code analysis and maintenance.

The table below summarizes various authorization levels recommended for the Office of Nuclear Reactor Regulation.

	Fiscal year—	
	1982	1983
NRC request submitted January 1981	$75,610,000	$78,280,000
NRC request submitted January 1982		93,170,000
H.R. 2330 (passed by House Nov. 5, 1981)	74,097,800	76,714,400
S. 1207 (passed by Senate Mar. 30, 1982	85,100,000	78,280,000
Conference agreement	80,700,000	77,000,000

INSPECTION AND ENFORCEMENT

Paragraph 2 of subsection 1(a) of the conference agreement authorizes funds for the Office of Inspection and Enforcement (I&E) during fiscal years 1982 and 1983.

The House bill authorized $61,513,400 for I&E during FY 1982, and $62,564,600 for the program in FY 1983. The Senate amendment recommended an authorization for the Office of Inspection and Enforcement of $62,900,000 in FY 1982 and $70,270,000 during FY 1983.

The conference agreement authorizes $62,900,000 for I&E during fiscal year 1982. This amount is equal to that approved in the Senate amendment and is the higher of the differing amounts approved by the two houses in their respective versions of the authorizing legislation. The conferees believe the higher authorization level in this case will help to expand the resident inspector program, upgrade quality assurance and quality control functions, and establish an investigative office responsible for rigorous investigations of failures and alleged breakdowns of the NRC inspection and enforcement program.

The conference agreement authorizes $69,850,000 for I&E during FY 1983. This amount falls between the recommendations of the House and Senate for FY 1983.

The availability and use of funds for a nuclear data link system is not addressed in paragraph 2 of subsection 1(a). This matter

is treated separately in section 8 of the conference agreement.

The table below summarizes the authorization of funds for the Office of Inspection and Enforcement.

	Fiscal year—	
	1982	1983
NRC request submitted January 1981	$67,680,000	$70,270,000
NRC request submitted January 1982		69,850,000
H.R. 2330 (passed by House Nov. 5, 1981)	61,513,400	62,564,600
S. 1207 (passed by Senate Mar. 30, 1982)	62,900,000	70,270,000
Conference agreement	62,900,000	69,950,000

NUCLEAR MATERIAL SAFETY AND SAFEGUARDS

Paragraph 3 of subsection 1(a) of the conference agreement authorizes appropriations for NRC's Office of Nuclear Material Safety and Safeguards (NMSS) for FY 1982 and FY 1983.

The House bill authorized $45,766,000 during FY 1982, and $47,059,600 for FY 1983 to be appropriated for NMSS. The Senate amendment authorized $38,500,000 for NMSS in FY 1982, and $48,020,000 during FY 1983.

The conference agreement for FY 1982 is $42,000,000 for NMSS; an amount that is approximately midway between the authorization levels approved by the respective houses. The conference agreement also authorizes $47,059,600 for NMSS during FY 1983, an amount equal to that authorized by the House bill. The authorization recommendations for NRC's Office of Nuclear Material Safety and Safeguards are summarized in the table below.

	Fiscal year—	
	1982	1983
NRC request submitted January 1981	$46,700,000	$48,020,000
NRC request submitted January 1982		37,385,000
H.R. 2330 (passed by House Nov. 5, 1981)	45,766,000	47,059,600
S. 1207 (passed by Senate Mar. 30, 1982)	38,500,000	47,059,600
Conference agreement	42,000,000	47,059,600

NUCLEAR REGULATORY RESEARCH

Paragraph 4 of subsection 1(a) of the conference agreement authorizes funds to be used by the NRC's Office of Nuclear Regulatory Research (RES) during fiscal year 1982 and 1983. Under the conference agreement the authorization of funds for Standards Development has been included in the RES line-item, thereby reflecting an internal reorganization at the NRC that was consumated following consideration by the House authorizing committees of the Commission budget request submitted in January of 1981. The Commission budget request had maintained the separation of the Standards Development budget function from the RES function which prevailed prior to the reorganization.

The House bill authorized $227,301,200 for RES and $17,594,000 for Standards Development during FY 1982. The House also authorized $247,136,400 for regulatory research and $17,630,200 for Standards Development in FY 1983. The House bill specified that of the funds authorized for each of the fiscal years, amounts not to exceed $3,500,000 in FY 1982 and $4,500,000 in FY 1983 are available to accelerate the effort in gas-cooled thermal reactor safety research.

The Senate amendment, like the conference agreement, authorizes funds for RES and Standards Development as a single line-item identified as "Nuclear Regulatory Research." The Senate amendment (S. 1207) authorized $240,300,000 during FY 1982 and $270,170,000 in FY 1983 for this function. Similar to the House bill (H.R. 2330), the Senate amendment specifies that up to $3,500,000 in FY 1982 and $4,500,000 in FY 1983 of the amounts authorized are available to accelerate the effort in gas-cooled thermal reactor safety research. Further, the Senate amendment designated an amount not to exceed $20,000,000 in each fiscal year to be used for fast breeder reactor safety research.

The conference agreement authorizes $240,300,000 for fiscal year 1982 and $257,195,000 for fiscal year 1983 which may be used for Nuclear Regulatory Research. In each fiscal year the total amounts authorized for Nuclear Regulatory Research subsumes funds authorized for Standards Development. The conference agreement adopts the authorization level for FY 1982 that was originally approved by the Senate. The authorization level for fiscal year 1983 falls between the differing amounts approved by the House and Senate.

The conference agreement allocates up to $3,500,000 in FY 1982, and up to $4,500,000 in FY 1983 for the purpose of accelerating the effort in gas-cooled reactor safety research. This designation of funds to be available for gas-cooled reactors is identical to the provisions that appeared in H.R. 2330 and S. 1207.

Based upon a review of the NRC's current regulatory research budget needs for the fast breeder reactor program (predominantly for the Clinch River project), the conference agreement reduces the amount set aside within the RES line item for fast breeder reactor regulatory research from $20,000,000 per year to $18,000,000 per year. The conferees intend that the funds earmarked for breeder reactor regulatory research will help prepare the NRC for reviewing and acting on applications for licenses to construct and operate a breeder reactor, as well as subsequent regulation of the facility. The conferees expect the Commission to use the funds designated for this purpose to establish the necessary regulatory program and requirements in order that any required licensing determinations can be made in a manner which provides adequate protection of public health and safety and the environment.

The conference agreement further provides that if the fast breeder reactor project is terminated (i.e., if the Clinch River Breeder Reactor construction permit application is withdrawn or indefinitely deferred) funds set aside for the breeder reactor safety research program shall be used generally for Nuclear Regulatory Research.

Paragraph 4 of subsection 1(a) of the conference agreement is silent on the availability and use of funds for the Loss-of-Fluid-Test facility and program. This matter is addressed separately in section 7 of the conference agreement.

A summary of requests and recommendations for the authorization of appropriations for Nuclear Regulatory Research during fiscal years 1982 and 1983 is presented in the table below.

	Fiscal year—	
	1982	1983
NRC request submitted January 1981:		
Standards development	$17,950,000	$17,990,000
Regulatory research	231,940,000	252,180,000
NRC request submitted January 1982 (SD and RES combined)		219,725,000
H.R. 2330 (passed by House Nov. 5, 1981:		
Standards development	17,591,000	17,630,200
Regulatory research	227,301,200	247,136,400
S. 1207 (passed by Senate Mar. 30, 1982)	240,300,000	270,170,000
Conference agreement	240,300,000	257,195,600

PROGRAM TECHNICAL SUPPORT

Paragraph 5 of subsection 1(a) of the conference agreement authorizes appropriations for the agency's Program Technical Support (PTS) function.

The House bill authorized appropriations for PTS in the amounts of $18,757,200 for fiscal year 1982, and $20,197,800 for fiscal year 1983. The Senate amendment authorized $21,900,000 for PTS in FY 1982 and $20,610,000 for that budget function in FY 1983.

The conference agreement authorizes an amount equal to that approved by the Senate, $21,900,000, for FY 1982; and, an amount equal to that approved by the House for FY 1983, $20,197,800.

A summary of the authorization for Program Technical Support is presented in the table below.

	Fiscal year—	
	1982	1983
NRC request submitted January 1981	$19,140,000	$20,610,000
NRC request submitted January 1982		23,400,000
H.R. 2330 (passed by House Nov. 5, 1981)	18,757,200	20,197,800
S. 1207 (passed by Senate Mar. 30, 1982)	21,900,000	20,610,000
Conference agreement	21,900,000	20,197,800

PROGRAM DIRECTION AND ADMINISTRATION

Paragraph 6 of subsection 1(a) of the conference agreement authorizes funds during fiscal years 1982 and 1983 for the Commission's Program Direction and Administration (PDA) budget function.

The House bill authorized $40,846,400 for PDA during fiscal year 1982, and $41,797,000 for fiscal year 1983. The Senate amendment authorized $37,000,000 for PDA in FY 1982, and $42,650,000 during fiscal year 1983.

The conference agreement authorizes $37,400,000 in fiscal year 1982 for Program Direction and Administration, and $41,797,000 for fiscal year 1983. The conference agreement for fiscal year 1982 falls between the differing funding levels authorized by the House bill and Senate amendment. For fiscal year 1983, the conferees adopted the authorization level recommended by the House in H.R. 2330.

The table below summarizes the Program Direction and Administration authorization.

	Fiscal year—	
	1982	1983
NRC request submitted January 1981	$41,680,000	$42,650,000
NRC request submitted January 1982		36,020,000
H.R. 2330 (passed by House Nov. 5, 1981)	40,846,400	41,797,000
S. 1207 (passed by Senate Mar. 30, 1982)	37,000,000	42,650,000
Conference agreement	37,400,000	41,797,000

RESEARCH GRANTS AND COOPERATIVE AGREEMENTS WITH UNIVERSITIES

Subsection 1(b) of the conference agreement authorizes the Commission to use up to one percent of the amounts authorized for the Office of Nuclear Regulatory Research (paragraph 4 of subsection 1(a)) for the purpose of making research grants and other research arrangements with universities. Both houses had approved a similar provision in their respective bills.

The conference agreement also incorporates language from H.R. 2330 which instructs the Commission to endeavor to provide appropriate opportunities for universities in which the student body is predominantly comprised of minority groups.

The conference agreement responds to a situation brought to the attention of the Congress by the Nuclear Engineering Department Heads Organization. This group is

concerned that the NRC is exercising its existing authority under section 31a. of the Atomic Energy Act of 1954 (42 U.S. 2051(a)) to make research grants to universities in a way that unnecessarily impedes and frustrates the ability of those institutions to perform research for the agency.

The conferees believe that the MRC's university grants program provides an important means of obtaining high quality research of direct value to the agency and its regulatory mission. The conferees believe the NRC should continue the grants program through an annual request for proposal (RFP) solicitation in the Federal Register.

While the funds authorized by the conference agreement for university research grants are a small part of the overall NRC budget (approximately $2.5 million in each fiscal year), the conferees believe these funds represent a very valuable resource for graduate student training and university participation in reactor safety technology and nuclear regulation.

REPROGRAMMING AUTHORITY

Both the House bill and the Senate amendment authorized the Commission to reallocate authorized funds among programs provided certain specified conditions were fulfilled. Both houses required the Commission to notify the authorizing committees of any intended action to reprogram more than $500,000. Both provisions specified that the authorizing committees would have thirty legislative days to review the Commission's proposed action. Finally, under both provisions, the proposed reallocation of $500,000 could go forward before the expiration of the 30-day period (following submission to the authorizing committees of the Commission's "full and complete statement" of the proposed action to be taken) if each authorizing committee transmits to the Commission a written notification that the committee does not object to the proposed action.

Subsection 1(c) of H.R. 2330 authorized the Commission to reallocate funds in excess of $500,000 following the expiration of the 30-day period only if none of the authorizing committees had objected in writing to such proposed action. House approval of this requirement was linked to the new 2-year authorization period and was based on the expectation that the Commission would have cause to use the reprogramming authority more frequently than was the case when a new authorization bill was enacted each year. The House provision both provided the Commission with flexibility to reallocate funds, and provided the authorizing committees with a mechanism for ensuring that the Commission use authorized funds in a manner consistent with congressional intent.

Under the Senate provision, subsection 1 (c) of S. 1207, there was no authority vested in the authorizing committees to disapprove such reallocations by objecting in writing.

In light of concerns raised by the Department of Justice regarding the constitutionality of a legislative veto of the type contained in the House bill, the conferees adopted the Senate provision, with one modification. The modification agreed to by the conferees is intended to clarify that the Commission is authorized to reprogram funds not only between program offices, but also between specific activities within a single program office.

The conferees also expect that the Commission will give substantial weight to written comments forwarded to it by any of the authorizing committees concerning any NRC proposed action to reallocate amounts in excess of $500,000.

SECTION 2—COOPERATIVE RESEARCH AND MATERIAL ACCESS AUTHORIZATION FUNDING

Both the House bill and the Senate amendment authorized the Commission to use funds received for the cooperative nuclear program for salaries and expenses associated with that program. The Senate provision also authorized use of funds received for the material access authorization program for salaries and expenses associated with that program. The conferees incorporated this Senate provision in the conference agreement.

SECTION 3—TRANSFERS OF FUNDS

The conferees adopted the Senate provision, which differs only in certain minor technical respects from the House provision.

SECTION 4—LIMITATION ON SPENDING AUTHORITY

The conference agreement contains this provision which is identical to that in both H.R. 2330 and S. 1207.

SECTION 5—EMERGENCY PLANNING

Both the House bill and the Senate amendment contained provisions reaffirming the authority granted to the Commission under section 109 of the NRC Authorization Act for fiscal year 1980 (Public Law 96-295). This authority allows the Commission, in the absence of an approved State or local emergency preparedness plan, to issue an operating license for a nuclear power plant only if it determines that there exists a State, local, or utility emergency preparedness plan which provides reasonable assurance that the public health and safety is not endangered by operation of the plant.

In addition to reiterating the intent of Congress in enacting section 109 of P.L. 96-295, both houses explicitly stated that, in the absence of an approved State or local emergency preparedness plan, the Commission must make a similar determination prior to the issuance of a temporary operating license. The relevent legislative language is found in section 8 of H.R. 2330 and section 302 of S. 1207.

While technical differences exist between section 8 of the House bill and section 302 of the Senate amendment, the intent of both houses was the same. The conferees adopted the House provision which is included as section 5 of the conference agreement.

Finally, the conferees reiterate and emphasize the congressional intent expressed upon enactment of section 109 of P.L. 96-295 that ultimately every nuclear power plant will have applicable to it a state emergency response plan that provides reasonable assurance that the public health and safety will not be endangered in the event of an emergency at such plant requiring protective action

SECTION 6—NUCLEAR SAFETY GOAL

Both the House bill and the Senate amendment contained provisions respecting the Commission's efforts to establish a safety goal for nuclear reactor regulation.

Section 9 of H.R. 2330 limited the authority of the Commission to promulgate or publish a safety goal for nuclear power reactors prior to the completion of public hearings and directed the Commission to expedite, to the extent practicable, the development of the safety goal so as to allow for its establishment no later than December 31, 1981.

Section 106 of S. 1207 directed NRC to expedite establishment of a safety goal for nuclear reactor regulation. The Senate further directed that, unless the Commission decided otherwise, the safety goal was to be issued prior to issuance of regulations affecting engineered safety features, siting requirements, and emergency planning.

Section 6 of the conference agreement directs the Commission to expedite the development of a safety goal and accompanying methodologies so as to permit establishment of a safety goal no later than December 31, 1982. In light of information presented to the conferees indicating that the Commission is already conducting public hearings on the development of a safety goal, the compromise provision deletes that portion of the House provision related to public hearings. The conferees intend that the Commission continue to solicit public comment, and the conferees encourage the Commission to ensure ampl opportunity for public participation in the development of the safety goal.

The conference agreement deletes from the Senate amendment the references to deferral of promulgation of certain new regulations until after the establishment of a safety goal. While the conferees have decided to delete this language from the compromise, the conferees nevertheless wish to emphasize the importance of early development and promulgation of a safety goal. It is the view of the conferees, therefore, that unless the Commission determines otherwise, establishment of the safety goal should precede development of certain new regulations referred to in the Senate amendment, thereby providing a threshhold standard upon which the development of these other requirements could be premised. The conferees intend that the definition of safety goals and the regulations to achieve them proceed in reasoned sequence to the end that those regulations necessary to protect public health and safety effectively incorporate the safety goal.

The conferees also reiterate their full support of the objectives and policies of section 108 of the NRC Authorization Act for fiscal year 1980 (Public Law 96-295) related to remote siting of utilization facilities. Specifically, the conferees intend that the Commission continue to promulgate in a timely fashion demographic requirements for the siting of utilization facilities which are independent of facility design.

SECTION 7—LOSS-OF-FLUID-TEST PROGRAM

The House bill and the Senate amendment each contained provisions pertaining to the funding of the Loss-of-Fluid-Test facility (LOFT).

Section 6 of H.R. 2330 imposed restrictions on the amounts and use of funds authorized to be appropriated for LOFT. The House provision specified that not more than $30 million during fiscal year 1982 could be used to continue tests at the LOFT facility. The House bill was silent on the question of LOFT funding for fiscal year 1983. The restrictions on LOFT imposed by the House were in large part a response to criticism of that program by the Advisory Committee on Reactor Safeguards.

The Senate amendment authorized up to $45 million in each fiscal year for the LOFT program. In addition, of this amount, the Senate provision directed the NRC to fund by contract with the operator of LOFT for twenty staff-years in each fiscal year for the purpose of analyzing research results and recommending to the Commission appropriate revisions in its regulations.

Section 7 of the conference agreement authorizes the NRC to spend up to $57 million during the period of fiscal years 1982-1983 for the LOFT program. The conferees intend that these funds be used by the Commission to complete those tests identified by the LOFT Special Review Group in its report to the Commission of February 1981. According to information presented to the conferees by the Commission, these tests can be completed in fiscal years 1982 and 1983 for $57,000,000. In addition, the confer-

ence agreement authorizes the Commission to provide funding for up to 20 person-years each fiscal year for the purpose of conducting technical review and analysis of research results obtained from the LOFT test program. The conferees intend this technical review and analysis, together with appropriate test results from other test facilities, to be used in assessing the adequacy of the Commission's regulations (for example, Appendix K to Part 50 of the Commission's regulations).

Finally, the conferees are of the view that a continuation of the LOFT program under the management of the Department of Energy, sponsored both financially and technically by an international consortium, may be of some future benefit. It is the conferees' understanding that United States participation in such a program might include financial contributions from NRC of approximately $5 million to $10 million per year for a three year program beginning after FY 1983. While the conferees do not authorize funding for this program in this legislation, they are of the view that operation of the LOFT facility by an international consortium is an option that should be explored.

SECTION 8—NUCLEAR DATA LINK

Both houses placed restrictions on the amount and use of authorized funds available during fiscal year 1982 and fiscal year 1983 for the Nuclear Data Link (NDL) program.

Section 5 of H.R. 2330 specified that not more than $200,000 was available under that bill for the acquisition and installation of equipment to be used for the "small test prototype nuclear data link" program proposed by the Commission. This restriction on the availability of authorized funds also applied to any other program for the collection and transmission to the Commission of data from licensed nuclear reactors during abnormal conditions at such reactors.

Subsection (b) of the House provision provided a procedure for the Commission and the Congress that could have led to the lifting of the restrictions imposed by subsection (a). Under this procedure the Commission was required to submit a proposal to the Congress, whereupon either House of Congress could have rejected the proposal during a 60-day period following such submission. If neither House rejected the Commission proposal then upon conclusion of the 60-day period, the Commission was empowered to initiate its proposed action. The Commission also was authorized to initiate its proposed action before the expiration of said 60-day period, only if both Houses explicitly approved such proposed action.

Under section 5 of the House bill, paragraph (2) of subsection (b) specified actions the Commission must take prior to submitting a proposal to the Congress. Under this paragraph the Commission was required to conduct a full and complete study and analysis of the issues involved, and prepare a detailed report of the results of such study and analysis. The paragraph also required that any Commission proposal submitted to the Congress under this section was to be accompanied by such report, and a "concise statement" (based upon such report) setting forth the reasons and justifications for the proposal.

H.R. 2330 also specified minimum requirements for the issues that were to be addressed in carrying out the study and analysis referred to in paragraph (2) of subsection (b). The House required that the Commission "study and analysis" of the NDL include, at a minimum: an examination of the appropriate role of the Commissioners during a nuclear plant accident; information and data that should be available to the Commission so that it might fulfill its emergency role; alternative means for assuring that such information and data is available to the Commission; and, recommended changes in the Commission's existing authority so that the appropriate Commission role during a nuclear plant accident can be fulfilled. Section 5 of the House bill also required a cost-benefit analysis of the alternative means for making such information available to the Commission. Under the House bill this study and analysis must have been completed prior to any NRC request for NDL budget authority above the $200,000 ceiling.

The Senate amendment earmarked the availability of $1,000,000 to establish a prototype nuclear data link system. The Senate, in approving Section 101(a)(2) of S. 1207, contemplated that the prototype would be used in developing answers to the following questions: the specific role or roles of NRC Operations Center personnel in responding to a nuclear plant accident; the information needs of such personnel; and, a cost-benefit analysis of alternative systems for satisfying such information needs. The answers to these questions were to have been incorporated into a report to the Congress which included the recommendations of NRC on a specific system. After the report was submitted, under S. 1207, $5,013,000 in fiscal year 1982, and $6,300,000 in fiscal year 1983, was authorized for acquisition and installation of a full nuclear data link system.

Section 8 of the conference agreement is a compromise provision which specifies that during the period of fiscal years 1982-1983, not more than $200,000 is authorized to be used for certain specified activities including, but not limited to, the acquisition and installation of equipment to be used for a "small test prototype nuclear data link" program. The agreement also allows the use of some or all of said $200,000 for any other program (i.e., other than an electronic data link) for the collection and transmission to the Commission of data from licensed nuclear reactors during abnormal conditions at those facilities.

The conference agreement requires the conduct of a full and complete study and analysis of several fundamental questions which the conferees believe are material to any future Commission decision to proceed with the development of a nuclear data link program beyond a "small test prototype nuclear data link." These specific questions are set forth in subsection 8(a)(2) of the conference agreement.

Subsection 8(b) of the conference agreement requires the Commission to submit to Congress a "detailed report" on the results of the study and analysis required under subsection (a)(2). In addition, subsection 8 (b)(2) prohibits the Commission from taking action pursuant to such report until the authorizing committees have had a period of sixty calendar days to review the Commission's proposed action. While the conferees do not intend to establish a mechanism by which further action by the Commission may be vetoed by individual committees, the conferees expect the Commission will give substantial weight to any comments provided by those committees on any such action proposed by the NRC. With this in mind, and in response to concerns raised by the Department of Justice, the conferees agreed to omit from the conference agreement the legislative veto that the House had included in section 5 of H.R. 2330.

The conference agreement does not restrict the use of fiscal year 1981 carryover funds for activities under section 8 of the conference agreement, except insofar as the use of such funds would otherwise be subject to any applicable reprogramming requirements.

SECTION 9—INTERIM CONSOLIDATION OF NRC HEADQUARTERS STAFF

Section 7 of the House bill specified that of the amount authorized for "Program Direction and Administration" (under section 1(a)(7) of H.R. 2330) such sums as may be necessary were available for the interim consolidation of the NRC headquarters staff offices in the District of Columbia and, to the extent necessary, in Bethesda, Maryland.

The House provision also made clear, however, that no amount was authorized to be appropriated under H.R. 2330 for the purpose of relocating the officers of the Commission outside of Washington, D.C.

The Senate amendment contained no provision similar to section 7 of the House bill.

The conferees are very concerned by the serious problem confronting the NRC as a result of the agency's being housed in ten different buildings in five different locations in Washington, D.C. and suburban Maryland. The conferees agree with the Commission's own unanimous conclusion that the scattered physical location of the NRC staff has a significant adverse effect on the agency's operations. The conferees are aware that problems associated with NRC's current building situation have been documented by both the President's Commission on the Accident at Three Mile Island (the Kemeny Commission) and the NRC's Special Inquiry Group, and that the reports of both groups have called for urgent action to consolidate the agency. In addition, the Nuclear Safety Oversight Committee, in its September 26, 1980 letter to President Carter, stressed the importance of quickly achieving NRC consolidation.

The conferees note that the Congress has authorized construction of a building for the permanent consolidation of the agency. While the conferees look forward to the day when the Commission and its entire headquarters staff can be moved into a single building, it is the conferees' understanding that such a move will not be possible for at least several years. Because the General Services Administration currently has no plans for the commencement of construction of an NRC headquarters building before 1984, the conferees strongly support an interim consolidation of the Nuclear Regulatory Commission headquarters staff offices.

Section 9 of the conference agreement authorizes the use of such sums as may be necessary during fiscal years 1982 and 1983 for such an interim consolidation. The conference agreement also prohibits the use of any authorized funds to relocate the offices of the Commissioners outside the District of Columbia. The conference agreement applies only to interim consolidation of the NRC, and does not foreclose from further consideration any proposal for the long-term solution to the agency's building situation.

SECTION 10—THREE MILE ISLAND

The House bill included three separate provisions related to the NRC's activities pertaining to the Three Mile Island (TMI) nuclear power station in Pennsylvania.

First, section 10 of H.R. 2330 explicitly prohibited the use of any funds authorized by that bill for the purpose of decontamination, cleanup, repair, or rehabilitation of the Three Mile Island Unit 2 (TMI-2) reactor which was severely damaged in an accident on March 28, 1979. The House bill further provided that this prohibition does not extend to expenses incurred by the NRC in

carrying out its responsibilities to protect public health and safety. The Senate amendment did not contain a similar provision. The conferees adopted this House provision and incorporated it in section 10 of the conference agreement.

Second, subsection 10(c) of the House bill directed the NRC to enter into a memorandum of understanding with the Department of Energy specifying agency procedures for the disposal of radioactive materials resulting from the clean-up of TMI-2. The original Senate legislation, as reported by the Senate Environment and Public Works Committee, contained a similar provision, but this provision was deleted during consideration of S. 1207 by the full Senate. The conferees have been advised that the NRC and DOE, on March 15, 1982, entered into a memorandum of understanding which sets forth the respective responsibilities of the two agencies for removal and disposition of the solid nuclear wastes from the cleanup of TMI-2. Accordingly, the conferees have agreed to omit the House provision. At the same time, however, the conferees intend that the Congress be kept fully apprised by the NRC of all activities undertaken by the NRC and DOE of a collaborative nature with respect to the cleanup of TMI-2. Therefore, in lieu of the requirement contained in subsection 10(c) of H.R. 2330, the conferees have included in section 10 of the conference agreement a provision directing the NRC, in its annual report to the Congress, to include a separate chapter discussing such activities.

Third, the House bill included a provision (section 14) barring the NRC from any willful release of radioactive waste water from TMI-2 into the Susquehanna River. The Senate amendment did not contain a similar provision. The conference agreement includes in subsection 10(d) a modified version of the House provision. Under section 14 of H.R. 2330, NRC was prohibited from using any authorized funds to approve any willful release of "radioactive water resulting from the accident" at TMI-2. The conference agreement modifies this language for the purpose of making it clear that the prohibition does not extend to routine discharges of radioactive water from the Three Mile Island Unit 1.

The conferees intend the prohibition in subsection 10(d) of the compromise agreement to be narrowly limited to "accident-generated water." The conference agreement references the definition of this phrase contained in the Commission's Final Programmatic Environmental Statement (NUREG-0683, page 1-23). The conferees do not intend this provision to apply, in any fashion, to discharges of radioactive waste water which do not fall within this definition. Moreover, the conferees do not intend that the adoption of this provision in any way implies that routine discharges from other commercial nuclear power reactors which meet all applicable standards or requirements pose an unacceptable risk to the public health, safety, or the environment.

Finally, the conferees recognize that NRC staff studies and analyses will continue to evaluate alternative means for the disposition of the water as a necessary step in the cleanup. Those studies are, in the view of the conferees, potentially useful to the Commission as it endeavors to fulfill NRC's responsibility to protect the public health and safety.

SECTION 11—TEMPORARY OPERATING LICENSES

Both the House bill and the Senate amendment granted the Commission new limited authority to issue temporary (or "interim") operating licenses for nuclear power reactors if certain conditions were fulfilled.

Section 12 of H.R. 2330 gave the Commission authority to issue temporary operating licenses (TOLs) for nuclear generating stations in advance of the conduct and completion of hearings required under section 189 and 192 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2242). The House provision invoked the existing authority and procedural requirements of section 192 of the Atomic Energy Act, and thus did not directly amend existing law.

Section 201 of S. 1207 amended section 192 of the Atomic Energy Act of 1954, and explicity amended existing procedures under section 192 for the issuance of a temporary operating license.

The House bill required that a TOL first be limited to no more than five percent of a power reactor's rated full thermal power. The House provision allowed, subsequent to the issuance of a 5% TOL, and contingent upon licensee application and Commission approval, the plant to operate at levels up to and including full power. The Senate amendment incorporated a similar step-by-step TOL (with an initial upper limit of five percent power operations) permitting the possibility of acendency to full power prior to the completion of hearings required under section 189 of the Atomic Energy Act.

The Senate amendment required filing of a State, local, or utility emergency preparedness plan prior to petition by an applicant for an interim operating license. Section 12 of the House bill contained no similar requirement. The House did provide in section 8 of H.R. 2330, however, that the Commission was to determine prior to issuing a TOL that an emergency preparedness plan existed which provided reasonable assurance that public health and safety would not be endangered by a plant operating under a temporary operating license.

S. 1207 required NRC to publish notice of a petition for an interim operating license. Under the Senate amendment, any party was allowed to file supporting or opposing affidavits within 30 days of such notice. By reference to the existing section 192 of the Atomic Energy Act, the House provided that any party could file supporting or opposing affidavits within 14 days of the filing of the petition. The House provision also empowered the NRC to extend this time by 10 days.

H.R. 2330 required the Commission to hold a hearing on the issue of whether or not to grant a temporary operating license. Under the House bill, such hearing, which could be held after the issuance of the TOL, could be consolidated with the final operating license hearing held by NRC pursuant to section 189 of the Atomic Energy Act. S. 1207 did not require a hearing on the issuance of an interim operating license.

The House provision required NRC to find, prior to issuance of a TOL, that the licensee would not retire or dismantle any of its existing generating capacity because of the new capacity provided by the facility to be granted the temporary license. The Senate amendment to section 192 of the Atomic Energy Act did not contain this restriction.

The Senate amendment did require the Commission to make a finding, prior to issuance of an interim operating license, that denial of such license would result in delay in the initial operation of the facility (due to completion of the plant's construction prior to the completion of the section 189 public hearings required under the Atomic Energy Act). The House bill contained no similar requirement.

S. 1207 included a provision directing any party to the final operating license proceeding, as well as any member of the Commission's licensing board, to notify the Commission of any information indicating that the licensee was not complying with the terms of the interim operating license. Similarly, the Commission was required to be informed if the terms of the interim license were not adequate. The House bill had no similar requirement.

The Senate amendment directed NRC to adopt administrative changes that would minimize the need for issuance of interim operating licenses. H.R. 2330 had no such directive.

Both the House and Senate intended that the Commission's authority to issue temporary operating licenses should expire at a time certain. The Commission's authority under the House bill ended on September 30, 1983. The expiration date under S. 1207 was December 31, 1983.

Section 11 of the conference agreement amends section 192 of the Atomic Energy Act of 1954 (42 U.S.C. 2242) and grants the Commission authority to issue a temporary operating license for a utilization facility required to be licensed under section 103 or 104 b. of the Act. The agreement specifies that an applicant may petition the Commission for a TOL authorizing fuel loading, reactor testing, and operations at a specific power level to be determined by the Commission. The conferees intend that the applicant cannot undertake any such activities until final favorable action by the Commission on the TOL application. The conference agreement also specifies that the initial petition for a TOL, and any temporary license issued by the Commission pursuant to the initial petition, must be limited to power levels not to exceed five percent of rated full thermal power.

Under the conference agreement, which is substantially similar to section 201 of the Senate amendment, the conferees intend that any TOL, whether for initial operation at 5% of full power or for operation at a higher power level, would be issued or amended only upon a vote of the Commission itself. The conferees intend that the authority to issue or amend such licenses, or to make findings required by subsection b, may not be delegated to the NRC staff.

The conferees believe that the circumstances which gave rise to the need for section 11 of the conference agreement, (including primarily the temporary reassignment of NRC staff from licensing review work to post-Three Mile Island safety reevaluations) were unique and will not recur in the foreseeable future. As the Commission itself noted in its March 18, 1981 letter submitting proposed legislation to authorize the issuance of temporary low-power operating licenses, such legislation represents an "extraordinary and temporary cure for an extraordinary and temporary situation. In addition, the conferees expect the Commission to use this period to continue to review its operating license and case management procedures, and to make such changes as may be needed to increase their overall efficiency without restricting the rights of the public to raise and have resolved the legitimate safety and environmental issues which accompany the construction and licensing of nuclear powerplants.

The conferees caution that in no way should the conference agreement be interpreted as a determination by Congress that any particular facility is presumptively ready to operate, or has a valid legal claim to begin operations once construction is completed. Under the agreement, a TOL cannot be issued before all significant safety issues specific to the facility in question have been resolved to the Commission's satisfaction. Paragraphs (1) and (2) of subsec-

tion b of the conference agreement are intended to assure that, based upon all the information available to the Commission, the Commission is able to find that the facility would meet all requirements of law (other than the conduct or completion of any required hearing) necessary for the issuance of the final operating license.

Subsection 11(d) of the conference agreement directs the Commision to adopt such administrative remedies as it deems appropriate to minimize the need for issuance of temporary operating licenses. This subsection reflects the conferees' expectation that a TOL should be a last resort remedy, to be employed only when no other alternative is available. This subsection envisions that the NRC will adopt such remedies pursuant to its current statutory authority, and is not intended to confer any additional authority upon the NRC beyond that it now possesses. In addition, the conferees expect that any administrative remedies adopted to minimize the need for issuance of TOL's shall not themselves infringe upon the right of any party to a full and fair hearing under the Atomic Energy Act. The conferees intend that the Commission shall notify the Congressional committees listed in subsection 11(b) of the conference agreement of all administrative remedies that it proposes to adopt in accordance with subsection 11(d).

SECTION 12—OPERATING LICENSE AMENDMENT HEARINGS (THE "SHOLLY" PROVISION)

The House and Senate each granted the Commission new authority to approve and make immediately effective certain amendments to licenses for nuclear power reactors, upon a determination by the Commission that the amendment involved no significant hazards consideration.

Section 11 of the House established this new Commission authority in a provision that did not amend existing law. The Senate amendment granted the Commission permanent authority by amending the Atomic Energy Act of 1954.

Under H.R. 2330, the Commission's new authority was limited to amendments to nuclear power reactor licenses. The authority under S. 1207 was broader, and extended to amendments to licenses for all facilities licensed under the Atomic Energy Act.

The House specified that NRC could approve and make immediately effective a license amendment only after notification of the State in which the facility was located. Also, the House required the Commission "when practicable" to consult with the State before issuance of an amendment. The Senate required the Commission to consult with the State in which the facility was located when determining whether or not an amendment involved a significant hazards consideration. The Senate also directed NRC to promulgate within 90 days criteria for providing prior notice and public comment on such determinations and procedures for consultation with the affected State.

Section 11 of the House bill directed NRC to publish periodically (at least every 30 days) notice of amendments issued or proposed to be issued using the immediate effectiveness authority; the nuclear power reactor concerned; and, a brief description of the amendment. The Senate, in its report accompanying S. 1207, directed the NRC to submit a monthly report to Congress on the exercise of its authority under this provision.

The House bill directed the NRC to promulgate standards (within 90 days of enactment) for determining whether or not an amendment to a license involved no significant hazards consideration. The Senate amendment explicitly preconditioned the Commission's authority to issue and make immediately effective license amendments involving no significant hazards consideration on promulgation by NRC of standards for making the "no significant hazards" determination.

The conferees adopted a compromise provision (section 12 of the conference agreement) which amends section 189a. of the Atomic Energy Act of 1954 (42 U.S.C. 2239(a)). Under the conference agreement, the NRC may issue and make immediately effective a no significant hazards consideration amendment to a facility operating license before holding a hearing upon request of an interested party. The Commission may take such action only after (in all but emergency situations), (1) consulting with the State in which the facility is located, and (2) providing the public with notice of the proposed action and a reasonable opportunity for comment.

13(b). In undertaking the pilot program, the Commission must include the use 'independent inspectors" as described er paragraph (5) of subsection (b). By osing the requirement that the pilot gram shall include programs that use an lependent inspector," the conferees do mean that the Commission, in undertak- the pilot program, should place lesser phasis on the review and evaluation of gams incorporating the concepts in paraphs (1) through (4) of subsection 13(b).

he conference agreement stipulates that pilot program shall include at least one at which quality assurance and quality trol programs have operated satisfactori- and shall include at least two sites "at ich major construction, quality assurance l quality control deficiencies . . . have n identified in the past." The conferees ommend that the Commission, in select- these latter two sites, refer for guidance he testimony of the NRC Executive Ditor for Operations before the House nmittee on Interior and Insular Affairs November 19, 1981.

ubsection 13(d) requires that the Comsion report to Congress (within fifteen nths of enactment of this Act) on the rets of the pilot program.

SECTION 14—LIMITATION ON THE USE OF SPECIAL NUCLEAR MATERIAL

ection 207 of S. 1207 amended the omic Energy Act to prohibit the use of cial nuclear material (or, spent fuel) m licensed nuclear power reactors for the duction of nuclear explosive devices. R. 2330 had no equivalent section.

he conferees agreed to include the iate provision in the conference agreent.

SECTION 15—RESIDENT INSPECTORS

t the request of the Commission, the nate amended the Atomic Energy Act to thorize NRC to reimburse all or part of expenses of resident inspectors incurred relocating between two NRC duty staons. In addition section 205 of S. 1207 sped that the Federal Government would y expenses related to travel and transportion to and from work.

Specifically, section 205 of the Senate nendment would have amended the omic Energy Act to allow NRC to reimrse resident inspectors for: (1) points or ortgage loan origination fees; (2) interest "bridge" or "swing" loans; and, (3) title surance. In addition, S. 1207 would have abled resident inspectors to use governent cars for daily commuting to and from ork. The Senate authorized appropriations $1,162,000 in fiscal year 1982, and ,129,000 in fiscal year 1983, for these purses.

he House did not include any similar vision in H.R. 2330.

he conferees rejected the Senate provi- amending the Atomic Energy Act, and eed instead to authorize such sums as y be necessary for the Commission to duct a study of the financial hardships urred by resident inspectors as a result (1) certain Commission regulations ch require resident inspectors to relocate iodically from one duty station to ane; and, (2) Commission requirements inded to assure that a conflict of interest appearance of such a conflict of inter- does not develop as a result of a resit inspector either living near licensee ployees, or commuting to and from work h licensee employees. Section 15 of the ference agreement directs the Commis- to report to Congress on the results of study.

he conference agreement is responsive to concerns raised in a May 6, 1982 letter to the conferees from the Administrator of the General Services Administration (GSA). The Administrator expressed the view that relocation problems are government-wide, and not unique to NRC resident inspectors. Also, it is GSA's opinion that government cars should not be used to compensate Federal employees for unusual expenses of their jobs. The conferees expect the Commission to address the GSA concerns in the study and report to Congress required by section 15 of the conference agreement.

The conferees also call the Commission's attention to page 9 of the "Follow-up Audit of OIA's December 1979 Report Entitled 'Review of Continuing Implementation of NRC's Resident Inspection Program', July 1982" which was forwarded to the conference committee by the Commission on July 28, 1982. That report states the original recommendation of NRC's Office of the Inspector and Auditor was that the Commission should "either develop a legislative proposal . . . . *or* (find) *alternative methods*" to reimburse resident inspectors relocation costs (emphasis added). The conferees expect the study and the report to Congress authorized by section 15 of the conference agreement to give full consideration to such "alternative methods" of compensation.

The conferees believe the NRC's resident inspector program significantly enhances the agency's ability to monitor licensee's compliance with the Commission's regulations on a day-to-day basis. For this reason, the total funding requested by NRC for fiscal years 1982 and 1983 to be used for personnel expenses due to expansion of the resident inspector program.

SECTION 16—SABOTAGE OF NUCLEAR FACILITIES OR FUEL

The Senate amendment contained a provision amending section 236 of the Atomic Energy Act of 1954, by adding a new subsection b. that subjects to criminal penalties any person who intentionally and willfully causes or attempts to cause an interruption of the normal operation of any facility specified in subsection 236b., through the unauthorized use of, or tampering with, the machinery, components, or controls of such facility.

H.R. 2330 contained no similar provision.

The conferees agreed to include the Senate provision in the conference agreement. The conferees intend the phrase "unauthorized use" to mean use without permission of the licensee; the word "tampering" to mean altering for improper purposes or in an improper way; and the phrase "interruption of normal operation" to mean a cessation of actual production, utilization, or storage operations which, if accom-

plished, will result in substantial economic harm or cost to the licensee. The conferees do not intend, however, for this provision to apply to demonstrating, picketing, or other concerted labor union activities that may have the effect of exerting economic pressure upon the licensee.

SECTION 17—DEPARTMENT OF ENERGY INFORMATION

The Senate amendment included a provision amending the existing section 148 of the Atomic Energy Act. That section currently authorizes the Department of Energy to prohibit unauthorized dissemination of certain unclassified information. The House considered no comparable provision.

The Senate amendment made three changes in the existing section 148. First, the Senate provision amended subsection 148a.(1) to make it clear that the authority of the Secretary of Energy to withhold information under this subsection is limited to certain narrowly-defined categories of information related to atomic energy defense programs. The specific categories of information are set forth in subsection 148a.(1)(A)-(C). By inserting the phrase "with respect to atomic energy defense programs," the Senate intended to ensure that the authority conferred upon the Department of Energy under section 148 authorized only the withholding of information that (1) falls within one of the three categories specified in subsection 148a.(1)(A)-(C), *and* (2) is related to the Department's atomic energy defense programs.

Second, the Senate amendment added a new subsection "e" to section 148, requiring the Secretary to prepare a quarterly report detailing the secretary's application of Section 148 during that period. The information to be contained in this report, which is to be made available upon request of any interested program, was set forth by the Senate in subsection 148a. (1)-(3).

The conferees agreed to include the Senate provision in the conference agreement, subject to one clarification. Namely, the conferees do not intend that DOE, in preparing the report required under subsection 148e., identify the actual information to be withheld under this provision. These reports should (1) identify the type of information withheld, (2) provide a statement justifying the withholding of the information, and (3) provide assurance that only the minimum amount of information is being withheld.

SECTIONS 18, 19, 20, AND 21—URANIUM MILL TAILINGS

The Senate amendment contained a number of provisions relating to implementation of the Uranium Mill Tailings Radiation Control Act of 1978 (UMTRCA). The provisions adopted by the Senate, which are included in section 206 of S. 1207, were based upon certain problems identified in hearings held before the Senate Environment and Public Works Committee on June 16, 1981.

First, the Senate provision established new deadlines for the promulgation by the Environmental Protection Agency (EPA) of inactive and active site general environmental standards, in light of the fact that EPA missed the existing Statutory deadlines of November 8, 1979 and May 8, 1980 for issuing inactive and active site standards, respectively. The Senate provision provided that EPA shall have until April 1, 1982 to issue final inactive site standards and until October 1, 1982 to issue proposed active site standards, with final active site standards to follow six months thereafter. The Senate provision clarified EPA's authority to consider impacts on public health and safety and the environment, as well as the economic cost of application of standards. In addition, the Senate provided EPA with flexibility under the Solid Waste Disposal Act to consider circumstances associated with uranium mill tailings.

Second, the Senate suspended NRC's regulations, which were issued in advance of EPA's standards, until EPA promulgates its standards. Within 90 days of promulgation by EPA of final standards, the Senate provision directed NRC to initiate a rulemaking proceeding to conform its regulations to those standards. Pending promulgation by the NRC of its regulations, the NRC was barred from implementing or enforcing any of its current regulations, but was allowed to regulate uranium mill activities on a case-by-case basis as necessary to protect public health and safety.

Third, the Senate provision clarified that NRC has the authority to consider all relevant factors, including impact on public health and safety and the environment, as well as economic cost in developing its standards. For existing uranium mills, the Senate provision authorized the NRC to consider certain site-specific conditions.

Fourth, the Senate provision clarified the authority of Agreement States that elect to regulate uranium milling activities to adopt alternatives to Federal requirements if the States find that the Federal requirements are not practicable under local conditions. The provision specified that NRC may not reject any such State findings that are supported by substantial evidence in the record, unless the NRC finds that the State alternative fails to provide adequate protection to the public health, safety, and the environment. Such NRC action may only be taken in accordance with the notice and hearing provisions of the Atomic Energy Act. Upon promulgation by NRC of its regulatory requirements, Agreement States were given six months, under the Senate provision, to issue such amended State requirements as may be necessary. NRC may terminate a State's authority after this period only by following the notice and hearing requirements of the Atomic Energy Act.

Fifth, the Senate provision clarified that NRC retains authority in Agreement States to evaluate compliance with Agreement State requirements, but not to impose additional requirements.

Finally, the Senate provision authorized NRC to exempt land in which tailings have been employed as backfill in underground mines from the ownership transfer provisions of the Act.

The House bill did not contain any provisions related to uranium mill tailings.

The conferees have agreed to a compromise that includes four essential elements. First, the conference agreement establishes new deadlines for the promulgation by EPA of general environmental standards required under section 275 of the Atomic Energy Act. The original deadlines established when the Uranium Mill Tailings Radiation Control Act (UMTRCA) was passed in 1978 called upon EPA to promulgate final general environmental standards for inactive and active uranium processing sites by November 8, 1979 and May 8, 1980, respectively. Those deadlines have long since passed and EPA has yet to issue either its final active or inactive standards. The conferees wish to emphasize their concern and express their displeasure over EPA's past failures to promulgate these general environmental standards in a timely fashion.

When UMTRCA was passed in 1978, Congress assigned to EPA a significant role in the program for regulation of uranimum mill tailings activities. An EPA regulatory role in this area should, in the view of the conferees, be brought to bear on the task of assessing and controlling the risks posed by uranimum mill tailings and developing general environmental standards only if a regulatory program including EPA can be implemented with certainty and in a timely manner. To date, EPA has failed to meet this Congressional mandate as it was first spelled out in UMTRCA.

Accordingly, the conference agreement establishes new deadlines for the promulgation by EPA of general environmental standards. Specifically, EPA is directed to promulgate the following standards by the dates identified:

Final Inactive Site Standards—October 1, 1982;

Proposed Active Site Standards—October 31, 1982; and

Final Active Site Standards—October 1, 1983.

It is the intent of the conferees that EPA make every effort to allocate those resources necessary to ensure that the foregoing deadlines are met. In this regard, the conferees note the assurances of the Administrator of EPA contained in a letter to the conferees of April 28, 1982, that these deadlines are, in fact, achievable.

Should EPA fail to meet the deadlines set forth for the promulgation of final general environmental standards, the conference agreement includes specific directions on the actions that are to follow. Section 18(a)(1) provides that, if EPA fails to promulgate final inactive site standards by October 1, 1982, all action required of the Secretary of Energy under title I of UMTRAC shall be taken in accordance with EPA's proposed inactive site general environmental standards (published at 46 Federal Register 2556 on January 9, 1981), until such time as EPA promulgates final inactive site standards. EPA should continue in its efforts to promulgate final inactive standards as soon as possible and, upon promulgation, the conferees intend that the Secretary of Energy's actions, as required under title I, be taken in compliance with such final standards. To the extent practicable, DOE should make every reasonable effort, in complying with EPA's proposed standards, to take those actions required under title I which will, upon promulgation of EPA's final standards, be least likely to be disrupted. In addition the conferees note that, for purposes of the "7-year clock" for the completion of cleanup, DOE's time begins to run October 1, 1982.

If EPA fails to promulgate final active site standards by October 1, 1983, section (a)(3) of the conference agreement provides that the authority of EPA to promulgate such active site standards terminates. In such event, the NRC is authorized to determine, in its discretion, whether the promulgation of such general environmental standards is necessary in order for NRC to carry out its reponsibilities under title II and, if so, to promulgate any such standards deemed necessary. Upon promulgation of any such standards, the NRC shall take such action as it deems necessary to conform its regulations to such standards. It is the conferees' intent, however, that during the period in which the NRC promulgates these active site standards and subsequently conforms its regulations to such standards, nothing in the conference agreement shall be construed as requiring the NRC to prohibit or suspend the implementation or enforcement of its regulations. In light of this, it would be the conferees' expectation that, in promulgating any general environmental standards deemed necessary, the Commission would provide notice and opportunity for public comment similar to that available had EPA been promulgating such standards.

The second major element of the conference agreement relates to the regulations required to be promulgated by NRC under UMTRCA and the Atomic Energy Act. On October 3, 1980, the Commission promulgated its final Uranium Mill Tailings Requirements (45 Federal Register 65521 to 65538). Under the conference agreement, the Commission is prohibited from implementing or enforcing those regulations until January 1, 1983. Due to the confusion which has arisen with EPA's failure to promulgate final regulations in advance of the NRC, according to the timetable established in the UMTRCA, the conferees believed the simplest and most efficient manner in which to restore order to the regulatory scheme, was temporarily to suspend implementation and enforcement of the NRC's mill tailings regulations until January 1, 1983. The conferees have limited the suspension to the minimum time required to straighten-out potentially conflicting regulatory requirements. The conferees take this action only to assure a smooth regulatory system while transitions are occurring. On that date, the Commission is authorized to implement and enforce all of its October 3rd Uranium Mill Licensing Requirements *except* those that the Commission determines would require a major action or commitment by licensees which would be unnecessary if (1) the active site standards proposed by EPA are promulgated in final form without modification, and (2) the Commission's requirements are modified to conform to such standards. The conferees note that, in this context, the term "commitment" may include financial obligations or expenditures that might be required. This determination referred to in section 18(a)(4) of the conference agreement is to be made by the Commission following a review and analysis of the Commission's regulations and EPA's proposed active site standards as soon as the latter are promulgated. Section 18(a)(4) specifically provides that, following proposal by EPA of its active site standards, the Commission is to undertake a review of its regulations in order to make the determination referred to above. The conference agreement provides the NRC 90 days in which to make this determination. This period of time, in the view of the conferees, should provide sufficient opportunity for the Commission to provide notice and opportunity for public comment prior to reaching its determination.

Those requirements that the Commission determines would require a major action or commitment by licensees which would be unnecessary if (1) the standards proposed by the Administrator are promulgated in final form without modification, and (2) the Commission's requirements are modified to conform to such standards, shall continue to the suspended (both implementation and enforcement) until the earlier of April 1, 1984, or the date on which the Commission amends its regulations to conform to EPA's final active site standards (to be promulgated by October 1, 1983). Upon promulgation by EPA of its final active site standards, the Commission shall have until April 1, 1984 to conform its regulations to EPA's standards. If NRC completes this task prior to April 1, 1984, the suspension of such regulations shall terminate upon this earlier date. If EPA does not promulgate final standards by October 1, 1983, the agency's regulatory authority terminates and NRC's regulations go into effect on that date as initially proposed or as modified by rule by NRC. Once again, the conferees fully expect that this six month period of time is of sufficient length to enable the Commission to provide notice and opportunity for public comment prior to reaching its determination.

During the period of suspension of NRC's uranium Mill Licensing Requirements imposed under the conference agreement, the NRC is authorized to take such action as it may deem necessary, on a licensee-by-licensee basis, to protect public health, safety, and the environment.

Subsection (f)(4) clarifies that nothing in this section is intended to affect the authority or responsibility of the Commission to promulgate regulations to protect the public health and safety and the environment. The conferees specifically rejected the notion that the NRC in any way acted improperly, in promulgating its regulations in advance of action by the Environmental Protection Agency. This subsection is not intended to affect the temporary suspension imposed under 18(a)(4) of the implementation and enforcement of certain of NRC's uranium Mill Licensing Requirements.

The third major element of the conference agreement pertains to the responsibilities of EPA and NRC to promulgate, respectively, general environmental standards and uranium mill licensing regulations. In each instance, the conferees have agreed to include specific references in the appropriate sections of the Atomic Energy Act directing EPA and NRC, in promulgating such standards or regulations, to consider the risk to the public health, safety, and the environment, the environmental and economic costs of such standards or regulations, and such other factors as EPA or NRC, respectively, determine to be appropriate.

The conferees do not intend and specifically oppose by this language affecting any pending litigation or appeal of judicial decisions based on the fundamental missions or responsibilities of the agencies. The conferees note that this language reflects accurately the current regulatory approach of the agencies. The language agreed to by the conferees should not result in any delays in establishment of remedial action standards. EPA, for example, has already advised the conferees that it is considering costs in formulating its inactive site requirements. In addition, the NRC has testified before Congress that it, too, took costs into account in promulgating its Uranium Mill Licensing Requirements. Moreover, in adopting the language, the conferees intend neither to divert EPA and NRC from their principal focus on protecting the public health and safety nor to require that the agencies engage in cost-benefit analysis or optimization.

The conferees are of the view that the economic and environmental costs associated with standards and requirements established by the agencies should bear a reasonable relationship to the benefits expected to be derived. This recognition is consistent with the accepted approach to establishing radiation protection standards, and reflects the view of the conferees that, in promulgating such general environmental standards and regulations, EPA and NRC should exercise their best independent technical judgment in making such a determination. At all times, the conferees fully intend that EPA and NRC recognize as their paramount responsibility protection of the public health and safety and the environment.

The fourth major element of the conference agreement involves implementation of the federal standards and regulations of EPA and NRC at the State level. Under section 19 of the conference agreement, individual Agreement States are authorized to adopt alternatives (including site-specific alternatives) to the Commission's regulations. These alternative State requirements, which may take into account local or regional conditions, must be submitted to the Commission for approval. If, after notice and opportunity for a public hearing, the Commission determines that the State alternatives will achieve a level of stabilization and containment of the site and a level of protection for public health, safety, and the environment, which is equivalent to, to the extent practicable, or more stringent than the level which would be achieved by the EPA and NRC standards and requirements, the State is to be allowed to implement such alternatives.

Section 20 of the conference agreement confers upon individual licensees a related but less independent ability to propose alternatives. Under this section, individual licensees are authorized to propose alternatives to specific Commission requirements. The Commission may treat such alternatives as satisfying Commission requirements if it determines that such alternatives will achieve a level of protection for public health, safety, and the environment, which is equivalent to, to the extent practicable, or more stringent than the level which would be achieved by the EPA and NRC standards and requirements.

States and licensees are intended to be provided an opportunity to propose approaches to mill tailings containment and stabilization suited to regional or site-specific conditions which may vary from engineering or technical specifications recommended by the Commission. The Commission is expected to assure that alternative approaches meet the operational criteria and objectives set by the NRC regulations and the general environmental standards set by EPA. The conferees note that the right of Agreement State regulatory authorities to adopt regulations which meet the NRC/EPA standard is being clarified, but that a distinction exists between this right and the opportunity being affirmed for licensees to propose to NRC alternative approaches to compliance with Commission regulations.

Finally, section 19(b) of the conference agreement provides that there is to be no termination of the regulatory program of any Agreement State that is acting to exercise authority over mill tailings unless NRC complies with the procedures specified in subsection 274(j) of the Atomic Energy Act.

S. 1207, as passed by the Senate, included several provisions not included in the conference agreement. In some instances, the conferees were of the view that the authority conferred pursuant to these specific provisions in S. 1207 already existed under current law or that the Commission was interpreting its authority in a fashion consistent with the conferees' understanding of what current law provides, and that no further statutory guidance was required. Accordingly, the conferees agreed to delete those provisions. Specifically, those provisions of S. 1207 which were so deleted are as follows: Sections 206(i), (j), and (k).

SECTION 21—EDGEMONT

The Senate amendment included a provision directing the Commission, in consultation with the State of South Dakota and a number of other federal departments to establish a monitoring, engineering assessment, and remedial action program for the purpose of cleaning up offsite locations in the vicinity of Edgemont, South Dakota that have been contaminated by residual radioactivity from the Tennessee Valley Authority (TVA) uranium mill site. Although the Edgemont site is an inactive uranium mill site, it was not included in the remedial action program established by the Uranium Mill Tailings Radiation Control Act of 1978 because TVA held a current license from the NRC for the mill. TVA is obligated and

has agreed to clean up the mill tailings on the Edgemont site. No legal responsibility has been established, however, for cleanup of the tailings at the offsite locations.

The Senate amendment was intended to address the concerns that have arisen over who has the jurisdiction and responsibility for cleanup of the offsite locations by incorporating into the remedial action program of the mill tailings act these offsite mill tailings locations. In addition, the Senate provision was intended to confirm the monitoring and engineering assessment program now underway by the NRC that would precede the cleanup itself at these offsite locations.

The House bill did not contain a similar provision.

The conferees agreed to a compromise provision that is intended to address those concerns raised by the Senate. The provision agreed upon by the conferees amends section 102(e) of the Uranium Mill Tailings Radiation Control Act of 1978 by adding a new subsection (3). This new subsection directs the Secretary of Energy to designate for remedial action any property within the vicinity of the TVA site in Edgemont, South Dakota that the Secretary determines to be contaminated with residual radioactive materials from the TVA site. The Secretary, in making this designation, is to consult with the Environmental Protection Agency, the NRC, and the State of South Dakota.

The conferees intend that the Secretary place a high priority on the activities required of DOE under subsection (3) and, in particular, that the Secretary move expeditiously to designate those properties requiring cleanup, based upon the NRC assessments completed or close to completion, and begin the necessary remedial action as soon as possible. In this regard, the conferees note that the NRC has been directly involved in the Edgemont offsite remedial action program for some time and has completed or is close to completing the work upon which DOE's remedial action program should be based. NRC's involvement to date has extended to the performance of radiological surveys of residences and vacant lots, radiological engineering assessments, and the completion of detailed cleanup plans. According to information supplied to the conferees, the NRC has completed nearly 95 percent of the radiological surveys of the affected properties in the vicinity of Edgemont. Approximately 225 properties were identified by the NRC as requiring a full radiological engineering assessment, and the conferees are advised that the NRC has completed 159 of these assessments. As a result of the assessments to be completed to date, 80 properties have been identified that will require cleanup. In all, the NRC projects that nearly 130 properties will require varying amounts of cleanup action and estimates that the contractor costs for the actual cleanup activities should be approximately $300,000. The conferees intend that the results of the foregoing work serve as the basis for the DOE remedial action program, and that all cleanup plans prepared by the NRC be transferred to DOE for implementation.

The compromise agreed to by the conferees also provides that the Secretary, in determining the State's share under section 107 of the costs of of remedial action, shall credit the State of South Dakota for expenditures made by the State which, had the offsite properties in the vicinity of Edgemont been listed under section 102(a)(1) of the Mill Tailings Act when it was passed in 1978, would have been paid by the State or by the federal government. Thus, it is the intent of the conferees that the State of South Dakota be required to pay ten percent of the total cost of remedial action undertaken in the vicinity of the Edgemont site, but that, in calculating this ten percent share, the State be credited for expenditures made prior to the date of enactment of this bill associated with the remedial action which would have been credited pursuant to title I of the 1978 Act had they been made after the date of enactment of this Act. According to information supplied to the conferees, the State has already spent approximately $150,000 on the Edgemont effort. Of this amount, the conferees identified certain expenses for which the State should be given credit under section 107. These expenses include the following: contractual costs for radiological monitoring assessments, costs for time of state personnel conducting actual monitoring, costs for travel to and from Edgemont, costs for radiological monitoring equipment, per diem costs for personnel at off-site locations, and costs for time of personnel analyzing the test results and notifying owners of potentially dangerous property. Beyond these expenditures, it is the intent of the conferees that the Secretary identify those additional State expenses for which South Dakota should be given credit in determining the State's ten percent share under section 107.

SECTION 23—URANIUM SUPPLY

The Senate amendment included provisions creating a new Commission responsibility for the regulation of uranium imports into the United States. No more than 20 percent of uranium consumed in the United States would have been permitted to be of foreign origin.

The conferees agreed to a strict review and monitoring program to guard against damage to the domestic uranium industry resulting from foreign uranium imports. The program utilizes existing trade authorities and the existing authority of the Secretary of Energy under the Atomic Energy Act to protect the domestic uranium industry through regulation of feedstock into U.S. uranium enrichment facilities.

If during a ten-year period following enactment of this Act uranium imports reach a level of 37.5 percent, the Secretary of Energy is required to revise enrichment criteria to increase the use of domestic uranium in U.S. enrichment facilities and to initiate an investigation and consideration of import restrictions by the Secretary of Commerce under the Trade Expansion Act to determine whether imports threaten national security and whether therefore trade restrictions should be enacted. The conferees believe that imports at the 37.5 percent level could affect national security. For national security reasons, therefore, contracting for new imports must be restricted while the Secretary of Commerce's study is being conducted to determine whether a national security threat does in fact materialize at that import level. The conferees do not intend that any restrictions be imposed until such time as the Secretary of Energy finds that import levels are, in fact, at the 37.5 percent level, and the Secretary of Commerce initiates an investigation to determine the effects of such imports on national security. The contracting restriction is limited to a maximum duration of two years.

The conference agreement contains no restrictions with respect to contractural agreements in existence at the date of enactment. It may apply to future contracts for purchase of foreign uranium and is to be limited to contracts executed subsequent to notice in the Federal Register by the Secretary of Commerce of the initiation of an investigation under Section 232 of the Trade Expansion Act. The authority of the Secretary of Energy to limit new foreign source contractural obligations is limited to two years' duration. In the event that a temporary restriction is implemented, the conference agreement provides that all contracts, including contracts for options for supply of foreign uranium, executed prior to the initiation of the Commerce Secretary's investigation shall not be affected by such prohibitions.

The Secretary of Energy may at any time trigger a study under the Trade Act by the United States International Trade Commission by making a determination that uranium imports threaten to injure the domestic uranium industry. The study would also result in consideration of trade restrictions to protect the domestic uranium industry. A temporary trade restriction would not, however, be in effect during the study.

The Secretary of Energy's determinations regarding the viability of the uranium mining industry will be made pursuant to criteria he is required to develop by rule within 9 months of enactment of this Act. The Secretary is required to assess in the study whether contracting for foreign imports resulting in greater than 37.5 percent of domestic uranium requirements, and other factors, affect the viability of the domestic uranium industry. The Secretary's determination of final criteria for assessing the viability of the domestic uranium industry will be used as the basis for carrying-out his responsibilities to monitor the domestic industry under this Act and under the section 161v. of the Atomic Energy Act.

To assist the Congress in maintaining a clear understanding of the status of the domestic mining and milling industry, the conference agreement provides that, within a year after the date of enactment, the President is to prepare and submit to the Congress a comprehensive review of the current status of the industry. Among the issues to be addressed in the comprehensive review are: projections of uranium requirements and inventories; uranium production levels; penetration of domestic markets by foreign imports; levels of production necessary to ensure a viable domestic uranium industry; a projection of production and price levels currently in effect and which would be in effect if import restrictions were enacted by Congress; and the anticipated effect of spent nuclear fuel reprocessing on the demand for raw uranium. A national policy relating to the domestic uranium industry based on the most complete information and full consideration of alternatives is intended to be developed as a result of this study.

The Conferees also agreed that when the Secretary determines that executed contracts or options for foreign uranium reached a level of 37.5% of the total domestic reactor demand for uranium in any two consecutive years, the Secretary shall modify the criteria setting forth terms and conditions under which services are provided in contracts executed subsequent to that determination. These modifications should provide for the greater use of uranium in the enrichment process and the increased increment of uranium should be restricted to uranium of domestic origin.

An example of such a policy change would be a modification in the enrichment plant tails assay. A modification of the tails assay from .20% to .25% when imports consisted of 37.5% of the domestic market would, during the period when these enrichment criteria and the requirements of this section were applicable, result in an increase in the use of domestic uranium of approximately 14% over what it would have been if the tails assay has remained at .20% and the requirements of this section (i.e. those re-

quirements that increased use of uranium resulting from modifications in enrichment criteria should be uranium of domestic origin) did not apply.

Another example of an enrichment policy change to fulfill the requirements of this section would be elimination of the current selloff of the separative work stockpile. The Conferees do not intend that the Secretary affect in any way, rights to enrichment of foreign uranium which exist under contracts executed prior to the determination of the Secretary.

The conferees expect that the Secretary, in modifying the enrichment criteria, will take account of both the need to utilize enrichment facilities in an efficient manner and maintain the competitive position of uranium enrichment services on the world market. In addition, the conferees expect that the Secretary, in informing the Congress of proposed changes in the enrichment criteria pursuant to the requirements of section 161(v), will include a statement as to the effect of the changes upon production of domestic uranium, the utilization of enrichment capability, the use of electric power for enrichment purposes, the cost of electric power purchased for enrichment purposes, competitive position of uranium enrichment services on the world market, and the cost to electric utilities of uranium and enrichment services.

As used in this provision, the conferees intend that "contracts" mean contracts and options included in those contracts and options contracts or contracts for options.

COMMENTS ON A TEMPORARY ADVISORY PANEL TO STUDY THE NUCLEAR POWERPLANT LICENSING PROCESS

Section 13 of H.R. 2330 directed NRC to establish a temporary advisory panel to evaluate the efficiency and effectiveness of the nuclear powerplant licensing process. The panel was to complete its evaluation within six months after anactment and then submit a report to the Commission and to the Congress. The House further directed the Commission to provide Congress its views on the panel's report as well as its recommendations on the need for legislative and administrative changes to improve the licensing process.

A similar provision was approved by the Senate Committee on Environment and Public Works, and then subsequently deleted from S. 1207 on the Senate floor.

The conferees agreed to delete the House provision from the conference agreement. The conferees' rationale for dropping this provision is that a requirement for such a temporary advisory panel is not needed at this time because similar initiatives are already underway at the Nuclear Regulatory Commission, the Department of Energy, and outside the Federal Government.

COMMENTS ON THE 2-YEAR AUTHORIZATION CYCLE

For the first time, the conference agreement embodies a two-year authorization (fiscal years 1982 and 1983) for the Nuclear Regulatory Commission. The conferees believe that inherent in this 2-year authorization is the potential for significant reduction in the congressional legislative workload without impairing the ability of Congress to exercise effectively its jurisdiction over the NRC and the regulation of the commerical nuclear industry. Also, the conferees believe the 2-year cycle will promote more coherent budgetary planning and program and policy continuity at the NRC.

The conferees believe that the NRC authorization levels for fiscal year 1983 contained in the conference agreement are based upon reasonable projections. In testimony before the House Interior and Insular Affairs Committee, the Commission described the following internal budget process that the agency went through in developing its authorization request for fiscal year 1983:

This process included detailed office submissions for both fiscal years (i.e. fiscal year 1982 and fiscal year 1983) based on the guidance provided in the PPPG. All of the office submissions were subjected to successive reviews by the Office of the Controller, the Budget Review Group headed by the Deputy Director for Operations, the EDO and the Commission prior to submission to the Office of Management and Budget. At each review step, the office directors were encouraged to discuss their requirements and to advise the reviewers of any impacts that proposed changes on their fiscal year 1982 budget request might have on fiscal year 1983. Through the EDO level, equal attention was given to both budget year and outyear estimates.

The Commission, having gone through the process of developing and reviewing a 2-year budget request, indicated their support of a 2-year authorization cycle.

The conferees recommend a 2-year authorization for the NRC with full understanding that there will always be greater uncertainty with regard to the funding requirements of the second year of the 2-year cycle vis-a-vis the first year of the cycle. With this in mind, a reprogramming procedure is provided in subsection 1(c) of the conference agreement that will enable the NRC and the Congress to work together to reallocate authorized funds in the event circumstances change during the authorization period. In addition, the option is always open to the Commission to request a supplemental authorizing of appropriations; and the Congress can amend the authorizing legislation.

The conferees expect the Commission in early 1983 to submit to Congress proposed legislation authorizing appropriations for the agency's salaries and expenses for the 2-year period of fiscal year 1984 and fiscal year 1985. The conferees further instruct the Commission to submit such proposed legislation in a line-item format with specific amounts requested for each of NRC's programmatic functions for each fiscal year.

MO UDALL,
JONATHAN B. BINGHAM,
JOHN F. SEIBERLING,
EDWARD J. MARKEY,
JOHN D. DINGELL,
RICHARD OTTINGER,
TOBY MOFFETT,
MANUEL LUJAN, Jr.,
DAN MARRIOTT,
JAMES T. BROYHILL,
CARLOS J. MOORHEAD,
Managers on the Part of the House.

AL SIMPSON,
PETE V. DOMENICI,
STEVE SYMMS,
ROBERT T. STAFFORD,
GARY HART,
GEORGE J. MITCHELL,
JENNINGS RANDOLPH,
Managers on the Part of the Senate.

FOREIGN ASSISTANCE ACT AMENDMENTS TO EXTEND AGRICULTURAL AND COMMUNITY DEVELOPMENT PROGRAMS

Mr. ZABLOCKI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7143) to amend the Foreign Assistance Act of 1961 to extend for an additional year the agricultural and productive credit and self-help community development programs.

The Clerk read as follows:

H.R. 7143

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 222A(h) of the Foreign Assistance Act of 1961 is amended by striking out "September 30, 1982" and inserting in lieu thereof "September 30, 1983".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Wisconsin (Mr. ZABLOCKI) will be recognized for 20 minutes, and the gentleman from Illinois (Mr. FINDLEY) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. ZABLOCKI).

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

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

Mr. ZABLOCKI. Mr. Speaker, the bill before the House is technical in nature. Last year when the Congress enacted a 2-year foreign assistance authorization bill, the extension of a small guaranty program was inadvertently left out. This bill would provide for the extension through September 30, 1983.

The program in question is the agricultural and productive credit and self-help community development program. Section 222A of the Foreign Assistance Act authorizes up to $20 million in guarantees to establish pilot programs in up to six Latin American countries to encourage private financial institutions to make loans to organizations and individuals who are normally unable to obtain commercial credit. The loans are for small productive enterprises and community projects.

I would urge the Members to vote in favor of the bill so that AID can continue to test the program to determine whether it should be expanded to a broader basis.

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

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

Mr. FINDLEY. Mr. Speaker, this bill is necessary to correct an oversight last year when the Congress inadvertently neglected to extend the authority of section 222A of the Foreign Assistance Act of 1961, as amended. This section of the act is a small loan guaranty authority for pilot programs to encourage private banks, credit institutions, cooperatives, and similar private groups in less developed Latin American countries to make loans at reasonable rates to individuals and groups in their communities for agricultural credit and self-help community development projects for which they would otherwise be unable to

AA61-2 PDR

97TH CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPORT
No. 97-884

AUTHORIZING APPROPRIATIONS FOR THE NUCLEAR REGULATORY COMMISSION

SEPTEMBER 28, 1982.—Ordered to be printed

Mr. UDALL, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany H.R. 2330]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2330) to authorize appropriation to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, 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 House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

AUTHORIZATION OF APPROPRIATIONS

SECTION 1. (a) There are hereby authorized to be appropriated to the Nuclear Regulatory Commission in accordance with the provisions of section 261 of the Atomic Energy Act of 1954 (42 U.S.C. 2017) and section 305 of the Energy Reorganization Act of 1974 (42 U.S.C. 5875), for the fiscal years 1982 and 1983 to remain available until expended, $485,200,000 for fiscal year 1982 and $513,100,000 for fiscal year 1983 to be allocated as follows:

(1) Not more than $80,700,000 for fiscal year 1982 and $77,000,000 for fiscal year 1983 may be used for "Nuclear Reactor Regulation", of which an amount not to exceed $1,000,000 is authorized each such fiscal year to be used to accelerate the

effort in gas-cooled thermal reactor preapplication review, and an amount not to exceed $6,000,000 is authorized each such fiscal year to be used for licensing review work for a fast breeder reactor plant project. In the event of a termination of such breeder reactor project, any unused amount appropriated pursuant to this paragraph for licensing review work for such project may be used only for safety technology activities.

(2) Not more than $62,900,000 for fiscal year 1982 and $69,850,000 for fiscal year 1983 may be used for "Inspection and Enforcement".

(3) Not more than $42,000,000 for fiscal year 1982 and $47,059,600 for fiscal year 1983 may be used for "Nuclear Material Safety and Safeguards".

(4) Not more than $240,300,000 for fiscal year 1982 and $257,195,600 for fiscal year 1983 may be used for "Nuclear Regulatory Research", of which—

(A) an amount not to exceed $3,500,000 for fiscal year 1982 and $4,500,000 for fiscal year 1983 is authorized to be used to accelerate the effort in gas-cooled thermal reactor safety research;

(B) an amount not to exceed $18,000,000 is authorized each such fiscal year to be used for fast breeder reactor safety research; and

(C) an amount not to exceed $57,000,000 is authorized for such two fiscal year period to be used for the Loss-of-Fluid Test Facility research program.

In the event of a termination of the fast breeder reactor plant project, any unused amount appropriated pursuant to this paragraph for fast breeder reactor safety research may be used generally for "Nuclear Regulatory Research".

(5) Not more than $21,900,000 for fiscal year 1982 and $20,197,800 for fiscal year 1983 may be used for "Program Technical Support".

(6) Not more than $37,400,000 for fiscal year 1982 and $41,797,000 for fiscal year 1983 may be used for "Program Direction and Administration".

(b) The Nuclear Regulatory Commission may use not more than 1 percent of the amounts authorized to be appropriated under subsection (a)(4) to exercise its authority under section 31 a. of the Atomic Energy Act of 1954 (42 U.S.C. 2051(a)) to enter into grants and cooperative agreements with universities pursuant to such section. Grants made by the Commission shall be made in accordance with the Federal Grant and Cooperative Agreement Act of 1977 (41 U.S.C. 501 et seq.) and other applicable law. In making such grants and entering into such cooperative agreements, the Commission shall endeavor to provide appropriate opportunities for universities in which the student body has historically been predominately comprised of minority groups.

(c) Any amount appropriated for a fiscal year to the Nuclear Regulatory Commission pursuant to any paragraph of subsection (a) for purposes of the program office referred to in such paragraph, or any activity that is within such program office and is specified in such paragraph, may be reallocated by the Commission for use in a program office referred to in any other paragraph of such subsection, or

for use in any other activity within a program office, except that the amount available from appropriations for such fiscal year for use in any program office or specified activity may not, as a result of reallocations made under this subsection, be increased or reduced by more than $500,000 unless—

(1) a period of 30 calendar days (excluding any day in which either House of Congress is not in session because of an adjournment of more than 3 calendar days to a day certain or an adjournment sine die) passes after the receipt, by the Committee on Energy and Commerce and the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Environment and Public Works of the Senate, of notice submitted by the Commission containing a full and complete statement of the reallocation proposed to be made and the facts and circumstances relied upon in support of such proposed reallocation; or

(2) each such committee, before the expiration of such period, transmits to the Commission a written notification that such committee does not object to such proposed reallocation.

AUTHORITY TO RETAIN CERTAIN AMOUNTS RECEIVED

SEC. 2. Moneys received by the Nuclear Regulatory Commission for the cooperative nuclear research program and the material access authorization program may be retained and used for salaries and expenses associated with such programs, notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484), and shall remain available until expended.

AUTHORITY TO TRANSFER CERTAIN AMOUNTS TO OTHER AGENCIES

SEC. 3. From amounts appropriated to the Nuclear Regulatory Commission pursuant to section 1(a), the Commission may transfer to other agencies of the Federal Government sums for salaries and expenses for the performance by such agencies of activities for which such appropriations of the Commission are made. Any sums so transferred may be merged with the appropriation of the agency to which such sums are transferred.

LIMITATION ON SPENDING AUTHORITY

SEC. 4. Notwithstanding any other provision of this Act, no authority to make payments under this Act shall be effective except to such extent or in such amounts as are provided in advance in appropriation Acts.

AUTHORITY TO ISSUE LICENSES IN ABSENCE OF EMERGENCY PREPAREDNESS PLANS

SEC. 5. Of the amounts authorized to be appropriated under section 1, the Nuclear Regulatory Commission may use such sums as may be necessary, in the absence of a State or local emergency preparedness plan which has been approved by the Federal Emergency Management Agency, to issue an operating license (including a temporary operating license under section 192 of the Atomic Energy Act of 1954, as amended by section 11 of this Act) for a nuclear power

reactor, if it determines that there exists a State, local, or utility plan which provides reasonable assurance that public health and safety is not endangered by operation of the facility concerned.

NUCLEAR SAFETY GOALS

SEC. 6. Funds authorized to be appropriated under this Act shall be used by the Nuclear Regulatory Commission to expedite the establishment of safety goals for nuclear reactor regulation. The development of such safety goals, and any accompanying methodologies for the application of such safety goals, should be expedited to the maximum extent practicable to permit establishment of a safety goal by the Commission not later than December 31, 1982.

LOSS-OF-FLUID TEST FACILITY

SEC. 7. Of the amounts authorized to be used for the Loss-of-Fluid Test Facility in accordance with section 1(a)(4) for fiscal years 1982 and 1983, the Commission shall provide funding through contract with the organization responsible for the Loss-of-Fluid Test operations for a detailed technical review and analysis of research results obtained from the Loss-of-Fluid Test Facility research program. The contract shall provide funding for not more than twenty man-years in each of fiscal year 1982 and 1983 to conduct the technical review and analysis.

NUCLEAR DATA LINK

SEC. 8. (a) Of the amounts authorized to be appropriated under this Act for the fiscal years 1982 and 1983, not more than $200,000 is authorized to be used by the Nuclear Regulatory Commission for—

(1) the acquisition (by purchase, lease, or otherwise) and installation of equipment to be used for the "small test prototype nuclear data link" program or for any other program for the collection and transmission to the Commission of data from licensed nuclear reactors during abnormal conditions at such reactors; and

(2) the conduct of a full and complete study and analysis of—

(A) the appropriate role of the Commission during abnormal conditions at a nuclear reactor licensed by the Commission;

(B) the information which should be available to the Commission to enable the Commission to fulfill such role and to carry out other related functions;

(C) various alternative means of assuring that such information is available to the Commission in a timely manner; and

(D) any changes in existing Commission authority necessary to enhance the Commission response to abnormal conditions at a nuclear reactor licensed by the Commission.

The small test prototype referred to in paragraph (1) may be used by the Commission in carrying out the study and analysis under paragraph (2). Such analysis shall include a cost-benefit analysis of each alternative examined under subparagraph (C).

(b)(1) Upon completion of the study and anlaysis required under subsection (a)(2), the Commission shall submit to Congress a detailed report setting forth the results of such study and analysis.

(2) The Commission may not take any action with respect to any alternative described in subsection (a)(2)(C), unless a period of 60 calendar days (excluding any day in which either House of Congress is not in session because of an adjournment of more than 3 calendar days to a day certain or an adjournment sine die) passes after the receipt, by the Committee on Energy and Commerce and the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Environment and Public Works of the Senate, of notice submitted by the Commission containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

INTERIM CONSOLIDATION OF OFFICES

SEC. 9. Of the amounts authorized to be appropriated pursuant to paragraph 6 of section 1(a), such sums as may be necessary shall be available for interim consolidation of Nuclear Regulatory Commission headquarters staff offices.

(b) No amount authorized to be appropriated under this Act may be used, in connection with the interim consolidation of Nuclear Regulatory Commission offices, to relocate the offices of members of the Commission outside the District of Columbia.

THREE MILE ISLAND

SEC. 10. (a) No part of the funds authorized to be appropriated under this Act may be used to provide assistance to the General Public Utilities Corporation for purposes of the decontamination, cleanup, repair, or rehabilitation of facilities at Three Mile Island Unit 2.

(b) The prohibition contained in subsection (a) shall not relate to the responsibilities of the Nuclear Regulatory Commission for monitoring or inspection of the decontamination, cleanup, repair, or rehabilitation activities at Three Mile Island and such prohibition shall not apply to the use of funds by the Nuclear Regulatory Commission to carry out regulatory functions of the Commission under the Atomic Energy Act of 1954 with respect to the facilities at Three Mile Island.

(c) The Nuclear Regulatory Commission shall include in its annual report to the Congress under section 307(c) of the Energy Reorganization Act of 1974 (42 U.S.C. 5877(c)) as a separate chapter a description of the collaborative efforts undertaken, or proposed to be undertaken, by the Commission and the Department of Energy with respect to the decontamination, cleanup, repair, or rehabilitation of facilities at Three Mile Island Unit 2.

(d) No funds authorized to be appropriated under this Act may be used by the Commission to approve any willful release of "accident-generated water", as defined by the Commission in NUREG-0683 ("Final Programmatic Environmental Impact Statement" p. 1-23), from Three Mile Island Unit 2 into the Susquehanna River or its watershed.

TEMPORARY OPERATING LICENSES

SEC. 11. Section 192 of the Atomic Energy Act of 1954 (42 U.S.C. 2242) is amended to read as follows:

"SEC. 192. TEMPORARY OPERATING LICENSE.—

"a. In any proceeding upon an application for an operating license for a utilization facility required to be licensed under section 103 or 104 b. of this Act, in which a hearing is otherwise required pursuant to section 189 a., the applicant may petition the Commission for a temporary operating license for such facility authorizing fuel loading, testing, and operation at a specific power level to be determined by the Commission, pending final action by the Commission on the application. The initial petition for a temporary operating license for each such facility, and any temporary operating license issued for such facility based upon the initial petition, shall be limited to power levels not to exceed 5 percent of rated full thermal power. Following issuance by the Commission of the temporary operating license for each such facility, the licensee may file petitions with the Commission to amend the license to allow facility operation in staged increases at specific power levels, to be determined by the Commission, exceeding 5 percent of rated full thermal power. The initial petition for a temporary operating license for each such facility may be filed at any time after the filing of: (1) the report of the Advisory Committee on Reactor Safeguards required by section 182 b.; (2) the filing of the initial Safety Evaluation Report by the Nuclear Regulatory Commission staff and the Nuclear Regulatory Commission staff's first supplement to the report prepared in response to the report of the Advisory Committee on Reactor Safeguards for the facility; (3) the Nuclear Regulatory Commission staff's final detailed statement on the environmental impact of the facility prepared pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)); and (4) a State, local, or utility emergency preparedness plan for the facility. Petitions for the issuance of a temporary operating license, or for an amendment to such a license allowing operation at a specific power level greater than that authorized in the initial temporary operating license, shall be accompanied by an affidavit or affidavits setting forth the specific facts upon which the petitioner relies to justify issuance of the temporary operating license or the amendment thereto. The Commission shall publish notice of each such petition in the Federal Register and in such trade or news publications as the Commission deems appropriate to give reasonable notice to persons who might have a potential interest in the grant of such temporary operating license or amendment thereto. Any person may file affidavits or statements in support of, or in opposition to, the petition within thirty days after the publication of such notice in the Federal Register.

"b. With respect to any petition filed pursuant to subsection a. of this section, the Commission may issue a temporary operating license, or amend the license to authorize temporary operation at each specific power level greater than that authorized in the initial temporary operating license, as determined by the Commission, upon finding that—

"(1) in all respects other than the conduct or completion of any required hearing, the requirements of law are met;

"(2) in accordance with such requirements, there is reasonable assurance that operation of the facility during the period of the temporary operating license in accordance with its terms and conditions will provide adequate protection to the public health and safety and the environment during the period of temporary operation; and

"(3) denial of such temporary operating license will result in delay between the date on which construction of the facility is sufficiently completed, in the judgment of the Commission, to permit issuance of the temporary operating license, and the date when such facility would otherwise receive a final operating license pursuant to this Act.

The temporary operating license shall become effective upon issuance and shall contain such terms and conditions as the Commission may deem necessary, including the duration of the license and any provision for the extension thereof. Any final order authorizing the issuance or amendment of any temporary operating license pursuant to this section shall recite with specificity the facts and reasons justifying the findings under this subsection, and shall be transmitted upon such issuance to the Committees on Interior and Insular Affairs and Energy and Commerce of the House of Representatives and the Committee on Environment and Public Works of the Senate. The final order of the Commission with respect to the issuance or amendment of a temporary operating license shall be subject to judicial review pursuant to chapter 158 of title 28, United States Code. The requirements of section 189 a. of this Act with respect to the issuance or amendment of facility licenses shall not apply to the issuance or amendment of a temporary operating license under this section.

"c. Any hearing on the application for the final operating license for a facility required pursuant to section 189 a. shall be concluded as promptly as practicable. The Commission shall suspend the temporary operating license if it finds that the applicant is not prosecuting the application for the final operating license with due diligence. Issuance of a temporary operating license under subsection b. of this section shall be without prejudice to the right of any party to raise any issue in a hearing required pursuant to section 189 a.; and failure to assert any ground for denial or limitation of a temporary operating license shall not bar the assertion of such ground in connection with the issuance of a subsequent final operating license. Any party to a hearing required pursuant to section 189 a. on the final operating license for a facility for which a temporary operating license has been issued under subsection b., and any member of the Atomic Safety and Licensing Board conducting such hearing, shall promptly notify the Commission of any information indicating that the terms and conditions of the temporary operating license are not being met, or that such terms and conditions are not sufficient to comply with the provisions of paragraph (2) of subsection b.

"d. The Commission is authorized and directed to adopt such administrative remedies as the Commission deems appropriate to mini-

mize the need for issuance of temporary operating licenses pursuant to this section.

"e. The authority to issue new temporary operating licenses under this section shall expire on December 31, 1983.".

OPERATING LICENSE AMENDMENT HEARINGS

SEC. 12. (a) Section 189 a. of the Atomic Energy Act of 1954 (42 U.S.C. 2239(a)) is amended—

(1) by inserting "(1)" after the subsection designation; and

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

"(2)(A) The Commission may issue and make immediately effective any amendment to an operating license, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person. Such amendment may be issued and made immediately effective in advance of the holding and completion of any required hearing. In determining under this section whether such amendment involves no significant hazards consideration, the Commission shall consult with the State in which the facility involved is located. In all other respects such amendment shall meet the requirements of this Act.

"(B) The Commission shall periodically (but not less frequently than once every thirty days) publish notice of any amendments issued, or proposed to be issued, as provided in subparagraph (A). Each such notice shall include all amendments issued, or proposed to be issued, since the date of publication of the last such periodic notice. Such notice shall, with respect to each amendment or proposed amendment (i) identify the facility involved; and (ii) provide a brief description of such amendment. Nothing in this subsection shall be construed to delay the effective date of any amendment.

"(C) The Commission shall, during the ninety-day period following the effective date of this paragraph, promulgate regulations establishing (i) standards for determining whether any amendment to an operating license involves no significant hazards consideration; (ii) criteria for providing or, in emergency situations, dispensing with prior notice and reasonable opportunity for public comment on any such determination, which criteria shall take into account the exigency of the need for the amendment involved; and (iii) procedures for consultation on any such determination with the State in which the facility involved is located.".

(b) The authority of the Nuclear Regulatory Commission, under the provisions of the amendment made by subsection (a), to issue and to make immediately effective any amendment to an operating license shall take effect upon the promulgation by the Commission of the regulations required in such provisions.

QUALITY ASSURANCE

SEC. 13. (a) The Nuclear Regulatory Commission is authorized and directed to implement and accelerate the resident inspector program so as to assure the assignment of at least one resident inspector by the end of fiscal year 1982 at each site at which a commercial nuclear powerplant is under construction and construction is more than 15 percent complete. At each such site at which construction is

not more than 15 percent complete, the Commission shall provide that such inspection personnel as the Commission deems appropriate shall be physically present at the site at such times following issuance of the construction permit as may be necessary in the judgment of the Commission.

(b) The Commission shall conduct a study of existing and alternative programs for improving quality assurance and quality control in the construction of commercial nuclear powerplants. In conducting the study, the Commission shall obtain the comments of the public, licensees of nuclear powerplants, the Advisory Committee on Reactor Safeguards, and organizations comprised of professionals having expertise in appropriate fields. The study shall include an analysis of the following:

(1) providing a basis for quality assurance and quality control, inspection, and enforcement actions through the adoption of an approach which is more prescriptive than that currently in practice for defining principal architectural and engineering criteria for the construction of commercial nuclear powerplants;

(2) conditioning the issuance of construction permits for commercial nuclear powerplants on a demonstration by the licensee that the licensee is capable of independently managing the effective performance of all quality assurance and quality control responsibilities for the powerplant;

(3) evaluations, inspections, or audits of commercial nuclear powerplant construction by organizations comprised of professionals having expertise in appropriate fields which evaluations, inspections, or audits are more effective than those under current practice;

(4) improvement of the Commission's organization, methods, and programs for quality assurance development, review, and inspection; and

(5) conditioning the issuance of construction permits for commercial nuclear powerplants on the permittee entering into contracts or other arrangements with an independent inspector to audit the quality assurance program to verify quality assurance performance.

For purposes of paragraph (5), the term "independent inspector" means a person or other entity having no responsibility for the design or construction of the plant involved. The study shall also include an analysis of quality assurance and quality control programs at representative sites at which such programs are operating satisfactorily and an assessment of the reasons therefor.

(c) For purposes of—

(1) determining the best means of assuring that commercial nuclear powerplants are constructed in accordance with the applicable safety requirements in effect pursuant to the Atomic Energy Act of 1954; and

(2) assessing the feasibility and benefits of the various means listed in subsection (b);

the Commission shall undertake a pilot program to review and evaluate programs that include one or more of the alternative concepts identified in subsection (b) for the purposes of assessing the feasibility and benefits of their implementation. The pilot program

99-142 O - 82 - 2

shall include programs that use independent inspectors for auditing quality assurance responsibilities of the licensee for the construction of commercial nuclear powerplants, as described in paragraph (5) of subsection (b). The pilot program shall include at least three sites at which commercial nuclear powerplants are under construction. The Commission shall select at least one site at which quality assurance and quality control programs have operated satisfactorily, and at least two sites with remedial programs underway at which major construction, quality assurance, or quality control deficiencies (or any combination thereof) have been identified in the past. The Commission may require any changes in existing quality assurance and quality control organizations and relationships that may be necessary at the selected sites to implement the pilot program.

(d) Not later than fifteen months after the date of the enactment of this Act, the Commission shall complete the study required under subsection (b) and submit to the United States Senate and House of Representatives a report setting forth the results of the study. The report shall include a brief summary of the information received from the public and from other persons referred to in subsection (b) and a statement of the Commission's response to the significant comments received. The report shall also set forth an analysis of the results of the pilot program required under subsection (c). The report shall be accompanied by the recommendations of the Commission, including any legislative recommendations, and a description of any administrative actions that the Commission has undertaken or intends to undertake, for improving quality assurance and quality control programs that are applicable during the construction of nuclear powerplants.

LIMITATION ON USE OF SPECIAL NUCLEAR MATERIAL

SEC. 14. Section 57 of the Atomic Energy Act of 1954 (42 U.S.C. 2077) is amended by adding at the end thereof the following new subsection:

"e. Special nuclear material, as defined in section 11, produced in facilities licensed under section 103 or 104 may not be transferred, reprocessed, used, or otherwise made available by any instrumentality of the United States or any other person for nuclear explosive purposes.".

RESIDENT INSPECTORS

SEC. 15. Of the amounts authorized to be appropriated under section 1, the Nuclear Regulatory Commission shall use such sums as may be necessary to conduct a study of the financial hardships incurred by resident inspectors as a result of (1) regulations of the Commission requiring resident inspectors to relocate periodically from one duty station to another; and (2) the requirements of the Commission respecting the domicile of resident inspectors and respecting travel between their domicile and duty station in such manner as to avoid the appearance of a conflict of interest. Not later than 90 days after the date of the enactment of this Act, the Commission shall submit to the Congress a report setting forth the findings of the Commission as a result of such study, together with a legislative proposal (including any supporting data or informa-

tion) relating to any assistance for resident inspectors determined by the Commission to be appropriate.

SABOTAGE OF NUCLEAR FACILITIES OR FUEL

SEC. 16. Section 236 of the Atomic Energy Act of 1954 (42 U.S.C. 2284) is amended to read as follows:

"SEC. 236. SABOTAGE OF NUCLEAR FACILITIES OR FUEL.—

"a. Any person who intentionally and willfully destroys or causes physical damage to, or who intentionally and willfully attempts to destroy or cause physical damage to—

"(1) any production facility or utilization facility licensed under this Act;

"(2) any nuclear waste storage facility licensed under this Act; or

"(3) any nuclear fuel for such a utilization facility, or any spent nuclear fuel from such a facility;

shall be fined not more than $10,000 or imprisoned for not more than ten years, or both.

"b. Any person who intentionally and willfully causes or attempts to cause an interruption of normal operation of any such facility through the unauthorized use of or tampering with the machinery, components, or controls of any such facility, shall be fined not more than $10,000 or imprisoned for not more than ten years, or both.".

DEPARTMENT OF ENERGY INFORMATION

SEC. 17. (a) Section 148 a. (1) of the Atomic Energy Act of 1954 (42 U.S.C. 2168(a)(1)) is amended by inserting after "'Secretary')" the following: ", with respect to atomic energy defense programs,".

(b) Section 148 of the Atomic Energy Act of 1954 (42 U.S.C. 2168) is amended by adding at the end thereof the following new subsections:

"d. Any determination by the Secretary concerning the applicability of this section shall be subject to judicial review pursuant to section 552(a)(4)(B) of title 5, United States Code.

"e. The Secretary shall prepare on a quarterly basis a report to be made available upon the request of any interested person, detailing the Secretary's application during that period of each regulation or order prescribed or issued under this section. In particular, such report shall—

"(1) identify any information protected from disclosure pursuant to such regulation or order;

"(2) specifically state the Secretary's justification for determining that unauthorized dissemination of the information protected from disclosure under such regulation or order could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of illegal production of nuclear weapons, or theft, diversion, or sabotage of nuclear materials. equipment, or facilities, as specified under subsection a.; and

"(3) provide justification that the Secretary has applied such regulation or order so as to protect from disclosure only the minimum amount of information necessary to protect the

health and safety of the public or the common defense and security.".

STANDARDS AND REQUIREMENTS UNDER SECTION 275

SEC. 18. (a) Section 275 of the Atomic Energy Act of 1954 is amended—

(1) by striking in subsection a. "one year after the date of enactment of this section" and substituting "October 1, 1982" and by adding the following at the end thereof: "After October 1, 1982, if the Administrator has not promulgated standards in final form under this subsection, any action of the Secretary of Energy under title I of the Uranium Mill Tailings Radiation Control Act of 1978 which is required to comply with, or be taken in accordance with, standards of the Administrator shall comply with, or be taken in accordance with, the standards proposed by the Administrator under this subsection until such time as the Administrator promulgates such standards in final form.";

(2) by striking in subsection b. (1) "eighteen months after the enactment of this section, the Administrator shall, by rule, promulgate" and inserting in lieu thereof the following: "October 31, 1982, the Administrator shall, by rule, propose, and within 11 months thereafter promulgate in final form,";

(3) by adding the following at the end of subsection b. (1): "If the Administrator fails to promulgate standards in final form under this subsection by October 1, 1983, the authority of the Administrator to promulgate such standards shall terminate, and the Commission may take actions under this Act without regard to any provision of this Act requiring such actions to comply with, or be taken in accordance with, standards promulgated by the Administrator. In any such case, the Commission shall promulgate, and from time to time revise, any such standards of general application which the Commission deems necessary to carry out its responsibilities in the conduct of its licensing activities under this Act. Requirements established by the Commission under this Act with respect to byproduct material as defined in section 11 e. (2) shall conform to such standards. Any requirements adopted by the Commission respecting such byproduct material before promulgation by the Commission of such standards shall be amended as the Commission deems necessary to conform to such standards in the same manner as provided in subsection f. (3). Nothing in this subsection shall be construed to prohibit or suspend the implementation or enforcement by the Commission of any requirement of the Commission respecting byproduct material as defined in section 11 e. (2) pending promulgation by the Commission of any such standard of general application.";

(4) by adding the following new subsection at the end thereof:

"f. (1) Prior to January 1, 1983, the Commission shall not implement or enforce the provisions of the Uranium Mill Licensing Requirements published as final rules at 45 Federal Register 65521 to 65538 on October 3, 1980 (hereinafter in this subsection referred to as the 'October 3 regulations'). After December 31, 1982, the Com-

mission is authorized to implement and enforce the provisions of such October 3 regulations (and any subsequent modifications or additions to such regulations which may be adopted by the Commission), except as otherwise provided in paragraphs (2) and (3) of this subsection.

"(2) Following the proposal by the Administrator of standards under subsection b., the Commission shall review the October 3 regulations, and, not later than 90 days after the date of such proposal, suspend implementation and enforcement of any provision of such regulations which the Commission determines after notice and opportunity for public comment to require a major action or major commitment by licensees which would be unnecessary if—

(A) the standards proposed by the Administrator are promulgated in final form without modification, and

(B) the Commission's requirements are modified to conform to such standards.

Such suspension shall terminate on the earlier of April 1, 1984 or the date on which the Commission amends the October 3 regulations to conform to final standards promulgated by the Administrator under subsection b. During the period of such suspension, the Commission shall continue to regulate by product material (as defined in section 11 e. (2)) under this Act on a licensee-by-licensee basis as the Commission deems necessary to protect public health, safety, and the environment.

"(3) Not later than 6 months after the date on which the Administrator promulgates final standards pursuant to subsection b. of this section, the Commission shall, after notice and opportunity for public comment, amend the October 3 regulations, and adopt such modifications, as the Commission deems necessary to conform to such final standards of the Administrator.

"(4) Nothing in this subsection may be construed as affecting the authority or responsibility of the Commission under section 84 to promulgate regulations to protect the public health and safety and the environment.".

(5)(1) Section 108(a) of the Uranium Mill Tailings Radiation Control Act of 1978 is amended by adding the following new paragraph at the end thereof:

"(3) Notwithstanding paragraphs (1) and (2) of this subsection, after October 31, 1982, if the Administrator has not promulgated standards under section 275 a. of the Atomic Energy Act of 1954 in final form by such date, remedial action taken by the Secretary under this title shall comply with the standards proposed by the Administrator under such section 275 a. until such time as the Administrator promulgates the standards in final form.".

(2) The second sentence of section 108(a)(2) of the Uranium Mill Tailings Radiation Control Act of 1978 is repealed.

AGREEMENT STATES

SEC. 19. (a) Section 274 o. of the Atomic Energy Act of 1954 is amended by adding the following at the end thereof: "In adopting requirements pursuant to paragraph (2) of this subsection with respect to sites at which ores are processed primarily for their source material content or which are used for the disposal of byproduct

material as defined in section 11 e. (2), the State may adopt alternatives (including, where appropriate, site-specific alternatives) to the requirements adopted and enforced by the Commission for the same purpose if, after notice and opportunity for public hearing, the Commission determines that such alternatives will achieve a level of stabilization and containment of the sites concerned, and a level of protection for public health, safety, and the environment from radiological and nonradiological hazards associated with such sites, which is equivalent to, to the extent practicable, or more stringent than the level which would be achieved by standards and requirements adopted and enforced by the Commission for the same purpose and any final standards promulgated by the Administrator of the Environmental Protection Agency in accordance with section 275. Such alternative State requirements may take into account local or regional conditions, including geology, topography, hydrology and meteorology.".

(b) Section 204(h)(2) of the Uranium Mill Tailings Radiation Control Act of 1978 is amended by inserting the following before the period at the end thereof ": Provided, however, That, in the case of a State which has exercised any authority under State law pursuant to an agreement entered into under section 274 of the Atomic Energy Act of 1954, the State authority over such byproduct material may be terminated, and the Commission authority over such material may be exercised, only after compliance by the Commission with the same procedures as are applicable in the case of termination of agreements under section 274 j. of the Atomic Energy Act of 1954.".

AMENDMENT TO SECTION 84

SEC. 20. Section 84 of the Atomic Energy Act of 1954 is amended by adding the following at the end thereof:

"c. In the case of sites at which ores are processed primarily for their source material content or which are used for the disposal of byproduct material as defined in section 11 e. (2), a licensee may propose alternatives to specific requirements adopted and enforced by the Commission under this Act. Such alternative proposals may take into account local or regional conditions, including geology, topography, hydrology and meteorology. The Commission may treat such alternatives as satisfying Commission requirements if the Commission determines that such alternatives will achieve a level of stabilization and containment of the sites concerned, and a level of protection for public health, safety, and the environment from radiological and nonradiological hazards associated with such sites, which is equivalent to, to the extent practicable, or more stringent than the level which would be achieved by standards and requirements adopted and enforced by the Commission for the same purpose and any final standards promulgated by the Administrator of the Environmental Protection agency in accordance with section 275.".

EDGEMONT

SEC. 21. Section 102(e) of the Uranium Mill Tailings Radiation Control Act of 1978 is amended by adding the following at the end thereof:

"(3) The Secretary shall designate as a processing site within the meaning of section 101(6) any real property, or improvements thereon, in Edgemont, South Dakota that—

"(A) is in the vicinity of the Tennessee Valley Authority uranium mill site at Edgemont (but not including such site), and

"(B) is determined by the Secretary to be contaminated with residual radioactive materials.

In making the designation under this paragraph, the Secretary shall consult with the Administrator, the Commission and the State of South Dakota. The provisions of this title shall apply to the site so designated in the same manner and to the same extent as to the sites designated under subsection (a) except that, in applying such provisions to such site, any reference in this title to the date of the enactment of this Act shall be treated as a reference to the date of the enactment of this paragraph and in determining the State share under section 107 of the costs of remedial action, there shall be credited to the State, expenditures made by the State prior to the date of the enactment of this paragraph which the Secretary determines would have been made by the State or the United States in carrying out the requirements of this title.".

ADDITIONAL AMENDMENTS TO SECTIONS 84 AND 275

SEC. 22. (a) Section 84 a. (1) of the Atomic Energy Act of 1954 is amended by inserting before the comma at the end thereof the following: ", taking into account the risk to the public health, safety, and the environment, with due consideration of the economic costs and such other factors as the Commission determines to be appropriate,".

(b) Section 275 of the Atomic Energy Act of 1954 is amended—

(1) in subsection a., by inserting after the second sentence thereof the following new sentence: "In establishing such standards, the Administrator shall consider the risk to the public health, safety, and the environment, the environmental and economic costs of applying such standards, and such other factors as the Administrator determines to be appropriate."; and

(2) by adding at the end of subsection b. (1) the following new sentence: "In establishing such standards, the Administrator shall consider the risk to the public health, safety, and the environment, the environmental and economic costs of applying such standards, and such other factors as the Administrator determines to be appropriate.".

URANIUM SUPPLY

SEC. 23. (a)(1) Not later than 12 months after the date of enactment of this section, the President shall prepare and submit to the Congress a comprehensive review of the status of the domestic uranium mining and milling industry. This review shall be made available to the appropriate committees of the United States Senate and the House of Representatives.

(2) The comprehensive review prepared for submission under paragraph (1) shall include—

(A) projections of uranium requirements and inventories of domestic utilities;

(B) present and future projected uranium production by the domestic mining and milling industry;

(C) the present and future probable penetration of the domestic market by foreign imports;

(D) the size of domestic and foreign ore reserves;

(E) present and projected domestic uranium exploration expenditures and plans;

(F) present and projected employment and capital investment in the uranium industry;

(G) an estimate of the level of domestic uranium production necessary to ensure the viable existence of a domestic uranium industry and protection of national security interests;

(H) an estimate of the percentage of domestic uranium demand which must be met by domestic uranium production through the year 2000 in order to ensure the level of domestic production estimated to be necessary under subparagraph (G);

(I) a projection of domestic uranium production and uranium price levels which will be in effect both under current policy and in the event that foreign import restrictions were enacted by Congress in order to guarantee domestic production at the level estimated to be necessary under subparagraph (G);

(J) the anticipated effect of spent nuclear fuel reprocessing on the demand for uranium; and

(K) other information relevant to the consideration of restrictions on the importation of source material and special nuclear material from foreign sources.

(b)(1) Chapter 14 of the Atomic Energy Act of 1954 is amended by adding the following new section at the end thereof:

"SEC. 170B. URANIUM SUPPLY.—

"a. The Secretary of Energy shall monitor and for the years 1983 to 1992 report annually to the Congress and to the President a determination of the viability of the domestic uranium mining and milling industry and shall establish by rule, after public notice and in accordance with the requirements of section 181 of this Act, within 9 months of enactment of this section, specific criteria which shall be assessed in the annual reports on the domestic uranium industry's viability. The Secretary of Energy is authorized to issue regulations providing for the collection of such information as the Secretary of Energy deems necessary to carry out the monitoring and reporting requirements of this section.

"b. Upon a satisfactory showing to the Secretary of Energy by any person that any information, or portion thereof obtained under this section, would, if made public, divulge proprietary information of such person, the Secretary shall not disclose such information and disclosure thereof shall be punishable under section 1905 of title 18, United States Code.

"c. The criteria referred to in subsection a. shall also include, but not be limited to—

"(1) an assessment of whether executed contracts or options for source material or special nuclear material will result in greater than thirty-seven and one-half percent of actual or projected domestic uranium requirements for any two consecutive year period being supplied by source material or special nuclear material from foreign sources;

"(2) projections of uranium requirements and inventories of domestic utilities for a 10 year period;

"(3) present and probable future use of the domestic market by foreign imports;

"(4) whether domestic economic reserves can supply all future needs for a future ten year period;

"(5) present and projected domestic uranium exploration expenditures and plans;

"(6) present and projected employment and capital investment in the uranium industry;

"(7) the level of domestic uranium production capacity sufficient to meet projected domestic nuclear power needs for a ten-year period; and

"(8) a projection of domestic uranium production and uranium price levels which will be in effect under various assumptions with respect to imports.

"d. The Secretary of Energy, at any time, may determine on the basis of the monitoring and annual reports required under this section that source material or special nuclear material from foreign sources is being imported in such increased quantities as to be a substantial cause of serious injury, or threat thereof, to the United States uranium mining and milling industry. Based on that determination, the United States Trade Representative shall request that the United States International Trade Commission initiate an investigation under section 201 of the Trade Act of 1974 (19 U.S.C. 2251).

"e. (1) During the period 1982 to 1992, if the Secretary of Energy determines that executed contracts or options for source material or special nuclear material from foreign sources for use in utilization facilities within or under the jurisdiction of the United States represent greater than thirty-seven and one-half percent of actual or projected domestic uranium requirements for any two consecutive year period, then the Secretary shall immediately revise criteria for services offered under paragraph (A) of section 161 v. to enhance the use of source material of domestic origin for use in utilization facilities licensed, or required to be licensed, under section 103 or 104 b. of this Act within or under the jurisdiction of the United States.

"(2) In revising criteria pursuant to paragraph (1), the Secretary shall not affect in any way the right to deliver, use, or enrich foreign source material or foreign special nuclear material, including any such right arising under existing contracts or option contracts.

99-142 O - 82 - 3

"(3) Subsequent to the determination under paragraph (1), or if the Secretary of Energy determines the level of contracts or options involving source material and special nuclear material from foreign sources threatens to impair the national security, the Secretary of Energy shall request the Secretary of Commerce to initiate under section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862) an investigation to determine the effects on the national security of imports of source material and special nuclear material. The Secretary of Energy shall cooperate fully with the Secretary of Commerce in carrying out such an investigation and shall make available to the Secretary of Commerce the findings that lead to this request, the basis for them and such other information that will assist the Secretary of Commerce in the conduct of the investigation.

"(4) The Secretary of Commerce shall, in the conduct of any investigation requested by the Secretary of Energy pursuant to this section, take into account any information made available by the Secretary of Energy, including an assessment of whether projected or executed contracts or options for source material or special nuclear material from foreign sources threaten to impair the national security or whether domestic production capacity is sufficient to supply projected national security or defense requirements.

"(5) No sooner than 3 years following completion of any investigation by the Secretary of Commerce under paragraph (3), if no recommendation has been made pursuant to such study for trade adjustments to assist or protect domestic uranium production, the Secretary of Energy may initiate a request for another such investigation by the Secretary of Commerce, except that restrictions on contracting under subsection f. shall not take effect by reason of such additional investigation unless the Secretary of Energy determines that new information related to national security requires that contracting be suspended pursuant to subsection f.

"f. In order to protect essential security interests of the United States, upon the initiation of an investigation under subsection e. to determine the effects on the national security of imports of source material or special nuclear material pursuant to section 232 of the Trade Expansion Act of 1962, it shall be unlawful to execute a contract or option contract resulting in the import of additional source material or special nuclear material from foreign sources, which is intended to be used in domestic utilization facilities licensed, or required to be licensed, under section 103 or 104 b. of this Act. This prohibition shall remain in effect for a period of two years or until the President has taken action to adjust the importation of source material and special nuclear material so that such imports will not threaten to impair the national security, whichever first occurs.".

(2) The table of contents for such chapter 14 is amended by adding the following at the end thereof:

"Sec. 170B. Uranium supply.".

And the Senate agree to the same.

MO UDALL,
JONATHAN B. BINGHAM,
JOHN F. SEIBERLING,
EDWARD J. MARKEY,
JOHN D. DINGELL,
RICHARD OTTINGER,
TOBY MOFFETT,
MANUEL LUJAN, Jr.,
DAN MARRIOTT,
JAMES T. BROYHILL,
CARLOS J. MOORHEAD,
Managers on the Part of the House.

AL SIMPSON,
PETE V. DOMENICI,
STEVE SYMMS,
ROBERT T. STAFFORD,
GARY HART,
GEORGE J. MITCHELL,
JENNINGS RANDOLPH,
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 amendment of the Senate to the bill (H.R. 2330), to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, 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:

TOTAL NRC AUTHORIZATION

Section 1 of the conference agreement authorizes the appropriation of funds for the salaries and expenses of the Nuclear Regulatory Commission (NRC) during fiscal years 1982 and 1983.

Subsection 1(a) of the agreement authorizes a total of $485,200,000 for fiscal year 1982, and $513,100,000 for fiscal year 1983. For each fiscal year, the two houses recommended differing total funding levels for the NRC. The conference agreement incorporates the lesser of the two total authorization levels for each of the fiscal years; the effect is to use the Senate-approved authorization for FY 1982, and the House-approved total for FY 1983. For FY 1982, the authorization total is in excess of the amount appropriated for NRC under Public Law 97-88. For fiscal year 1983, the amount authorized for the agency is in excess of the amount requested in January 1982 by the Administration for the NRC.

The table below summarizes the various total authorization levels recommended for NRC.

	Fiscal year—	
	1982	1983
NRC request submitted January 1981	$500,700,000	$530,000,000
NRC request submitted January 1982		479,500,000
Public Law 97-88, Energy and Water Appropriation Act (passed Dec. 4, 1981)	465,700,000	
H.R. 2330 (passed by House Nov. 5, 1981)	485,873,000	513,100,000
S. 1207 (passed by Senate (Mar. 30, 1982)	485,200,000	530,000,000
Conference agreement	485,200,000	513,100,000

NUCLEAR REACTOR REGULATION

Paragraph 1 of subsection 1(a) of the conference agreement authorizes funds for the NRC's Office of Nuclear Reactor Regulation (NRR).

The House bill authorized $74,097,800 for NRR in fiscal year 1982, and $76,714,400 in fiscal year 1983. The House also specified that up to $1,000,000 in each fiscal year was available to accelerate the effort in gas-cooled thermal reactor preapplication review.

The Senate amendment authorized $85,100,000 for NRR during fiscal year 1982, and $78,280,000 during fiscal year 1983. The Senate amendment, like the House bill, specified that an amount not to exceed $1,000,000 in each fiscal year be available to accelerate the effort in gas-cooled thermal reactor preapplication review. The Senate amendment also designated up to $6,500,000 in each fiscal year for licensing review work for a fast breeder reactor project.

The conference agreement recommends an authorization for Nuclear Reactor Regulation which in each fiscal year falls between the amounts recommended by the House and Senate in their respective bills. The compromise authorizes $80,700,000 during fiscal year 1982, and $77,000,000 during fiscal year 1983.

The conference agreement retains the specification of $1,000,000 to be available in each fiscal year for gas-cooled reactors. These funds have been earmarked because the conferees believe that, in comparison with light water reactors, gas-cooled reactors are potentially advantageous with respect to safety, uranium requirements, and cooling water requirements.

Based upon a review of the NRC's current regulatory needs for the fast breeder reactor program, the agreement reduces from $6,500,000 to $6,000,000 the maximum amount available for license review work related to the fast breeder reactor (i.e., Clinch River) project. Also, the compromise requires that in the event of a termination of the Clinch River project, the amounts designated for this purpose are to be used only for NRR safety technology activities. NRR's safety technology activities include work in the following areas; unresolved generic safety issues; generic issues; risk assessment; research and standards coordination; operating experience evaluation; regulatory requirements; and, code analysis and maintenance.

The table below summarizes various authorization levels recommended for the Office of Nuclear Reactor Regulation.

	Fiscal year—	
	1982	1983
NRC request submitted January 1981	$75,610,000	$78,280,000
NRC request submitted January 1982		93,120,000
H.R. 2330 (passed by House Nov. 5, 1981)	74,097,800	76,714,400
S. 1207 (passed by Senate Mar. 30, 1982	85,100,000	78,280,000
Conference agreement	80,700,000	77,000,000

INSPECTION AND ENFORCEMENT

Paragraph 2 of subsection 1(a) of the conference agreement authorizes funds for the Office of Inspection and Enforcement (I&E) during fiscal years 1982 and 1983.

The House bill authorized $61,513,400 for I&E during FY 1982, and $62,564,600 for the program in FY 1983. The Senate amendment recommended an authorization for the Office of Inspection and Enforcement of $62,900,000 in FY 1982 and $70,270,000 during FY 1983.

The conference agreement authorizes $62,900,000 for I&E during fiscal year 1982. This amount is equal to that approved in the Senate amendment and is the higher of the differing amounts approved by the two houses in their respective versions of the authorizing legislation. The conferees believe the higher authorization level in this case will help to expand the resident inspector program, upgrade quality assurance and quality control functions, and establish an investigative office responsible for rigorous investigations of failures and alleged breakdowns of the NRC inspection and enforcement program.

The conference agreement authorizes $69,850,000 for I&E during FY 1983. This amount falls between the recommendations of the House and Senate for FY 1983.

The availability and use of funds for a nuclear data link system is not addressed in paragraph 2 of subsection 1(a). This matter is treated separately in section 8 of the conference agreement.

The table below summarizes the authorization of funds for the Office of Inspection and Enforcement.

	Fiscal year—	
	1982	1983
NRC request submitted January 1981	$67,680,000	$70,270,000
NRC request submitted January 1982		69,850,000
H.R. 7330 (passed by House Nov. 5, 1981)	61,513,400	62,564,600
S. 1207 (passed by Senate Mar. 30, 1982)	62,900,000	70,270,000
Conference agreement	62,900,000	69,850,000

NUCLEAR MATERIAL SAFETY AND SAFEGUARDS

Paragraph 3 of subsection 1(a) of the conference agreement authorizes appropriations for NRC's Office of Nuclear Material Safety and Safeguards (NMSS) for FY 1982 and FY 1983.

The House bill authorized $45,766,000 during FY 1982, and $47,059,600 for FY 1983 to be appropriated for NMSS. The Senate amendment authorized $38,500,000 for NMSS in FY 1982, and $48,020,000 during FY 1983.

The conference agreement for FY 1982 is $42,000,000 for NMSS; an amount that is approximately midway between the authorization levels approved by the respective houses. The conference agreement also authorizes $47,059,600 for NMSS during FY 1983, an amount equal to that authorized by the House bill. The authorization recommendations for NRC's Office of Nuclear Material Safety and Safeguards are summarized in the table below.

	Fiscal year—	
	1982	1983
NRC request submitted January 1981	$46,700,000	$48,020,000
NRC request submitted January 1982		37,385,000
H.R. 2330 (passed by House Nov. 5, 1981)	45,766,000	47,059,600
S. 1207 (passed by Senate Mar. 30, 1982)	38,500,000	47,059,600
Conference agreement	42,000,000	47,059,600

NUCLEAR REGULATORY RESEARCH

Paragraph 4 of subsection 1(a) of the conference agreement authorizes funds to be used by the NRC's Office of Nuclear Regulatory Research (RES) during fiscal years, 1982 and 1983. Under the conference agreement the authorization of funds for Standards Development has been included in the RES line-item, thereby reflecting an internal reorganization at the NRC that was consummated following consideration by the House authorizing committees of the Commission budget request submitted in January of 1981. The Commission budget request had maintained the separation of the Standards Development budget function from the RES function which prevailed prior to the reorganization.

The House bill authorized $227,301,200 for RES and $17,594,000 for Standards Development during FY 1982. The House also authorized $247,136,400 for regulatory research and $17,630,200 for Standards Development in FY 1983. The House bill specified that of the funds authorized for each of the fiscal years, amounts not to exceed $3,500,000 in FY 1982 and $4,500,000 in FY 1983 are available to accelerate the effort in gas-cooled thermal reactor safety research.

The Senate amendment, like the conference agreement, authorizes funds for RES and Standards Development as a single line-item identified as "Nuclear Regulatory Research." The Senate amendment (S. 1207) authorized $240,300,000 during FY 1982 and $270,170,000 in FY 1983 for this function. Similar to the House bill (H.R. 2330), the Senate amendment specifies that up to $3,500,000 in FY 1982 and $4,500,000 in FY 1983 of the amounts authorized are available to accelerate the effort in gas-cooled thermal reactor safety research. Further, the Senate amendment designated an amount not to exceed $20,000,000 in each fiscal year to be used for fast breeder reactor safety research.

The conference agreement authorizes $240,300,000 for fiscal year 1982 and $257,195,000 for fiscal year 1983 which may be used for Nuclear Regulatory Research. In each fiscal year the total amounts authorized for Nuclear Regulatory Research subsumes funds authorized for Standards Development. The conference agreement adopts the authorization level for FY 1982 that was originally approved by the Senate. The authorization level for fiscal year 1983 falls between the differing amounts approved by the House and Senate.

The conference agreement allocates up to $3,500,000 in FY 1982, and up to $4,500,000 in FY 1983 for the purpose of accelerating the effort in gas-cooled reactor safety research. This designation of

funds to be available for gas-cooled reactors is identical to the provisions that appeared in H.R. 2330 and S. 1207.

Based upon a review of the NRC's current regulatory research budget needs for the fast breeder reactor program (predominantly for the Clinch River project), the conference agreement reduces the amount set aside within the RES line item for fast breeder reactor regulatory research from $20,000,000 per year to $18,000,000 per year. The conferees intend that the funds earmarked for breeder reactor regulatory research will help prepare the NRC for reviewing and acting on applications for licenses to construct and operate a breeder reactor, as well as subsequent regulation of the facility. The conferees expect the Commission to use the funds designated for this purpose to establish the necessary regulatory program and requirements in order that any required licensing determinations can be made in a manner which provides adequate protection of public health and safety and the environment.

The conference agreement further provides that if the fast breeder reactor project is terminated (i.e., if the Clinch River Breeder Reactor construction permit application is withdrawn or indefinitely deferred) funds set aside for the breeder reactor safety research program shall be used generally for Nuclear Regulatory Research.

Paragraph 4 of subsection 1(a) of the conference agreement is silent on the availability and use of funds for the Loss-of-Fluid-Test facility and program. This matter is addressed separately in section 7 of the conference agreement.

A summary of requests and recommendations for the authorization of appropriations for Nuclear Regulatory Research during fiscal years 1982 and 1983 is presented in the table below.

	Fiscal year—	
	1982	1983
NRC request submitted January 1981:		
Standards development	$17,950,000	$17,990,000
Regulatory research	231,940,000	252,180,000
NRC request submitted January 1982 (SD and RES combined)		219,725,000
H.R. 2330 (passed by House Nov. 5, 1981):		
Standards development	17,591,000	17,630,200
Regulatory research	227,301,200	247,136,400
S. 1207 (passed by Senate Mar. 30, 1982)	240,300,000	270,170,000
Conference agreement	240,300,000	257,195,600

PROGRAM TECHNICAL SUPPORT

Paragraph 5 of subsection 1(a) of the conference agreement authorizes appropriations for the agency's Program Technical Support (PTS) function.

The House bill authorized appropriations for PTS in the amounts of $18,757,200 for fiscal year 1982, and $20,197,800 for fiscal year 1983. The Senate amendment authorized $21,900,000 for PTS in FY 1982 and $20,610,000 for that budget function in FY 1983.

The conference agreement authorizes an amount equal to that approved by the Senate, $21,900,000, for FY 1982; and, an amount equal to that approved by the House for FY 1983, $20,197,800.

A summary of the authorization for Program Technical Support is presented in the table below.

	Fiscal year—	
	1982	1983
NRC request submitted January 1981	$19,140,000	$20,610,000
NRC request submitted January 1982		23,400,000
H.R. 2330 (passed by House Nov. 5, 1981)	18,757,200	20,197,900
S. 1207 (passed by Senate Mar. 30, 1982)	21,900,000	20,610,000
Conference agreement	21,900,000	20,197,800

PROGRAM DIRECTION AND ADMINISTRATION

Paragraph 6 of subsection 1(a) of the conference agreement authorizes funds during fiscal years 1982 and 1983 for the Commission's Program Direction and Administration (PDA) budget function.

The House bill authorized $40,846,400 for PDA during fiscal year 1982, and $41,797,000 for fiscal year 1983. The Senate amendment authorized $37,000,000 for PDA in FY 1982, and $42,650,000 during fiscal year 1983.

The conference agreement authorizes $37,400,000 in fiscal year 1982 for Program Direction and Administration, and $41,797,000 for fiscal year 1983. The conference agreement for fiscal year 1982 falls between the differing funding levels authorized by the House bill and Senate amendment. For fiscal year 1983, the conferees adopted the authorization level recommended by the House in H.R. 2330.

The table below summarizes the Program Direction and Administration authorization.

	Fiscal year—	
	1982	1983
NRC request submitted January 1981	$41,580,000	$42,650,000
NRC request submitted January 1982		36,020,000
H.R. 2330 (passed by House Nov. 5, 1981)	40,846,400	41,797,000
S. 1207 (passed by Senate Mar. 30, 1982)	37,000,000	42,650,000
Conference agreement	37,400,000	41,797,000

RESEARCH GRANTS AND COOPERATIVE AGREEMENTS WITH UNIVERSITIES

Subsection 1(b) of the conference agreement authorizes the Commission to use up to one percent of the amounts authorized for the Office of Nuclear Regulatory Research (paragraph 4 of subsection 1(a)) for the purpose of making research grants and other research arrangements with universities. Both houses had approved a similar provision in their respective bills.

The conference agreement also incorporates language from H.R. 2330 which instructs the Commission to endeavor to provide appro-

priate opportunities for universities in which the student body is predominantly comprised of minority groups.

The conference agreement responds to a situation brought to the attention of the Congress by the Nuclear Engineering Department Heads Organization. This group is concerned that the NRC is exercising its existing authority under section 31a. of the Atomic Energy Act of 1954 (42 U.S. 2051(a)) to make research grants to universities in a way that unnecessarily impedes and frustrates the ability of those institutions to perform research for the agency.

The conferees believe that the MRC's university grants program provides an important means of obtaining high quality research of direct value to the agency and its regulatory mission. The conferees believe the NRC should continue the grants program through an annual request for proposal (RFP) solicitation in the Federal Register.

While the funds authorized by the conference agreement for university research grants are a small part of the overall NRC budget (approximately $2.5 million in each fiscal year), the conferees believe these funds represent a very valuable resource for graduate student training and university participation in reactor safety technology and nuclear regulation.

REPROGRAMMING AUTHORITY

Both the House bill and the Senate amendment authorized the Commission to reallocate authorized funds among programs provided certain specified conditions were fulfilled. Both houses required the Commission to notify the authorizing committees of any intended action to reprogram more than $500,000. Both provisions specified that the authorizing committees would have thirty legislative days to review the Commission's proposed action. Finally, under both provisions, the proposed reallocation of $500,000 could go forward before the expiration of the 30-day period (following submission to the authorizing committees of the Commission's "full and complete statement" of the proposed action to be taken) if each authorizing committee transmits to the Commission a written notification that the committee does not object to the proposed action.

Subsection 1(c) of H.R. 2330 authorized the Commission to reallocate funds in excess of $500,000 following the expiration of the 30-day period only if none of the authorizing committees had objected in writing to such proposed action. House approval of this requirement was linked to the new 2-year authorization period and was based on the expectation that the Commission would have cause to use the reprogramming authority more frequently than was the case when a new authorization bill was enacted each year. The House provision both provided the Commission with flexibility to reallocate funds, and provided the authorizing committees with a mechanism for ensuring that the Commission use authorized funds in a manner consistent with congressional intent.

Under the Senate provision, subsection 1(c) of S. 1207, there was no authority vested in the authorizing committees to disapprove such reallocations by objecting in writing.

In light of concerns raised by the Department of Justice regarding the constitutionality of a legislative veto of the type contained

in the House bill, the conferees adopted the Senate provision, with one modification. The modification agreed to by the conferees is intended to clarify that the Commission is authorized to reprogram funds not only between program offices, but also between specific activities within a single program office.

The conferees also expect that the Commission will give substantial weight to written comments forwarded to it by any of the authorizing committees concerning any NRC proposed action to reallocate amounts in excess of $500,000.

SECTION 2—COOPERATIVE RESEARCH AND MATERIAL ACCESS AUTHORIZATION FUNDING

Both the House bill and the Senate amendment authorized the Commission to use funds received for the cooperative nuclear program for salaries and expenses associated with that program. The Senate provision also authorized use of funds received for the material access authorization program for salaries and expenses associated with that program. The conferees incorporated this Senate provision in the conference agreement.

SECTION 3—TRANSFERS OF FUNDS

The conferees adopted the Senate provision, which differs only in certain minor technical respects from the House provision.

SECTION 4—LIMITATION ON SPENDING AUTHORITY

The conference agreement contains this provision which is identical to that in both H.R. 2330 and S. 1207.

SECTION 5—EMERGENCY PLANNING

Both the House bill and the Senate amendment contained provisions reaffirming the authority granted to the Commission under section 109 of the NRC Authorization Act for fiscal year 1980 (Public Law 96-295). This authority allows the Commission, in the absence of an approved State or local emergency preparedness plan, to issue an operating license for a nuclear power plant only if it determines that there exists a State, local, or utility emergency preparedness plan which provides reasonable assurance that the public health and safety is not endangered by operation of the plant.

In addition to reiterating the intent of Congress in enacting section 109 of P.L. 96-295, both houses explicitly stated that, in the absence of an approved State or local emergency preparedness plan, the Commission must make a similar determination prior to the issuance of a temporary operating license. The relevent legislative language is found in section 8 of H.R. 2330 and section 302 of S. 1207.

While technical differences exist between section 8 of the House bill and section 302 of the Senate amendment, the intent of both houses was the same. The conferees adopted the House provision which is included as section 5 of the conference agreement.

Finally, the conferees reiterate and emphasize the congressional intent expressed upon enactment of section 109 of P.L. 96-295 that

ultimately every nuclear power plant will have applicable to it a state emergency response plan that provides reasonable assurance that the public health and safety will not be endangered in the event of an emergency at such plant requiring protective action.

SECTION 6—NUCLEAR SAFETY GOAL

Both the House bill and the Senate amendment contained provisions respecting the Commission's efforts to establish a safety goal for nuclear reactor regulation.

Section 9 of H.R. 2330 limited the authority of the Commission to promulgate or publish a safety goal for nuclear power reactors prior to the completion of public hearings and directed the Commission to expedite, to the extent practicable, the development of the safety goal so as to allow for its establishment no later than December 31, 1981.

Section 106 of S. 1207 directed NRC to expedite establishment of a safety goal for nuclear reactor regulation. The Senate further directed that, unless the Commission decided otherwise, the safety goal was to be issued prior to issuance of regulations affecting engineered safety features, siting requirements, and emergency planning.

Section 6 of the conference agreement directs the Commission to expedite the development of a safety goal and accompanying methodologies so as to permit establishment of a safety goal no later than December 31, 1982. In light of information presented to the conferees indicating that the Commission is already conducting public hearings on the development of a safety goal, the compromise provision deletes that portion of the House provision related to public hearings. The conferees intend that the Commission continue to solicit public comment, and the conferees encourage the Commission to ensure amply opportunity for public participation in the development of the safety goal.

The conference agreement deletes from the Senate amendment the references to deferral of promulgation of certain new regulations until after the establishment of a safety goal. While the conferees have decided to delete this language from the compromise, the conferees nevertheless wish to emphasize the importance of early development and promulgation of a safety goal. It is the view of the conferees, therefore, that unless the Commission determines otherwise, establishment of the safety goal should precede development of certain new regulations referred to in the Senate amendment, thereby providing a threshhold standard upon which the development of these other requirements could be premised. The conferees intend that the definition of safety goals and the regulations to achieve them proceed in reasoned sequence to the end that those regulations necessary to protect public health and safety effectively incorporate the safety goal.

The conferees also reiterate their full support of the objectives and policies of section 108 of the NRC Authorization Act for fiscal year 1980 (Public Law 96-295) related to remote siting of utilization facilities. Specifically, the conferees intend that the Commission continue to promulgate in a timely fashion demographic require-

ments for the siting of utilization facilities which are independent of facility design.

SECTION 7—LOSS-OF-FLUID-TEST PROGRAM

The House bill and the Senate amendment each contained provisions pertaining to the funding of the Loss-of-Fluid-Test facility (LOFT).

Section 6 of H.R. 2330 imposed restrictions on the amounts and use of funds authorized to be appropriated for LOFT. The House provision specified that not more than $30 million during fiscal year 1982 could be used to continue tests at the LOFT facility. The House bill was silent on the question of LOFT funding for fiscal year 1983. The restrictions on LOFT imposed by the House were in large part a response to criticism of that program by the Advisory Committee on Reactor Safeguards.

The Senate amendment authorized up to $45 million in each fiscal year for the LOFT program. In addition, of this amount, the Senate provision directed the NRC to fund by contract with the operator of LOFT for twenty staff-years in each fiscal year for the purpose of analyzing research results and recommending to the Commission appropriate revisions in its regulations.

Section 7 of the conference agreement authorizes the NRC to spend up to $57 million during the period of fiscal years 1982-1983 for the LOFT program. The conferees intend that these funds be used by the Commission to complete those tests identified by the LOFT Special Review Group in its report to the Commission of February 1981. According to information presented to the conferees by the Commission, these tests can be completed in fiscal years 1982 and 1983 for $57,000,000. In addition, the conference agreement authorizes the Commission to provide funding for up to 20 person-years each fiscal year for the purpose of conducting technical review and analysis of research results obtained from the LOFT test program. The conferees intend this technical review and analysis, together with appropriate test results from other test facilities, to be used in assessing the adequacy of the Commission's regulations (for example, Appendix K to Part 50 of the Commission's regulations).

Finally, the conferees are of the view that a continuation of the LOFT program under the management of the Department of Energy, sponsored both financially and technically by an international consortium, may be of some future benefit. It is the conferees' understanding that United States participation in such a program might include financial contributions from NRC of approximately $5 million to $10 million per year for a three year program beginning after FY 1983. While the conferees do not authorize funding for this program in this legislation, they are of the view that operation of the LOFT facility by an international consortium is an option that should be explored.

SECTION 8—NUCLEAR DATA LINK

Both houses placed restrictions on the amount and use of authorized funds available during fiscal year 1982 and fiscal year 1983 for the Nuclear Data Link (NDL) program.

Section 5 of H.R. 2330 specified that not more than $200,000 was available under that bill for the acquisition and installation of equipment to be used for the "small test prototype nuclear data link" program proposed by the Commission. This restriction on the availability of authorized funds also applied to any other program for the collection and transmission to the Commission of data from licensed nuclear reactors during abnormal conditions at such reactors.

Subsection (b) of the House provision provided a procedure for the Commission and the Congress that could have led to the lifting of the restrictions imposed by subsection (a). Under this procedure the Commission was required to submit a proposal to the Congress, whereupon either House of Congress could have rejected the proposal during a 60-day period following such submission. If neither House rejected the Commission proposal then upon conclusion of the 60-day period, the Commission was empowered to initiate its proposed action. The Commission also was authorized to initiate its proposed action before the expiration of said 60-day period, only if both Houses explicitly approved such proposed action.

Under section 5 of the House bill, paragraph (2) of subsection (b) specified actions the Commission must take prior to submitting a proposal to the Congress. Under this paragraph the Commission was required to conduct a full and complete study and analysis of the issues involved, and prepare a detailed report of the results of such study and analysis. The paragraph also required that any Commission proposal submitted to the Congress under this section was to be accompanied by such report, and a "concise statement" (based upon such report) setting forth the reasons and justifications for the proposal.

H.R. 2330 also specified minimum requirements for the issues that were to be addressed in carrying out the study and analysis referred to in paragraph (2) of subsection (b). The House required that the Commission "study and analysis" of the NDL include, at a minimum: an examination of the appropriate role of the Commissioners during a nuclear plant accident; information and data that should be available to the Commission so that it might fulfill its emergency role; alternative means for assuring that such information and data is available to the Commission; and, recommended changes in the Commission's existing authority so that the appropriate Commission role during a nuclear plant accident can be fulfilled. Section 5 of the House bill also required a cost-benefit analysis of the alternative means for making such information available to the Commission. Under the House bill this study and analysis must have been completed prior to any NRC request for NDL budget authority above the $200,000 ceiling.

The Senate amendment earmarked the availability of $1,000,000 to establish a prototype nuclear data link system. The Senate, in approving Section 101(a)(2) of S. 1207, contemplated that the prototype would be used in developing answers to the following questions: the specific role or roles of NRC Operations Center personnel in responding to a nuclear plant accident; the information needs of such personnel; and, a cost-benefit analysis of alternative systems for satisfying such information needs. The answers to these questions were to have been incorporated into a report to the Congress

which included the recommendations of NRC on a specific system. After the report was submitted, under S. 1207, $5,013,000 in fiscal year 1982, and $6,300,000 in fiscal year 1983, was authorized for acquisition and installation of a full nuclear data link system.

Section 8 of the conference agreement is a compromise provision which specifies that during the period of fiscal years 1982–1983, not more than $200,000 is authorized to be used for certain specified activities including, but not limited to, the acquisition and installation of equipment to be used for a "small test prototype nuclear data link" program. The agreement also allows the use of some or all of said $200,000 for any other program (i.e., other than an electronic data link) for the collection and transmission to the Commission of data from licensed nuclear reactors during abnormal conditions at those facilities.

The conference agreement requires the conduct of a full and complete study and analysis of several fundamental questions which the conferees believe are material to any future Commission decision to proceed with the development of a nuclear data link program beyond a "small test prototype nuclear data link." These specific questions are set forth in subsection 8(a)(2) of the conference agreement.

Subsection 8(b) of the conference agreement requires the Commission to submit to Congress a "detailed report" on the results of the study and analysis required under subsection (a)(2). In addition, subsection 8(b)(2) prohibits the Commission from taking action pursuant to such report until the authorizing committees have had a period of sixty calendar days to review the Commission's proposed action. While the conferees do not intend to establish a mechanism by which further action by the Commission may be vetoed by individual committees, the conferees expect the Commission will give substantial weight to any comments provided by those committees on any such action proposed by the NRC. With this in mind, and in response to concerns raised by the Department of Justice, the conferees agreed to omit from the conference agreement the legislative veto that the House had included in section 5 of H.R. 2330.

The conference agreement does not restrict the use of fiscal year 1981 carryover funds for activities under section 8 of the conference agreement, except insofar as the use of such funds would otherwise be subject to any applicable reprogramming requirements.

SECTION 9—INTERIM CONSOLIDATION OF NRC HEADQUARTERS STAFF

Section 7 of the House bill specified that of the amount authorized for "Program Direction and Administration" (under section 1(a)(7) of H.R. 2330) such sums as may be necessary were available for the interim consolidation of the NRC headquarters staff offices in the District of Columbia and, to the extent necessary, in Bethesda, Maryland.

The House provision also made clear, however, that no amount was authorized to be appropriated under H.R. 2330 for the purpose of relocating the officers of the Commission outside of Washington, D.C.

The Senate amendment contained no provision similar to section 7 of the House bill.

The conferees are very concerned by the serious problem confronting the NRC as a result of the agency's being housed in ten different buildings in five different locations in Washington, D.C. and suburban Maryland. The conferees agree with the Commission's own unanimous conclusion that the scattered physical location of the NRC staff has a significant adverse effect on the agency's operations. The conferees are aware that problems associated with NRC's current building situation have been documented by both the President's Commission on the Accident at Three Mile Island (the Kemeny Commission) and the NRC's Special Inquiry Group, and that the reports of both groups have called for urgent action to consolidate the agency. In addition, the Nuclear Safety Oversight Committee, in its September 26, 1980 letter to President Carter, stressed the importance of quickly achieving NRC consolidation.

The conferees note that the Congress has authorized construction of a building for the permanent consolidation of the agency. While the conferees look forward to the day when the Commission and its entire headquarters staff can be moved into a single building, it is the conferees' understanding that such a move will not be possible for at least several years. Because the General Services Administration currently has no plans for the commencement of construction of an NRC headquarters building before 1984, the conferees strongly support an interim consolidation of the Nuclear Regulatory Commission headquarters staff offices.

Section 9 of the conference agreement authorizes the use of such sums as may be necessary during fiscal years 1982 and 1983 for such an interim consolidation. The conference agreement also prohibits the use of any authorized funds to relocate the offices of the Commissioners outside the District of Columbia. The conference agreement applies only to interim consolidation of the NRC, and does not foreclose from further consideration any proposal for the long-term solution to the agency's building situation.

SECTION 10—THREE MILE ISLAND

The House bill included three separate provisions related to the NRC's activities pertaining to the Three Mile Island (TMI) nuclear power station in Pennsylvania.

First, section 10 of H.R. 2330 explicitly prohibited the use of any funds authorized by that bill for the purpose of decontamination, cleanup, repair, or rehabilitation of the Three Mile Island Unit 2 (TMI-2) reactor which was severely damaged in an accident on March 28, 1979. The House bill further provided that this prohibition does not extend to expenses incurred by the NRC in carrying out its responsibilities to protect public health and safety. The Senate amendment did not contain a similar provision. The conferees adopted this House provision and incorporated it in section 10 of the conference agreement.

Second, subsection 10(c) of the House bill directed the NRC to enter into a memorandum of understanding with the Department of Energy specifying agency procedures for the disposal of radioactive materials resulting from the clean-up of TMI-2. The original Senate legislation, as reported by the Senate Environment and

Public Works Committee, contained a similar provision, but this provision was deleted during consideration of S. 1207 by the full Senate. The conferees have been advised that the NRC and DOE, on March 15, 1982, entered into a memorandum of understanding which sets forth the respective responsibilities of the two agencies for removal and disposition of the solid nuclear wastes from the cleanup of TMI-2. Accordingly, the conferees have agreed to omit the House provision. At the same time, however, the conferees intend that the Congress be kept fully apprised by the NRC of all activities undertaken by the NRC and DOE of a collaborative nature with respect to the cleanup of TMI-2. Therefore, in lieu of the requirement contained in subsection 10(c) of H.R. 2330, the conferees have included in section 10 of the conference agreement a provision directing the NRC, in its annual report to the Congress, to include a separate chapter discussing such activities.

Third, the House bill included a provision (section 14) barring the NRC from any willful release of radioactive waste water from TMI-2 into the Susquehanna River. The Senate amendment did not contain a similar provision. The conference agreement includes in subsection 10(d) a modified version of the House provision. Under section 14 of H.R. 2330, NRC was prohibited from using any authorized funds to approve any willful release of "radioactive water resulting from the accident" at TMI-2. The conference agreement modifies this language for the purpose of making it clear that the prohibition does not extend to routine discharges of radioactive water from the Three Mile Island Unit 1.

The conferees intend the prohibition in subsection 10(d) of the compromise agreement to be narrowly limited to "accident-generated water." The conference agreement references the definition of this phrase contained in the Commission's Final Programmatic Environmental Statement (NUREG-0683, page 1-23). The conferees do not intend this provision to apply, in any fashion, to discharges of radioactive waste water which do not fall within this definition. Moreover, the conferees do not intend that the adoption of this provision in any way implies that routine discharges from other commercial nuclear power reactors which meet all applicable standards or requirements pose an unacceptable risk to the public health, safety, or the environment.

Finally, the conferees recognize that NRC staff studies and analyses will continue to evaluate alternative means for the disposition of the water as a necessary step in the cleanup. Those studies are, in the view of the conferees, potentially useful to the Commission as it endeavors to fulfill NRC's responsibility to protect the public health and safety.

SECTION 11—TEMPORARY OPERATING LICENSES

Both the House bill and the Senate amendment granted the Commission new limited authority to issue temporary (or "interim") operating licenses for nuclear power reactors if certain conditions were fulfilled.

Section 12 of H.R. 2330 gave the Commission authority to issue temporary operating licenses (TOLs) for nuclear generating stations in advance of the conduct and completion of hearings re-

quired under section 189 and 192 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2242). The House provision invoked the existing authority and procedural requirements of section 192 of the Atomic Energy Act, and thus did not directly amend existing law.

Section 201 of S. 1207 amended section 192 of the Atomic Energy Act of 1954, and explicity amended existing procedures under section 192 for the issuance of a temporary operating license.

The House bill required that a TOL first be limited to no more than five percent of a power reactor's rated full thermal power. The House provision allowed, subsequent to the issuance of a 5% TOL, and contingent upon licensee application and Commission approval, the plant to operate at levels up to and including full power. The Senate amendment incorporated a similar step-by-step TOL (with an initial upper limit of five percent power operations) permitting the possibility of acendency to full power prior to the completion of hearings required under section 189 of the Atomic Energy Act.

The Senate amendment required filing of a State, local, or utility emergency preparedness plan prior to petition by an applicant for an interim operating license. Section 12 of the House bill contained no similar requirement. The House did provide in section 8 of H.R. 2330, however, that the Commission was to determine prior to issuing a TOL that an emergency preparedness plan existed which provided reasonable assurance that public health and safety would not be endangered by a plant operating under a temporary operating license.

S. 1207 required NRC to publish notice of a petition for an interim operating license. Under the Senate amendment, any party was allowed to file supporting or opposing affidavits within 30 days of such notice. By reference to the existing section 192 of the Atomic Energy Act, the House provided that any party could file supporting or opposing affidavits within 14 days of the filing of the petition. The House provision also empowered the NRC to extend this time by 10 days.

H.R. 2330 required the Commission to hold a hearing on the issue of whether or not to grant a temporary operating license. Under the House bill, such hearing, which could be held after the issuance of the TOL, could be consolidated with the final operating license hearing held by NRC pursuant to section 189 of the Atomic Energy Act. S. 1207 did not require a hearing on the issuance of an interim operating license.

The House provision required NRC to find, prior to issuance of a TOL, that the licensee would not retire or dismantle any of its existing generating capacity because of the new capacity provided by the facility to be granted the temporary license. The Senate amendment to section 192 of the Atomic Energy Act did not contain this restriction.

The Senate amendment did require the Commission to make a finding, prior to issuance of an interim operating license, that denial of such license would result in delay in the initial operation of the facility (due to completion of the plant's construction prior to the completion of the section 189 public hearings required under the Atomic Energy Act). The House bill contained no similar requirement.

S. 1207 included a provision directing any party to the final operating license proceeding, as well as any member of the Commission's licensing board, to notify the Commission of any information indicating that the licensee was not complying with the terms of the interim operating license. Similarly, the Commission was required to be informed if the terms of the interim license were not adequate. The House bill had no similar requirement.

The Senate amendment directed NRC to adopt administrative changes that would minimize the need for issuance of interim operating licenses. H.R. 2330 had no such directive.

Both the House and Senate intended that the Commission's authority to issue temporary operating licenses should expire at a time certain. The Commission's authority under the House bill ended on September 30, 1983. The expiration date under S. 1207 was December 31, 1983.

Section 11 of the conference agreement amends section 192 of the Atomic Energy Act of 1954 (42 U.S.C. 2242) and grants the Commission authority to issue a temporary operating license for a utilization facility required to be licensed under section 103 or 104 b. of the Act. The agreement specifies that an applicant may petition the Commission for a TOL authorizing fuel loading, reactor testing, and operations at a specific power level to be determined by the Commission. The conferees intend that the applicant cannot undertake any such activities until final favorable action by the Commission on the TOL application. The conference agreement also specifies that the initial petition for a TOL, and any temporary license issued by the Commission pursuant to the initial petition, must be limited to power levels not to exceed 5 percent of rated full thermal power.

Under the conference agreement, which is substantially similar to section 201 of the Senate amendment, the conferees intend that any TOL, whether for initial operation at 5 percent of full power or for operation at a higher power level, would be issued or amended only upon a vote of the Commission itself. The conferees intend that the authority to issue or amend such licenses, or to make findings required by subsection b, may not be delegated to the NRC staff.

The conferees believe that the circumstances which gave rise to the need for section 11 of the conference agreement, (including primarily the temporary reassignment of NRC staff from licensing review work to post-Three Mile Island safety reevaluations) were unique and will not recur in the foreseeable future. As the Commission itself noted in its March 18, 1981 letter submitting proposed legislation to authorize the issuance of temporary low-power operating licenses, such legislation represents an "extraordinary and temporary cure for an extraordinary and temporary situation." In addition, the conferees expect the Commission to use this period to continue to review its operating license and case management procedures, and to make such changes as may be needed to increase their overall efficiency without restricting the rights of the public to raise and have resolved the legitimate safety and environmental issues which accompany the construction and licensing of nuclear powerplants.

The conferees caution that in no way should the conference agreement be interpreted as a determination by Congress that any particular facility is presumptively ready to operate, or has a valid legal claim to begin operations once construction is completed. Under the agreement, a TOL cannot be issued before all significant safety issues specific to the facility in question have been resolved to the Commission's satisfaction. Paragraphs (1) and (2) of subsection b of the conference agreement are intended to assure that, based upon all the information available to the Commission, the Commission is able to find that the facility would meet all requirements of law (other than the conduct or completion of any required hearing) necessary for the issuance of the final operating license.

Subsection 11(d) of the conference agreement directs the Commission to adopt such administrative remedies as it deems appropriate to minimize the need for issuance of temporary operating licenses. This subsection reflects the conferees' expectation that a TOL should be a last resort remedy, to be employed only when no other alternative is available. This subsection envisions that the NRC will adopt such remedies pursuant to its current statutory authority, and is not intended to confer any additional authority upon the NRC beyond that it now possesses. In addition, the conferees expect that any administrative remedies adopted to minimize the need for issuance of TOL's shall not themselves infringe upon the right of any party to a full and fair hearing under the Atomic Energy Act. The conferees intend that the Commission shall notify the Congressional committees listed in subsection 11(b) of the conference agreement of all administrative remedies that it proposes to adopt in accordance with subsection 11(d).

SECTION 12—OPERATING LICENSE AMENDMENT HEARINGS (THE "SHOLLY" PROVISION)

The House and Senate each granted the Commission new authority to approve and make immediately effective certain amendments to licenses for nuclear power reactors, upon a determination by the Commission that the amendment involved no significant hazards consideration.

Section 11 of the House established this new Commission authority in a provision that did not amend existing law. The Senate amendment granted the Commission permanent authority by amending the Atomic Energy Act of 1954.

Under H.R. 2330, the Commission's new authority was limited to amendments to nuclear power reactor licenses. The authority under S. 1207 was broader, and extended to amendments to licenses for all facilities licensed under the Atomic Energy Act.

The House specified that NRC could approve and make immediately effective a license amendment only after notification of the State in which the facility was located. Also, the House required the Commission "when practicable" to consult with the State before issuance of an amendment. The Senate required the Commission to consult with the State in which the facility was located when determining whether or not an amendment involved a significant hazards consideration. The Senate also directed NRC to promulgate within 90 days criteria for providing prior notice and

public comment on such determinations and procedures for consultation with the affected State.

Section 11 of the House bill directed NRC to publish periodically (at least every 30 days) notice of amendments issued or proposed to be issued using the immediate effectiveness authority; the nuclear power reactor concerned; and, a brief description of the amendment. The Senate, in its report accompanying S. 1207, directed the NRC to submit a monthly report to Congress on the exercise of its authority under this provision.

The House bill directed the NRC to promulgate standards (within 90 days of enactment) for determining whether or not an amendment to a license involved no significant hazards consideration. The Senate amendment explicitly preconditioned the Commission's authority to issue and make immediately effective license amendments involving no significant hazards consideration on promulgation by NRC of standards for making the "no significant hazards" determination.

The conferees adopted a compromise provision (section 12 of the conference agreement) which amends section 189a. of the Atomic Energy Act of 1954 (42 U.S.C. 2239(a)). Under the conference agreement, the NRC may issue and make immediately effective a no significant hazards consideration amendment to a facility operating license before holding a hearing upon request of an interested party. The Commission may take such action only after (in all but emergency situations), (1) consulting with the State in which the facility is located, and (2) providing the public with notice of the proposed action and a reasonable opportunity for comment.

The conference agreement maintains the requirement of the current section 189a. of the Atomic Energy Act that a hearing on the license amendment be held upon the request of any person whose interest may be affected. The agreement simply authorizes the Commission, in those cases where the amendment involved poses no significant hazards consideration, to issue the license amendment and allow it to take effect before this hearing is held or completed. The conferees intend that the Commission will use this authority carefully, applying it only to those license amendments which pose no significant hazards consideration.

The conferees also expect the Commission, in promulgating the regulations required by the new subsection (2)(C)(i) of section 189a. of the Atomic Energy Act, to establish standards that to the extent practicable draw a clear distinction between license amendments that involve a significant hazards consideration and those amendments that involve no such consideration. These standards should not require the NRC staff to prejudge the merits of the issues raised by a proposed license amendment. Rather, they should only require the staff to identify those issues and determine whether they involve significant health, safety or environmental considerations. These standards should be capable of being applied with ease and certainly, and should ensure that the NRC staff does not resolve doubtful or borderline cases with a finding of no significant hazards consideration.

The conferees intend that in determining whether a proposed license amendment involves no significant hazards consideration, the Commission should be especially sensitive to the issue posed by

license amendments that have irreversible consequences (such as those permitting an increase in the amount of effluents or radiation emitted from a facility or allowing a facility to operate for a period of time without full safety protections). In those cases, issuing the order in advance of a hearing would, as a practical matter, foreclose the public's right to have its views considered. In addition, the licensing board would often be unable to order any substantial relief as a result of an after-the-fact hearing. Accordingly, the conferees intend the Commission be sensitive to those license amendments which involve such irreversible consequences.

The conferees note that the purpose of requiring prior notice and an opportunity for public comment before a license amendment may take effect, as provided in subsection (2)(C)(ii) for all but emergency situations, is to allow at least a minimum level of citizen input into the threshold question of whether the proposed license amendment involves significant health or safety issues. While this subsection of the conference agreement preserves for the Commission substantial flexibility to tailor the notice and comment procedures to the exigency of the need for the license amendment, the conferees expect the content, placement and timing of the notice to be reasonably calculated to allow residents of the area surrounding the facility an adequate opportunity to formulate and submit reasoned comments.

The requirement in subsection 2(c)(ii) that the Commission promulgate criteria for providing or dispensing with prior notice and public comment on a proposed determination that a license amendment involves no significant hazards consideration reflects the conferees' intent that, wherever practicable, the Commission should publish prior notice of, and provide for prior public comment on, such a proposed determination.

In the context of subsection (2)(C)(ii), the conferees understand the term "emergency situations" to encompass only those rare cases in which immediate action is necessary to prevent the shutdown or derating of an operating commercial reactor. (The Commission already has the authority to respond to emergencies involving imminent threats to the public health or safety by issuing immediately effective orders pursuant to the Atomic Energy Act or the Administrative Procedure Act. And the licensee itself has authority to take whatever action is necessary to respond to emergencies involving imminent threat to the public health and safety.) The Commission's regulations should insure that the "Emergency situations" exception under section 12 of the conference agreement will not apply if the licensee has failed to apply for the license amendment in a timely fashion. In other words, the licensee should not be able to take advantage of the emergency provision by creating the emergency itself. To prevent abuses of this provision, the conferees expect the Commission to independently assess the licensee's reasons for failure to file an application sufficiently in advance of the threatened closure or derating of the facility.

Subsection 2(C)(iii) of the conference agreement requires the Commission to promulgate procedures for consulting with a State in which the relevant facility is located on a determination that an amendment to the facility license involves no significant hazards

consideration. The conferees expect that the procedures for State consultation will include the following elements:

(1) The State would be notified of a licensee's request for an amendment;

(2) The State would be advised of the NRC's evaluation of the amendment request;

(3) The NRC's proposed determination on whether the license amendment involves no significant hazards consideration would be discussed with the State and the NRC's reasons for making that determination would be explained to the State;

(4) The NRC would listen to and consider any comments provided by the State official designated to consult with the NRC; and

(5) The NRC would make a good faith attempt to consult with the State prior to issuing the license amendment.

At the same time, however, the procedures for State consultation would not:

(1) Give the State a right to veto the proposed NRC determination;

(2) Give the State a right to a hearing on the NRC determination before the amendment became effective;

(3) Give the State the right to insist upon a postponement of the NRC determination or issuance of the amendment; or,

(4) Alter present provisions of law that reserve to the NRC exclusive responsibility for setting and enforcing radiological health and safety requirements for nuclear power plants.

In requiring the NRC to exercise good faith in consulting with a state in determining whether a license amendment involves no significant hazards consideration, the conferees recognize that a very limited number of truly exceptional cases may arise when the NRC, despite its good faith efforts, cannot contact a responsible State official for purposes of prior consultation. Inability to consult with a responsible state official following good faith attempts should not prevent the NRC from making effective a license amendment involving no significant hazards consideration, if the NRC deems it necessary to avoid the shut-down or derating of a power plant.

SECTION 13—QUALITY ASSURANCE

Section 304 of the Senate amendment required NRC to accelerate its resident inspector program so that by the end of fiscal year 1982 at least one resident inspector would be at each power reactor site where construction is more than fifteen percent (15%) complete. The Senate also directed NRC to study options for improving quality assurance at reactors under construction, and to undertake a pilot program at a minimum of three sites to evaluate alternative approaches to quality assurance. Finally, S. 1207 directed NRC to report to Congress on the results of this program with 18 months.

The House bill contained no similar provision.

The conferees adopted a provision similar to section 304 of the Senate amendment.

Subsection 304(a) of S. 1207 required that by the end of 1982 an NRC resident inspector would be assigned to each site where a

commercial nuclear powerplant is under construction, and construction is at least 15% complete. The conference agreement instructs the Commission, where it deems appropriate, to provide NRC "inspection personnel" at any such site following issuance of a construction permit for the facility in question. The conferees do not intend that such "inspection personnel" *must* be a resident inspector, although the Commission has discretion to assign a resident inspector to a site where construction is less then 15% complete. Like the Senate amendment, the conference agreement requires that once construction of a given nuclear powerplant reaches the 15% completion threshold, a resident inspector must be assigned to the project. The conferees do not intend to imply the NRC's responsibility to regulate nuclear powerplant construction is any less during the early stages of reactor construction (i.e., when construction is less than 15% complete), than it is once a project is 15% complete.

Subsection 13(b) of the conference agreement, like subsection 304(b) of the Senate amendment, directs the Commission to conduct a study of existing and alternative programs for improving quality assurance and quality control in the construction of commercial nuclear powerplants. In fulfilling this requirement, the Commission is instructed by the conference agreement to obtain comments from the public, licensees, the Advisory Committee on Reactor Safeguards, and "organizations comprised of professionals having expertise in appropriate fields." The conferees intend that these latter "organizations" include, but not be limited to, the following: the National Board of Boiler and Pressure Vessel Inspectors, the American Society on Mechanical Engineers, the American Welding Society, the Institute for Nuclear Power Operations, and private nuclear insurance pools.

Subsection 13(b) of the conference agreement sets forth specific proposals for improving quality assurance and quality control in the construction of nuclear powerplants, and requires the Commission to conduct a study and detailed analysis of those proposals. Subsection 13(d) of the agreement directs the Commission to report to Congress on the results of the study conducted pursuant to subsection (b).

Subsection 13(c) of the conference agreement requires the Commission to undertake a pilot program to "review and evaluate" programs that include one or more of the alternative proposals identified in subsection (b). The purpose of the pilot program is twofold: (1) to determine the best means of assuring that commercial nuclear powerplants are constructed in accordance with all applicable safety requirements; and (2) to assess the feasibility, advantages, and disadvantages of the proposals listed in subsection 13(b). In undertaking the pilot program, the Commission must include the use of "independent inspectors" as described under paragraph (5) of subsection (b). By imposing the requirement that the pilot program shall include programs that use an "independent inspector," the conferees do not mean that the Commission, in undertaking the pilot program, should place lesser emphasis on the review and evaluation of progams incorporating the concepts in paragraphs (1) through (4) of subsection 13(b).

The conference agreement stipulates that the pilot program shall include at least one site at which quality assurance and quality control programs have operated satisfactorily, and shall include at least two sites "at which major construction, quality assurance and quality control deficiencies . . . have been identified in the past." The conferees recommend that the Commission, in selecting these latter two sites, refer for guidance to the testimony of the NRC Executive Director for Operations before the House Committee on Interior and Insular Affairs on November 19, 1981.

Subsection 13(d) requires that the Commission report to Congress (within fifteen months of enactment of this Act) on the results of the pilot program.

SECTION 14—LIMITATION ON THE USE OF SPECIAL NUCLEAR MATERIAL

Section 207 of S. 1207 amended the Atomic Energy Act to prohibit the use of special nuclear material (or, spent fuel) from licensed nuclear power reactors for the production of nuclear explosive devices. H.R. 2330 had no equivalent section.

The conferees agreed to include the Senate provision in the conference agreement.

SECTION 15—RESIDENT INSPECTORS

At the request of the Commission, the Senate amended the Atomic Energy Act to authorize NRC to reimburse all or part of the expenses of resident inspectors incurred in relocating between two NRC duty stations. In addition section 205 of S. 1207 specified that the Federal Government would pay expenses related to travel and transportation to and from work.

Specifically, section 205 of the Senate amendment would have amended the Atomic Energy Act to allow NRC to reimburse resident inspectors for: (1) points or mortgage loan origination fees; (2) interest on "bridge" or "swing" loans; and, (3) title insurance. In addition, S. 1207 would have enabled resident inspectors to use government cars for daily commuting to and from work. The Senate authorized appropriations of $1,162,000 in fiscal year 1982, and $1,129,000 in fiscal year 1983, for these purposes.

The House did not include any similar provision in H.R. 2330.

The conferees rejected the Senate provision amending the Atomic Energy Act, and agreed instead to authorize such sums as may be necessary for the Commission to conduct a study of the financial hardships incurred by resident inspectors as a result of: (1) certain Commission regulations which require resident inspectors to relocate periodically from one duty station to another; and, (2) Commission requirements intended to assure that a conflict of interest (or appearance of such a conflict of interest) does not develop as a result of a resident inspector either living near licensee employees, or commuting to and from work with licensee employees. Section 15 of the conference agreement directs the Commission to report to Congress on the results of this study.

The conference agreement is responsive to concerns raised in a May 6, 1982 letter to the conferees from the Administrator of the General Services Administration (GSA). The Administrator expressed the view that relocation problems are government-wide,

and not unique to NRC resident inspectors. Also, it is GSA's opinion that government cars should not be used to compensate Federal employees for unusual expenses of their jobs. The conferees expect the Commission to address the GSA concerns in the study and report to Congress required by section 15 of the conference agreement.

The conferees also call the Commission's attention to page 9 of the "Follow-up Audit of OIA's December 1979 Report Entitled 'Review of Continuing Implementation of NRC's Resident Inspection Program', July 1982" which was forwarded to the conference committee by the Commission on July 28, 1982. That report states the original recommendation of NRC's Office of the Inspector and Auditor was that the Commission should "either develop a legislative proposal . . . . *or* (find) *alternative methods*" to reimburse resident inspectors relocation costs (emphasis added). The conferees expect the study and the report to Congress authorized by section 15 of the conference agreement to give full consideration to such "alternative methods" of compensation.

The conferees believe the NRC's resident inspector program significantly enhances the agency's ability to monitor licensee's compliance with the Commission's regulations on a day-to-day basis. For this reason, the conference agreement authorizes the appropriation of the total funding requested by NRC for fiscal years 1982 and 1983 to be used for personnel expenses due to expansion of the resident inspector program.

SECTION 16—SABOTAGE OF NUCLEAR FACILITIES OR FUEL

The Senate amendment contained a provision amending section 236 of the Atomic Energy Act of 1954, by adding a new subsection b. that subjects to criminal penalties any person who intentionally and willfully causes or attempts to cause an interruption of the normal operation of any facility specified in subsection 236 b., through the unauthorized use of, or tampering with, the machinery, components, or controls of such facility.

H.R. 2330 contained no similar provision.

The conferees agreed to include the Senate provision in the conference agreement. The conferees intend the phrase "unauthorized use" to mean use without permission of the licensee; the word "tampering" to mean altering for improper purposes or in an improper way; and the phrase "interruption of normal operation" to mean a cessation of actual production, utilization, or storage operations which, if accomplished, will result in substantial economic harm or cost to the licensee. The conferees do not intend, however, for this provision to apply to demonstrating, picketing, or other concerted labor union activities that may have the effect of exerting economic pressure upon the licensee.

SECTION 17—DEPARTMENT OF ENERGY INFORMATION

The Senate amendment included a provision amending the existing section 148 of the Atomic Energy Act. That section currently authorizes the Department of Energy to prohibit unauthorized dissemination of certain unclassified information. The House considered no comparable provision.

The Senate amendment made three changes in the existing section 148. First, the Senate provision amended subsection 148 a. (1) to make it clear that the authority of the Secretary of Energy to withhold information under this subsection is limited to certain narrowly-defined categories of information related to atomic energy defense programs. The specific categories of information are set forth in subsection 148 a. (1)(A)–(C). By inserting the phrase "with respect to atomic energy defense programs," the Senate intended to ensure that the authority conferred upon the Department of Energy under section 148 authorized only the withholding of information that (1) falls within one of the three categories specified in subsection 148 a. (1)(A)–(C), *and* (2) is related to the Department's atomic energy defense programs.

Second, the Senate amendment added a new subsection "e" to section 148, requiring the Secretary to prepare a quarterly report detailing the Secretary's application of section 148 during that period. The information to be contained in this report, which is to be made available upon request of any interested program, was set forth by the Senate in subsection 148 a. (1)–(3).

The conferees agreed to include the Senate provision in the conference agreement, subject to one clarification. Namely, the conferees do not intend that DOE, in preparing the report required under subsection 148e., identify the actual information to be withheld under this provision. These reports should (1) identify the type of information withheld, (2) provide a statement justifying the withholding of the information, and (3) provide assurance that only the minimum amount of information is being withheld.

SECTIONS 18, 19, 20 AND 21—URANIUM MILL TAILINGS

The Senate amendment contained a number of provisions relating to implementation of the Uranium Mill Tailings Radiation Control Act of 1978 (UMTRCA). The provisions adopted by the Senate, which are included in section 206 of S. 1207, were based upon certain problems identified in hearings held before the Senate Environment and Public Works Committee on June 16, 1981.

First, the Senate provision established new deadlines for the promulgation by the Environmental Protection Agency (EPA) of inactive and active site general environmental standards, in light of the fact that EPA missed the existing statutory deadlines of November 8, 1979 and May 8, 1980 for issuing inactive and active site standards, respectively. The Senate provision provided that EPA shall have until April 1, 1982 to issue final inactive site standards and until October 1, 1982 to issue proposed active site standards, with final active site standards to follow six months thereafter. The Senate provision clarified EPA's authority to consider impacts on public health and safety and the environment, as well as the economic cost of applying the standards. In addition, the Senate provision provided EPA with flexibility under the Solid Waste Disposal Act to consider special circumstances associated with uranium mill tailings.

Second, the Senate provision suspended NRC's regulations, which were issued in advance of EPA's standards, until EPA promulgates its standards. Within 90 days of promulgation by EPA of final

standards, the Senate provision directed NRC to initiate a rulemaking proceeding to conform its regulations to those standards. Pending promulgation by the NRC of its regulations, the NRC was barred from implementing or enforcing any of its current regulations, but was allowed to regulate uranium mill activities on a case-by-case basis as necessary to protect public health and safety.

Third, the Senate provision clarified that NRC has the authority to consider all relevant factors, including impact on public health and safety and the environment, as well as economic cost in developing its standards. For existing uranium mills, the Senate provision authorized the NRC to consider certain site-specific conditions.

Fourth, the Senate provision clarified the authority of Agreement States that elect to regulate uranium milling activities to adopt alternatives to Federal requirements if the States find that the Federal requirements are not practicable under local conditions. The provision specified that NRC may not reject any such State findings that are supported by substantial evidence in the record, unless the NRC finds that the State alternative fails to provide adequate protection to the public health, safety, and the environment. Such NRC action may only be taken in accordance with the notice and hearing provisions of the Atomic Energy Act. Upon promulgation by NRC of its regulatory requirements, Agreement States were given six months, under the Senate provision, to issue such amended State requirements as may be necessary. NRC may terminate a State's authority after this period only by following the notice and hearing requirements of the Atomic Energy Act.

Fifth, the Senate provision clarified that NRC retains authority in Agreement States to evaluate compliance with Agreement State requirements, but not to impose additional requirements.

Finally, the Senate provision authorized NRC to exempt land in which tailings have been employed as backfill in underground mines from the ownership transfer provisions of the Act.

The House bill did not contain any provisions related to uranium mill tailings.

The conferees have agreed to a compromise that includes four essential elements. First, the conference agreement establishes new deadlines for the promulgation by EPA of general environmental standards required under section 275 of the Atomic Energy Act. The original deadlines established when the Uranium Mill Tailings Radiation Control Act (UMTRCA) was passed in 1978 called upon EPA to promulgate final general environmental standards for inactive and active uranium processing sites by November 8, 1979 and May 8, 1980, respectively. Those deadlines have long since passed and EPA has yet to issue either its final active or inactive standards. The conferees wish to emphasize their concern and express their displeasure over EPA's past failures to promulgate these general environmental standards in a timely fashion.

When UMTRCA was passed in 1978, Congress assigned to EPA a significant role in the program for regulation of uranimum mill tailings activities. An EPA regulatory role in this area should, in the view of the conferees, be brought to bear on the task of assessing and controlling the risks posed by uranimum mill tailings and developing general environmental standards only if a regulatory program including EPA can be implemented with certainty and in

a timely manner. To date, EPA has failed to meet this Congressional mandate as it was first spelled out in UMTRCA.

Accordingly, the conference agreement establishes new deadlines for the promulgation by EPA of general environmental standards. Specifically, EPA is directed to promulgate the following standards by the dates identified:

Final Inactive Site Standards—October 1, 1982;
Proposed Active Site Standards—October 31, 1982; and
Final Active Site Standards—October 1, 1983.

It is the intent of the conferees that EPA make every effort to allocate those resources necessary to ensure that the foregoing deadlines are met. In this regard, the conferees note the assurances of the Administrator of EPA contained in a letter to the conferees of April 28, 1982, that these deadlines are, in fact, achievable.

Should EPA fail to meet the deadlines set forth for the promulgation of final general environmental standards, the conference agreement includes specific directions on the actions that are to follow. Section 18(a)(1) provides that, if EPA fails to promulgate final inactive site standards by October 1, 1982, all action required of the Secretary of Energy under title I of UMTRAC shall be taken in accordance with EPA's proposed inactive site general environmental standards (published at 46 Federal Register 2556 on January 9, 1981), until such time as EPA promulgates final inactive site standards. EPA should continue in its efforts to promulgate final inactive standards as soon as possible and, upon promulgation, the conferees intend that the Secretary of Energy's actions, as required under title I, be taken in compliance with such final standards. To the extent practicable, DOE should make every reasonable effort, in complying with EPA's proposed standards, to take those actions required under title I which will, upon promulgation of EPA's final standards, be least likely to be disrupted. In addition the conferees note that, for purposes of the "7-year clock" for the completion of cleanup, DOE's time begins to run October 1, 1982.

If EPA fails to promulgate final active site standards by October 1, 1983, section 18(a)(3) of the conference agreement provides that the authority of EPA to promulgate such active site standards terminates. In such event, the NRC is authorized to determine, in its discretion, whether the promulgation of such general environmental standards is necessary in order for NRC to carry out its reponsibilities under title II and, if so, to promulgate any such standards deemed necessary. Upon promulgation of any such standards, the NRC shall take such action as it deems necessary to conform its regulations to such standards. It is the conferees' intent, however, that during the period in which the NRC promulgates these active site standards and subsequently conforms its regulations to such standards, nothing in the conference agreement shall be construed as requiring the NRC to prohibit or suspend the implementation or enforcement of its regulations. In light of this, it would be the conferees' expectation that, in promulgating any general environmental standards deemed necessary, the Commission would provide notice and opportunity for public comment similar to that available had EPA been promulgating such standards.

The second major element of the conference agreement relates to the regulations required to be promulgated by NRC under

UMTRCA and the Atomic Energy Act. On October 3, 1980, the Commission promulgated its final Uranium Mill Tailings Requirements (45 Federal Register 65521 to 65538). Under the conference agreement, the Commission is prohibited from implementing or enforcing those regulations until January 1, 1983. Due to the confusion which has arisen with EPA's failure to promulgate final regulations in advance of the NRC, according to the timetable established in the UMTRCA, the conferees believed the simplest and most efficient manner in which to restore order to the regulatory scheme, was temporarily to suspend implementation and enforcement of the NRC's mill tailings regulations until January 1, 1983. The conferees have limited the suspension to the minimum time required to straighten-out potentially conflicting regulatory requirements. The conferees take this action only to assure a smooth regulatory system while transitions are occurring. On that date, the Commission is authorized to implement and enforce all of its October 3rd Uranium Mill Licensing Requirements except those that the Commission determines would require a major action or commitment by licensees which would be unnecessary if (1) the active site standards proposed by EPA are promulgated in final form without modification, and (2) the Commission's requirements are modified to conform to such standards. The conferees note that, in this context, the term "commitment" may include financial obligations or expenditures that might be required. This determination referred to in section 18(a)(4) of the conference agreement is to be made by the Commission following a review and analysis of the Commission's regulations and EPA's proposed active site standards as soon as the latter are promulgated. Section 18(a)(4) specifically provides that, following proposal by EPA of its active site standards, the Commission is to undertake a review of its regulations in order to make the determination referred to above. The conference agreement provides the NRC 90 days in which to make this determination. This period of time, in the view of the conferees, should provide sufficient opportunity for the Commission to provide notice and opportunity for public comment prior to reaching its determination.

Those requirements that the Commission determines would require a major action or commitment by licensees which would be unnecessary if (1) the standards proposed by the Administrator are promulgated in final form without modification, and (2) the Commission's requirements are modified to conform to such standards, shall continue to be suspended (both implementation and enforcement) until the earlier of April 1, 1984, or the date on which the Commission amends its regulations to conform to EPA's final active site standards (to be promulgated by October 1, 1983). Upon promulgation by EPA of its final active site standards, the Commission shall have until April 1, 1984 to conform its regulations to EPA's standards. If NRC completes this task prior to April 1, 1984, the suspension of such regulations shall terminate upon this earlier date. If EPA does not promulgate final standards by October 1, 1983, the agency's regulatory authority terminates and NRC's regulations go into effect on that date as initially proposed or as modified by rule by NRC. Once again, the conferees fully expect that this six month period of time is of sufficient length to enable the

Commission to provide notice and opportunity for public comment prior to reaching its determination.

During the period of suspension of NRC's Uranium Mill Licensing Requirements imposed under the conference agreement, the NRC is authorized to take such action as it may deem necessary, on a licensee-by-licensee basis, to protect public health, safety, and the environment.

Subsection (f)(4) clarifies that nothing in this section is intended to affect the authority or responsibility of the Commission to promulgate regulations to protect the public health and safety and the environment. The conferees specifically rejected the notion that the NRC in any way acted improperly, in promulgating its regulations in advance of action by the Environmental Protection Agency. This subsection is not intended to affect the temporary suspension imposed under 18(a)(4) of the implementation and enforcement of certain of NRC's Uranium Mill Licensing Requirements.

The third major element of the conference agreement pertains to the responsibilities of EPA and NRC to promulgate, respectively, general environmental standards and uranium mill licensing regulations. In each instance, the conferees have agreed to include specific references in the appropriate sections of the Atomic Energy Act directing EPA and NRC, in promulgating such standards or regulations, to consider the risk to the public health, safety, and the environment, the environmental and economic costs of such standards of regulations, and such other factors as EPA or NRC, respectively, determine to be appropriate.

The conferees do not intend and specifically oppose by this language affecting any pending litigation or appeal of judicial decisions based on the fundamental missions or responsibilities of the agencies. The conferees note that this language reflects accurately the current regulatory approach of the agencies. The language agreed to by the conferees should not result in any delays in establishment of remedial action standards. EPA, for example, has already advised the conferees that it is considering costs in formulating its inactive site requirements. In addition, the NRC has testified before Congress that it, too, took costs into account in promulgating its Uranium Mill Licensing Requirements. Moreover, in adopting the language, the conferees intend neither to divert EPA and NRC from their principal focus on protecting the public health and safety nor to require that the agencies engage in cost-benefit analysis or optimization.

The conferees are of the view that the economic and environmental costs associated with standards and requirements established by the agencies should bear a reasonable relationship to the benefits expected to be derived. This recognition is consistent with the accepted approach to establishing radiation protection standards, and reflects the view of the conferees that, in promulgating such general environmental standards and regulations, EPA and NRC should exercise their best independent technical judgment in making such a determination. At all times, the conferees fully intend that EPA and NRC recognize as their paramount responsibility protection of the public health and safety and the environment.

The fourth major element of the conference agreement involves implementation of the federal standards and regulations of EPA

and NRC at the State level. Under section 19 of the conference agreement, individual Agreement States are authorized to adopt alternatives (including site-specific alternatives) to the Commission's regulations. These alternative State requirements, which may take into account local or regional conditions, must be submitted to the Commission for approval. If, after notice and opportunity for a public hearing, the Commission determines that the State alternatives will achieve a level of stabilization and containment of the site and a level of protection for public health, safety, and the environment, which is equivalent to, to the extent practicable, or more stringent than the level which would be achieved by the EPA and NRC standards and requirements, the State is to be allowed to implement such alternatives.

Section 20 of the conference agreement confers upon individual licensees a related but less independent ability to propose alternatives. Under this section, individual licensees are authorized to propose alternatives to specific Commission requirements. The Commission may treat such alternatives as satisfying Commission requirements if it determines that such alternatives will achieve a level of protection for public health, safety, and the environment, which is equivalent to, to the extent practicable, or more stringent than the level which would be achieved by the EPA and NRC standards and requirements.

States and licensees are intended to be provided an opportunity to propose approaches to mill tailings containment and stabilization suited to regional or site-specific conditions which may vary from engineering or technical specifications recommended by the Commission. The Commission is expected to assure that alternative approaches meet the operational criteria and objectives set by the NRC regulations and the general environmental standards set by EPA. The conferees note that the right of Agreement State regulatory authorities to adopt regulations which meet the NRC/EPA standard is being clarified, but that a distinction exists between this right and the opportunity being affirmed for licensees to propose to NRC alternative approaches to compliance with Commission regulations.

Finally, section 19(b) of the conference agreement provides that there is to be no termination of the regulatory program of any Agreement State that is acting to exercise authority over mill tailings unless NRC complies with the procedures specified in subsection 274(j) of the Atomic Energy Act.

S. 1207, as passed by the Senate, included several provisions not included in the conference agreement. In some instances, the conferees were of the view that the authority conferred pursuant to these specific provisions in S. 1207 already existed under current law or that the Commission was interpreting its authority in a fashion consistent with the conferees' understanding of what current law provides, and that no further statutory guidance was required. Accordingly, the conferees agreed to delete those provisions. Specifically, those provisions of S. 1207 which were so deleted are as follows: Sections 206 (i), (j), and (k).

SECTION 21—EDGEMONT

The Senate amendment included a provision directing the Commission, in consultation with the State of South Dakota and a number of other federal departments to establish a monitoring, engineering assessment, and remedial action program for the purpose of cleaning up offsite locations in the vicinity of Edgemont, South Dakota that have been contaminated by residual radioactivity from the Tennessee Valley Authority (TVA) uranium mill site. Although the Edgemont site is an inactive uranium mill site, it was not included in the remedial action program established by the Uranium Mill Tailings Radiation Control Act of 1978 because TVA held a current license from the NRC for the mill. TVA is obligated and has agreed to clean up the mill tailings on the Edgemont site. No legal responsibility has been established, however, for cleanup of the tailings at the offsite locations.

The Senate amendment was intended to address the concerns that have arisen over who has the jurisdiction and responsibility for cleanup of the offsite locations by incorporating into the remedial action program of the mill tailings act these offsite mill tailings locations. In addition, the Senate provision was intended to confirm the monitoring and engineering assessment program now underway by the NRC that would precede the cleanup itself at these offsite locations.

The House bill did not contain a similar provision.

The conferees agreed to a compromise provision that is intended to address those concerns raised by the Senate. The provision agreed upon by the conferees amends section 102(e) of the Uranium Mill Tailings Radiation Control Act of 1978 by adding a new subsection (3). This new subsection directs the Secretary of Energy to designate for remedial action any property within the vicinity of the TVA site in Edgemont, South Dakota that the Secretary determines to be contaminated with residual radioactive materials from the TVA site. The Secretary, in making this designation, is to consult with the Environmental Protection Agency, the NRC, and the State of South Dakota.

The conferees intend that the Secretary place a high priority on the activities required of DOE under subsection (3) and, in particular, that the Secretary move expeditiously to designate those properties requiring cleanup, based upon the NRC assessments completed or close to completion, and begin the necessary remedial action as soon as possible. In this regard, the conferees note that the NRC has been directly involved in the Edgemont offsite remedial action program for some time and has completed or is close to completing the work upon which DOE's remedial action program should be based. NRC's involvement to date has extended to the performance of radiological surveys of residences and vacant lots, radiological engineering assessments, and the completion of detailed cleanup plans. According to information supplied to the conferees, the NRC has completed nearly 95 percent of the radiological surveys of the affected properties in the vicinity of Edgemont. Approximately 225 properties were identified by the NRC as requiring a full radiological engineering assessment, and the conferees are advised that the NRC has completed 159 of these assessments. As a result of the as-

sessments to be completed to date, 80 properties have been identified that will require cleanup. In all, the NRC projects that nearly 130 properties will require varying amounts of cleanup action and estimates that the contractor costs for the actual cleanup activities should be approximately $300,000. The conferees intend that the results of the foregoing work serve as the basis for the DOE remedial action program, and that all cleanup plans prepared by the NRC be transferred to DOE for implementation.

The compromise agreed to by the conferees also provides that the Secretary, in determining the State's share under section 107 of the costs of remedial action, shall credit the State of South Dakota for expenditures made by the State which, had the offsite properties in the vicinity of Edgemont been listed under section 102(a)(1) of the Mill Tailings Act when it was passed in 1978, would have been paid by the State or by the federal government. Thus, it is the intent of the conferees that the State of South Dakota be required to pay ten percent of the total cost of remedial action undertaken in the vicinity of the Edgemont site, but that, in calculating this ten percent share, the State be credited for expenditures made prior to the date of enactment of this bill associated with the remedial action which would have been credited pursuant to title I of the 1978 Act had they been made after the date of enactment of this Act. According to information supplied to the conferees, the State has already spent approximately $150,000 on the Edgemont effort. Of this amount, the conferees identified certain expenses for which the State should be given credit under section 107. These expenses include the following: contractual costs for radiological monitoring assessments, costs for time of state personnel conducting actual monitoring, costs for travel to and from Edgemont, costs for radiological monitoring equipment, per diem costs for personnel at offsite locations, and costs for time of personnel analyzing the test results and notifying owners of potentially dangerous property. Beyond these expenditures, it is the intent of the conferees that the Secretary identify those additional State expenses for which South Dakota should be given credit in determining the State's ten percent share under section 107.

SECTION 23—URANIUM SUPPLY

The Senate amendment included provisions creating a new Commission responsibility for the regulation of uranium imports into the United States. No more than 20 percent of uranium consumed in the United States would have been permitted to be of foreign origin.

The conferees agreed to a strict review and monitoring program to guard against damage to the domestic uranium industry resulting from foreign uranium imports. The program utilizes existing trade authorities and the existing authority of the Secretary of Energy under the Atomic Energy Act to protect the domestic uranium industry through regulation of feedstock into U.S. uranium enrichment facilities.

If during a ten-year period following enactment of this Act uranium imports reach a level of 37.5 percent, the Secretary of Energy is required to revise enrichment criteria to increase the use of domes-

tic uranium in U.S. enrichment facilities and to initiate an investigation and consideration of import restrictions by the Secretary of Commerce under the Trade Expansion Act to determine whether imports threaten national security and whether therefore trade restrictions should be enacted. The conferees believe that imports at the 37.5 percent level could affect national security. For national security reasons, therefore, contracting for new imports must be restricted while the Secretary of Commerce's study is being conducted to determine whether a national security threat does in fact materialize at that import level. The conferees do not intend that any restrictions be imposed until such time as the Secretary of Energy finds that import levels are, in fact, at the 37.5 percent level, and the Secretary of Commerce initiates an investigation to determine the effects of such imports on national security. The contracting restriction is limited to a maximum duration of two years.

The conference agreement contains no restrictions with respect to contractural agreements in existence at the date of enactment. It may apply to future contracts for purchase of foreign uranium and is to be limited to contracts executed subsequent to notice in the Federal Register by the Secretary of Commerce of the initiation of an investigation under Section 232 of the Trade Expansion Act. The authority of the Secretary of Energy to limit new foreign source contractural obligations is limited to two years' duration. In the event that a temporary restriction is implemented, the conference agreement provides that all contracts, including contracts for options for supply of foreign uranium, executed prior to the initiation of the Commerce Secretary's investigation shall not be affected by such prohibitions.

The Secretary of Energy may at any time trigger a study under the Trade Act by the United States International Trade Commission by making a determination that uranium imports threaten to injure the domestic uranium industry. The study would also result in consideration of trade restrictions to protect the domestic uranium industry. A temporary trade restriction would not, however, be in effect during the study.

The Secretary of Energy's determinations regarding the viability of the uranium mining industry will be made pursuant to criteria he is required to develop by rule within 9 months of enactment of this Act. The Secretary is required to assess in the study whether contracting for foreign imports resulting in greater than 37.5 percent of domestic uranium requirements, and other factors, affect the viability of the domestic uranium industry. The Secretary's determination of final criteria for assessing the viability of the domestic uranium industry will be used as the basis for carrying-out his responsibilities to monitor the domestic industry under this Act and under the section 161v. of the Atomic Energy Act.

To assist the Congress in maintaining a clear understanding of the status of the domestic mining and milling industry, the conference agreement provides that, within a year after the date of enactment, the President is to prepare and submit to the Congress a comprehensive review of the current status of the industry. Among the issues to be addressed in the comprehensive review are: projections of uranium requirements and inventories; uranium production levels; penetration of domestic markets by foreign imports;

levels of production necessary to ensure a viable domestic uranium industry; a projection of production and price levels currently in effect and which would be in effect if import restrictions were enacted by Congress; and the anticipated effect of spent nuclear fuel reprocessing on the demand for raw uranium. A national policy relating to the domestic uranium industry based on the most complete information and full consideration of alternatives is intended to be developed as a result of this study.

The Conferees also agreed that when the Secretary determines that executed contracts or options for foreign uranium reached a level of 37.5% of the total domestic reactor demand for uranium in any two consecutive years, the Secretary shall modify the criteria setting forth terms and conditions under which services are provided in contracts executed subsequent to that determination. These modifications should provide for the greater use of uranium in the enrichment process and the increased increment of uranium should be restricted to uranium of domestic origin.

An example of such a policy change would be a modification in the enrichment plant tails assay. A modification of the tails assay from .20% to .25% when imports consisted of 37.5% of the domestic market would, during the period when these enrichment criteria and the requirements of this section were applicable, result in an increase in the use of domestic uranium of approximately 14% over what it would have been if the tails assay has remained at .20% and the requirements of this section (i.e. those requirements that increased use of uranium resulting from modifications in enrichment criteria should be uranium of domestic origin) did not apply.

Another example of an enrichment policy change to fulfill the requirements of this section would be elimination of the current sell-off of the separative work stockpile. The Conferees do not intend that the Secretary affect in any way, rights to enrichment of foreign uranium which exist under contracts executed prior to the determination of the Secretary.

The conferees expect that the Secretary, in modifying the enrichment criteria, will take account of both the need to utilize enrichment facilities in an efficient manner and maintain the competitive position of uranium enrichment services on the world market. In addition, the conferees expect that the Secretary, in informing the Congress of proposed changes in the enrichment criteria pursuant to the requirements of section 161(v), will include a statement as to the effect of the changes upon production of domestic uranium, the utilization of enrichment capability, the use of electric power for enrichment purposes, the cost of electric power purchased for enrichment purposes, competitive position of uranium enrichment services on the world market, and the cost to electric utilities of uranium and enrichment services.

As used in this provision, the conferees intend that "contracts" mean contracts and options included in those contracts and options contracts or contracts for options.

COMMENTS ON A TEMPORARY ADVISORY PANEL TO STUDY THE NUCLEAR POWERPLANT LICENSING PROCESS

Section 13 of H.R. 2330 directed NRC to establish a temporary advisory panel to evaluate the efficiency and effectiveness of the nuclear powerplant licensing process. The panel was to complete its evaluation within six months after enactment and then submit a report to the Commission and to the Congress. The House further directed the Commission to provide Congress its views on the panel's report as well as its recommendations on the need for legislative and administrative changes to improve the licensing process.

A similar provision was approved by the Senate Committee on Environment and Public Works, and then subsequently deleted from S. 1207 on the Senate floor.

The conferees agreed to delete the House provision from the conference agreement. The conferees' rationale for dropping this provision is that a requirement for such a temporary advisory panel is not needed at this time because similar initiatives are already underway at the Nuclear Regulatory Commission, the Department of Energy, and outside the Federal Government.

COMMENTS ON THE 2-YEAR AUTHORIZATION CYCLE

For the first time, the conference agreement embodies a 2-year authorization (fiscal years 1982 and 1983) for the Nuclear Regulatory Commission. The conferees believe that inherent in this 2-year authorization is the potential for significant reduction in the congressional legislative workload without impairing the ability of Congress to exercise effectively its jurisdiction over the NRC and the regulation of the commerical nuclear industry. Also, the conferees believe the 2-year cycle will promote more coherent budgetary planning and program and policy continuity at the NRC.

The conferees believe that the NRC authorization levels for fiscal year 1983 contained in the conference agreement are based upon reasonable projections. In testimony before the House Interior and Insular Affairs Committee, the Commission described the following internal budget process that the agency went through in developing its authorization request for fiscal year 1983:

> This process included detailed office submissions for both fiscal years (i.e. fiscal year 1982 and fiscal year 1983) based on the guidance provided in the PPPG. All of the office submissions were subjected to successive reviews by the Office of the Controller, the Budget Review Group headed by the Deputy Director for Operations, the EDO and the Commission prior to submission to the Office of Management and Budget. At each review step, the office directors were encouraged to discuss their requirements and to advise the reviewers of any impacts that proposed changes on their fiscal year 1982 budget request might have on fiscal year 1983. Through the EDO level, equal attention was given to both budget year and outyear estimates.

The Commission, having gone through the process of developing and reviewing a 2-year budget request, indicated their support of a 2-year authorization cycle.

The conferees recommend a 2-year authorization for the NRC with full understanding that there will always be greater uncertainty with regard to the funding requirements of the second year of the 2-year cycle vis-a-vis the first year of the cycle. With this in mind, a reprogramming procedure is provided in subsection 1(c) of the conference agreement that will enable the NRC and the Congress to work together to reallocate authorized funds in the event circumstances change during the authorization period. In addition, the option is always open to the Commission to request a supplemental authorizing of appropriations; and the Congress can amend the authorizing legislation.

The conferees expect the Commission in early 1983 to submit to Congress proposed legislation authorizing appropriations for the agency's salaries and expenses for the 2-year period of fiscal year 1984 and fiscal year 1985. The conferees further instruct the Commission to submit such proposed legislation in a line-item format with specific amounts requested for each of NRC's programmatic functions for each fiscal year.

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97TH CONGRESS | HOUSE OF REPRESENTATIVES | REPORT
2d Session | | No. 97-884

AUTHORIZING APPROPRIATIONS FOR THE NUCLEAR REGULATORY COMMISSION

SEPTEMBER 28, 1982.—Ordered to be printed

Mr. UDALL, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany H.R. 2330]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2330) to authorize appropriation to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, 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 House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

AUTHORIZATION OF APPROPRIATIONS

SECTION 1. (a) There are hereby authorized to be appropriated to the Nuclear Regulatory Commission in accordance with the provisions of section 261 of the Atomic Energy Act of 1954 (42 U.S.C. 2017) and section 305 of the Energy Reorganization Act of 1974 (42 U.S.C. 5875), for the fiscal years 1982 and 1983 to remain available until expended, $485,200,000 for fiscal year 1982 and $513,100,000 for fiscal year 1983 to be allocated as follows:

(1) Not more than $80,700,000 for fiscal year 1982 and $77,000,000 for fiscal year 1983 may be used for "Nuclear Reactor Regulation", of which an amount not to exceed $1,000,000 is authorized each such fiscal year to be used to accelerate the

mize the need for issuance of temporary operating licenses pursuant to this section.

"e. The authority to issue new temporary operating licenses under this section shall expire on December 31, 1983.".

OPERATING LICENSE AMENDMENT HEARINGS

SEC. 12. (a) Section 189 a. of the Atomic Energy Act of 1954 (42 U.S.C. 2239(a)) is amended—

(1) by inserting "(1)" after the subsection designation; and

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

"(2)(A) The Commission may issue and make immediately effective any amendment to an operating license, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person. Such amendment may be issued and made immediately effective in advance of the holding and completion of any required hearing. In determining under this section whether such amendment involves no significant hazards consideration, the Commission shall consult with the State in which the facility involved is located. In all other respects such amendment shall meet the requirements of this Act.

"(B) The Commission shall periodically (but not less frequently than once every thirty days) publish notice of any amendments issued, or proposed to be issued, as provided in subparagraph (A). Each such notice shall include all amendments issued, or proposed to be issued, since the date of publication of the last such periodic notice. Such notice shall, with respect to each amendment or proposed amendment (i) identify the facility involved; and (ii) provide a brief description of such amendment. Nothing in this subsection shall be construed to delay the effective date of any amendment.

"(C) The Commission shall, during the ninety-day period following the effective date of this paragraph, promulgate regulations establishing (i) standards for determining whether any amendment to an operating license involves no significant hazards consideration; (ii) criteria for providing or, in emergency situations, dispensing with prior notice and reasonable opportunity for public comment on any such determination, which criteria shall take into account the exigency of the need for the amendment involved; and (iii) procedures for consultation on any such determination with the State in which the facility involved is located.".

(b) The authority of the Nuclear Regulatory Commission, under the provisions of the amendment made by subsection (a), to issue and to make immediately effective any amendment to an operating license shall take effect upon the promulgation by the Commission of the regulations required in such provisions.

QUALITY ASSURANCE

SEC. 13. (a) The Nuclear Regulatory Commission is authorized and directed to implement and accelerate the resident inspector program so as to assure the assignment of at least one resident inspector by the end of fiscal year 1982 at each site at which a commercial nuclear powerplant is under construction and construction is more than 15 percent complete. At each such site at which construction is

not more than 15 percent complete, the Commission shall provid that such inspection personnel as the Commission deems appropri ate shall be physically present at the site at such times followin issuance of the construction permit as may be necessary in the judg ment of the Commission.

(b) The Commission shall conduct a study of existing and alterna tive programs for improving quality assurance and quality contro in the construction of commercial nuclear powerplants. In conduct ing the study, the Commission shall obtain the comments of th public, licensees of nuclear powerplants, the Advisory Committee o Reactor Safeguards, and organizations comprised of professional having expertise in appropriate fields. The study shall include a analysis of the following:

(1) providing a basis for quality assurance and quality con trol, inspection, and enforcement actions through the adoptio of an approach which is more prescriptive than that currentl in practice for defining principal architectural and engineerin criteria for the construction of commercial nuclear powerplants

(2) conditioning the issuance of construction permits for com mercial nuclear powerplants on a demonstration by the licens that the licensee is capable of independently managing the ef fective performance of all quality assurance and quality contro responsibilities for the powerplant;

(3) evaluations, inspections, or audits of commercial nuclea powerplant construction by organizations comprised of profes sionals having expertise in appropriate fields which evalua tions, inspections, or audits are more effective than those unde current practice;

(4) improvement of the Commission's organization, methods and programs for quality assurance development, review, and inspection; and

(5) conditioning the issuance of construction permits for com mercial nuclear powerplants on the permittee entering into con tracts or other arrangements with an independent inspector to audit the quality assurance program to verify quality assurance performance.

For purposes of paragraph (5), the term "independent inspector" means a person or other entity having no responsibility for the design or construction of the plant involved. The study shall also include an analysis of quality assurance and quality control pro grams at representative sites at which such programs are operating satisfactorily and an assessment of the reasons therefor.

(c) For purposes of—

(1) determining the best means of assuring that commercial nuclear powerplants are constructed in accordance with the ap plicable safety requirements in effect pursuant to the Atomic Energy Act of 1954; and

(2) assessing the feasibility and benefits of the various means listed in subsection (b);

the Commission shall undertake a pilot program to review and evaluate programs that include one or more of the alternative con cepts identified in subsection (b) for the purposes of assessing the feasibility and benefits of their implementation. The pilot program

shall include programs that use independent inspectors for auditing quality assurance responsibilities of the licensee for the construction of commercial nuclear powerplants, as described in paragraph (5) of subsection (b). The pilot program shall include at least three sites at which commercial nuclear powerplants are under construction. The Commission shall select at least one site at which quality assurance and quality control programs have operated satisfactorily, and at least two sites with remedial programs underway at which major construction, quality assurance, or quality control deficiencies (or any combination thereof) have been identified in the past. The Commission may require any changes in existing quality assurance and quality control organizations and relationships that may be necessary at the selected sites to implement the pilot program.

(d) Not later than fifteen months after the date of the enactment of this Act, the Commission shall complete the study required under subsection (b) and submit to the United States Senate and House of Representatives a report setting forth the results of the study. The report shall include a brief summary of the information received from the public and from other persons referred to in subsection (b) and a statement of the Commission's response to the significant comments received. The report shall also set forth an analysis of the results of the pilot program required under subsection (c). The report shall be accompanied by the recommendations of the Commission, including any legislative recommendations, and a description of any administrative actions that the Commission has undertaken or intends to undertake, for improving quality assurance and quality control programs that are applicable during the construction of nuclear powerplants.

LIMITATION ON USE OF SPECIAL NUCLEAR MATERIAL

SEC. 14. Section 57 of the Atomic Energy Act of 1954 (42 U.S.C. 2077) is amended by adding at the end thereof the following new subsection:

"e. Special nuclear material, as defined in section 11, produced in facilities licensed under section 103 or 104 may not be transferred, reprocessed, used, or otherwise made available by any instrumentality of the United States or any other person for nuclear explosive purposes.".

RESIDENT INSPECTORS

SEC. 15. Of the amounts authorized to be appropriated under section 1, the Nuclear Regulatory Commission shall use such sums as may be necessary to conduct a study of the financial hardships incurred by resident inspectors as a result of (1) regulations of the Commission requiring resident inspectors to relocate periodically from one duty station to another; and (2) the requirements of the Commission respecting the domicile of resident inspectors and respecting travel between their domicile and duty station in such manner as to avoid the appearance of a conflict of interest. Not later than 90 days after the date of the enactment of this Act, the Commission shall submit to the Congress a report setting forth the findings of the Commission as a result of such study, together with a legislative proposal (including any supporting data or information) relating to any assistance for resident inspectors determined by the Commission to be appropriate.

SABOTAGE OF NUCLEAR FACILITIES OR FUEL

SEC. 16. Section 236 of the Atomic Energy Act of 1954 (42 U.S.C. 2284) is amended to read as follows:

"SEC. 236. SABOTAGE OF NUCLEAR FACILITIES OR FUEL.—

"a. Any person who intentionally and willfully destroys or causes physical damage to, or who intentionally and willfully attempts to destroy or cause physical damage to—

"(1) any production facility or utilization facility licensed under this Act;

"(2) any nuclear waste storage facility licensed under this Act; or

"(3) any nuclear fuel for such a utilization facility, or any spent nuclear fuel from such a facility;

shall be fined not more than $10,000 or imprisoned for not more than ten years, or both.

"b. Any person who intentionally and willfully causes or attempts to cause an interruption of normal operation of any such facility through the unauthorized use of or tampering with the machinery, components, or controls of any such facility, shall be fined not more than $10,000 or imprisoned for not more than ten years, or both.".

DEPARTMENT OF ENERGY INFORMATION

SEC. 17. (a) Section 148 a. (1) of the Atomic Energy Act of 1954 (42 U.S.C. 2168(a)(1)) is amended by inserting after " 'Secretary')" the following: ", with respect to atomic energy defense programs,".

(b) Section 148 of the Atomic Energy Act of 1954 (42 U.S.C. 2168) is amended by adding at the end thereof the following new subsections:

"d. Any determination by the Secretary concerning the applicability of this section shall be subject to judicial review pursuant to section 552(a)(4)(B) of title 5, United States Code.

"e. The Secretary shall prepare on a quarterly basis a report to be made available upon the request of any interested person, detailing the Secretary's application during that period of each regulation or order prescribed or issued under this section. In particular, such report shall—

"(1) identify any information protected from disclosure pursuant to such regulation or order;

"(2) specifically state the Secretary's justification for determining that unauthorized dissemination of the information protected from disclosure under such regulation or order could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of illegal production of nuclear weapons, or theft, diversion, or sabotage of nuclear materials, equipment, or facilities, as specified under subsection a.; and

"(3) provide justification that the Secretary has applied such regulation or order so as to protect from disclosure only the minimum amount of information necessary to protect the

license amendments that have irreversible consequences (such as those permitting an increase in the amount of effluents or radiation emitted from a facility or allowing a facility to operate for a period of time without full safety protections). In those cases, issuing the order in advance of a hearing would, as a practical matter, foreclose the public's right to have its views considered. In addition, the licensing board would often be unable to order any substantial relief as a result of an after-the-fact hearing. Accordingly, the conferees intend the Commission be sensitive to those license amendments which involve such irreversible consequences.

The conferees note that the purpose of requiring prior notice and an opportunity for public comment before a license amendment may take effect, as provided in subsection (2)(C)(ii) for all but emergency situations, is to allow at least a minimum level of citizen input into the threshold question of whether the proposed license amendment involves significant health or safety issues. While this subsection of the conference agreement preserves for the Commission substantial flexibility to tailor the notice and comment procedures to the exigency of the need for the license amendment, the conferees expect the content, placement and timing of the notice to be reasonably calculated to allow residents of the area surrounding the facility an adequate opportunity to formulate and submit reasoned comments.

The requirement in subsection 2(c)(ii) that the Commission promulgate criteria for providing or dispensing with prior notice and public comment on a proposed determination that a license amendment involves no significant hazards consideration reflects the conferees' intent that, wherever practicable, the Commission should publish prior notice of, and provide for prior public comment on, such a proposed determination.

In the context of subsection (2)(C)(ii), the conferees understand the term "emergency situations" to encompass only those rare cases in which immediate action is necessary to prevent the shutdown or derating of an operating commercial reactor. (The Commission already has the authority to respond to emergencies involving imminent threats to the public health or safety by issuing immediately effective orders pursuant to the Atomic Energy Act or the Administrative Procedure Act. And the licensee itself has authority to take whatever action is necessary to respond to emergencies involving imminent threat to the public health and safety.) The Commission's regulations should insure that the "Emergency situations" exception under section 12 of the conference agreement will not apply if the licensee has failed to apply for the license amendment in a timely fashion. In other words, the licensee should not be able to take advantage of the emergency provision by creating the emergency itself. To prevent abuses of this provision, the conferees expect the Commission to independently assess the licensee's reasons for failure to file an application sufficiently in advance of the threatened closure or derating of the facility.

Subsection 2(C)(iii) of the conference agreement requires the Commission to promulgate procedures for consulting with a State in which the relevant facility is located on a determination that an amendment to the facility license involves no significant hazards consideration. The conferees expect that the procedures for State consultation will include the following elements:

(1) The State would be notified of a licensee's request for an amendment;

(2) The State would be advised of the NRC's evaluation of the amendment request;

(3) The NRC's proposed determination on whether the license amendment involves no significant hazards consideration would be discussed with the State and the NRC's reasons for making that determination would be explained to the State;

(4) The NRC would listen to and consider any comments provided by the State official designated to consult with the NRC; and

(5) The NRC would make a good faith attempt to consult with the State prior to issuing the license amendment.

At the same time, however, the procedures for State consultation would not:

(1) Give the State a right to veto the proposed NRC determination;

(2) Give the State a right to a hearing on the NRC determination before the amendment became effective;

(3) Give the State the right to insist upon a postponement of the NRC determination or issuance of the amendment; or,

(4) Alter present provisions of law that reserve to the NRC exclusive responsibility for setting and enforcing radiological health and safety requirements for nuclear power plants.

In requiring the NRC to exercise good faith in consulting with a state in determining whether a license amendment involves no significant hazards consideration, the conferees recognize that a very limited number of truly exceptional cases may arise when the NRC, despite its good faith efforts, cannot contact a responsible State official for purposes of prior consultation. Inability to consult with a responsible state official following good faith attempts should not prevent the NRC from making effective a license amendment involving no significant hazards consideration, if the NRC deems it necessary to avoid the shut-down or derating of a power plant.

SECTION 13—QUALITY ASSURANCE

Section 304 of the Senate amendment required NRC to accelerate its resident inspector program so that by the end of fiscal year 1982 at least one resident inspector would be at each power reactor site where construction is more than fifteen percent (15%) complete. The Senate also directed NRC to study options for improving quality assurance at reactors under construction, and to undertake a pilot program at a minimum of three sites to evaluate alternative approaches to quality assurance. Finally, S. 1207 directed NRC to report to Congress on the results of this program with 18 months.

The House bill contained no similar provision.

The conferees adopted a provision similar to section 304 of the Senate amendment.

Subsection 304(a) of S. 1207 required that by the end of 1982 an NRC resident inspector would be assigned to each site where a

commercial nuclear powerplant is under construction, and construction is at least 15% complete. The conference agreement instructs the Commission, where it deems appropriate, to provide NRC "inspection personnel" at any such site following issuance of a construction permit for the facility in question. The conferees do not intend that such "inspection personnel" *must* be a resident inspector, although the Commission has discretion to assign a resident inspector to a site where construction is less then 15% complete. Like the Senate amendment, the conference agreement requires that once construction of a given nuclear powerplant reaches the 15% completion threshold, a resident inspector must be assigned to the project. The conferees do not intend to imply the NRC's responsibility to regulate nuclear powerplant construction is any less during the early stages of reactor construction (i.e., when construction is less than 15% complete), than it is once a project is 15% complete.

Subsection 13(b) of the conference agreement, like subsection 304(b) of the Senate amendment, directs the Commission to conduct a study of existing and alternative programs for improving quality assurance and quality control in the construction of commercial nuclear powerplants. In fulfilling this requirement, the Commission is instructed by the conference agreement to obtain comments from the public, licensees, the Advisory Committee on Reactor Safeguards, and "organizations comprised of professionals having expertise in appropriate fields." The conferees intend that these latter "organizations" include, but not be limited to, the following: the National Board of Boiler and Pressure Vessel Inspectors, the American Society on Mechanical Engineers, the American Welding Society, the Institute for Nuclear Power Operations, and private nuclear insurance pools.

Subsection 13(b) of the conference agreement sets forth specific proposals for improving quality assurance and quality control in the construction of nuclear powerplants, and requires the Commission to conduct a study and detailed analysis of those proposals. Subsection 13(d) of the agreement directs the Commission to report to Congress on the results of the study conducted pursuant to subsection (b).

Subsection 13(c) of the conference agreement requires the Commission to undertake a pilot program to "review and evaluate" programs that include one or more of the alternative proposals identified in subsection (b). The purpose of the pilot program is twofold: (1) to determine the best means of assuring that commercial nuclear powerplants are constructed in accordance with all applicable safety requirements; and (2) to assess the feasibility, advantages, and disadvantages of the proposals listed in subsection 13(b). In undertaking the pilot program, the Commission must include the use of "independent inspectors" as described under paragraph (5) of subsection (b). By imposing the requirement that the pilot program shall include programs that use an "independent inspector," the conferees do not mean that the Commission, in undertaking the pilot program, should place lesser emphasis on the review and evaluation of progams incorporating the concepts in paragraphs (1) through (4) of subsection 13(b).

The conference agreement stipulates that the pilot program shall include at least one site at which quality assurance and quality control programs have operated satisfactorily, and shall include at least two sites "at which major construction, quality assurance and quality control deficiencies . . . have been identified in the past." The conferees recommend that the Commission, in selecting these latter two sites, refer for guidance to the testimony of the NRC Executive Director for Operations before the House Committee on Interior and Insular Affairs on November 19, 1981.

Subsection 13(d) requires that the Commission report to Congress (within fifteen months of enactment of this Act) on the results of the pilot program.

SECTION 14—LIMITATION ON THE USE OF SPECIAL NUCLEAR MATERIAL

Section 207 of S. 1207 amended the Atomic Energy Act to prohibit the use of special nuclear material (or, spent fuel) from licensed nuclear power reactors for the production of nuclear explosive devices. H.R. 2330 had no equivalent section.

The conferees agreed to include the Senate provision in the conference agreement.

SECTION 15—RESIDENT INSPECTORS

At the request of the Commission, the Senate amended the Atomic Energy Act to authorize NRC to reimburse all or part of the expenses of resident inspectors incurred in relocating between two NRC duty stations. In addition section 205 of S. 1207 specified that the Federal Government would pay expenses related to travel and transportation to and from work.

Specifically, section 205 of the Senate amendment would have amended the Atomic Energy Act to allow NRC to reimburse resident inspectors for: (1) points or mortgage loan origination fees; (2) interest on "bridge" or "swing" loans; and, (3) title insurance. In addition, S. 1207 would have enabled resident inspectors to use government cars for daily commuting to and from work. The Senate authorized appropriations of $1,162,000 in fiscal year 1982, and $1,129,000 in fiscal year 1983, for these purposes.

The House did not include any similar provision in H.R. 2330.

The conferees rejected the Senate provision amending the Atomic Energy Act, and agreed instead to authorize such sums as may be necessary for the Commission to conduct a study of the financial hardships incurred by resident inspectors as a result of: (1) certain Commission regulations which require resident inspectors to relocate periodically from one duty station to another; and, (2) Commission requirements intended to assure that a conflict of interest (or appearance of such a conflict of interest) does not develop as a result of a resident inspector either living near licensee employees, or commuting to and from work with licensee employees. Section 15 of the conference agreement directs the Commission to report to Congress on the results of this study.

The conference agreement is responsive to concerns raised in a May 6, 1982 letter to the conferees from the Administrator of the General Services Administration (GSA). The Administrator expressed the view that relocation problems are government-wide

AA61-2 PDR

Union Calendar No. 517

97TH CONGRESS
2D SESSION

H. J. RES. 599

[Report No. 97-834]

Making continuing appropriations for the fiscal year 1983, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 16, 1982

Mr. WHITTEN, from the Committee on Appropriations, reported the following joint resolution; which was committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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JOINT RESOLUTION

Making continuing appropriations for the fiscal year 1983, and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1983, and for other purposes, namely:

SEC. 101. (a)(1) Such amounts as may be necessary for continuing projects or activities (not otherwise specifically provided for in this joint resolution) which were conducted in the fiscal year 1982 and for which appropriations, funds, or other authority would be available in the following appropriations Acts:

Agriculture, Rural Development, and Related Agencies Appropriation Act, 1983;

Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1983;

District of Columbia Appropriation Act, 1983;

Energy and Water Development Appropriation Act, 1983;

Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1983;

Department of Transportation and Related Agencies Appropriation Act, 1983; and

Treasury, Postal Service and General Government Appropriation Act, 1983.

(2) Appropriations made by this subsection shall be available to the extent and in the manner which would be provided by the pertinent appropriation Act.

(3) Whenever the amount which would be made available or the authority which would be granted under an Act

listed in this subsection as passed the House as of October 1, 1982, is different from that which would be available or granted under such Act as passed by the Senate as of October 1, 1982, the pertinent project or activity shall be continued under the lesser amount or the more restrictive authority: *Provided*, That where an item is included in only one version of an Act as passed by both Houses as of October 1, 1982, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the one House, but at a rate for operations of the current rate or the rate permitted by the action of the one House, whichever is lower, and under the authority and conditions provided in applicable appropriation Acts for the fiscal year 1982: *Provided further*, That for the purposes of this joint resolution, when an Act listed in this subsection has been reported to the House but not passed by the House as of October 1, 1982, it shall be deemed as having been passed by the House.

(4) Whenever an Act listed in this subsection has been passed by only the House as of October 1, 1982, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the House, but at a rate for operations of the current rate or the rate permitted by the action of the House, whichever is lower, and under the authority and conditions provided in applicable appropriation Acts for the fiscal year 1982.

(5) No provision which is included in an appropriation Act enumerated in this subsection but which was not included in the applicable appropriation Act of 1982, and which by its terms is applicable to more than one appropriation, fund, or authority shall be applicable to any appropriation, fund, or authority provided in the joint resolution unless such provision shall have been included in identical form in such bill as enacted by both the House and the Senate.

(b) Such amounts as may be necessary for continuing the following activities, not otherwise provided for, which were conducted in the fiscal year 1982, under the current terms and conditions and at a rate to maintain current operating levels:

activities under the purview of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1982, as provided for in Public Law 97-92; and

activities for which provision was made in the Department of the Interior and Related Agencies Appropriation Act, 1982: *Provided*, That no programs or facilities funded therein may be terminated unless such termination is specifically approved in the appropriations process, including reprograming.

(c) Such amounts as may be necessary for continuing activities which were conducted in the fiscal year 1982, for

which provision was made in the Department of Defense Appropriation Act, 1982, under the current terms and conditions and at a rate for operations not in excess of the current rate until such time that the Department of Defense Appropriation Act, 1983, is reported in or subsequently passed by the House of Representatives, whereupon such amounts as may be necessary shall become available at a rate for operations for activities and under the terms and conditions as provided for in such appropriation Act for the fiscal year 1983, as reported in or passed by the House of Representatives: *Provided*, That no appropriation or fund made available or authority granted pursuant to this paragraph shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1982 until such time that the Department of Defense Appropriation Act, 1983, is reported in or subsequently passed by the House of Representatives: *Provided further*, That no appropriation or fund made available or authority granted pursuant to this paragraph shall be used to initiate multiyear procurements utilizing advance procurement funding for economic order quantity procurement unless specifically appropriated later except for the following programs and amounts: AN/ALQ-136 Radar Jamming Systems, $14,500,000; NATO Seasparrow Ordalt Kits, $33,000,000: *Provided further*, That none of the funds ap-

propriated or made available pursuant to this paragraph shall be obligated or expended for a special classified program authorized in section 109 of the Department of Defense Authorization Act, 1985 (Public Law 97–252): *Provided further*, That none of the funds appropriated or made available pursuant to this paragraph for the pay of members of the uniformed services shall be available to pay any member of the uniformed services a variable housing allowance pursuant to section 403(a)(2) of title 37, United States Code, in an amount that is greater than the amount which would have been payable to such member if the rates of basic allowance for quarters for members of the uniformed services in effect on September 30, 1982, had been increased by 8 percent on October 1, 1982: *Provided further*, That none of the funds appropriated or made available pursuant to this paragraph shall be available for the conversion of any full time positions in support of the Army Reserve, Air Reserve, Army National Guard, and Air National Guard by Active or Reserve Military Personnel, from civilian positions designated "military technicians" to military positions.

(d) Such amounts as may be necessary for continuing the activities of the Foreign Assistance Appropriations Act of 1982, Public Law 97–121, under the terms and conditions, and at the rate, provided for in that Act or at the rate provided for in the budget estimates, whichever is lower, and

under the more restrictive authority, notwithstanding section 10 of Public Law 91–672, and section 15(a) of the State Department Basic Authorities Act of 1956, or any other provision of law: *Provided*, That amounts allocated to each country under this paragraph shall not exceed those provided in fiscal year 1982 unless submitted through the regular reprogramming procedures of the Committees on Appropriations: *Provided further*, That economic and military assistance shall be available to Israel at the rate provided by, and under the terms and conditions of, Public Law 97–113.

(e) Notwithstanding the provisions of section 102 of this joint resolution, such amounts as may be necessary for continuing projects and activities under all the conditions and to the extent and in the manner as provided in H.R. 7073, entitled the Legislative Branch Appropriation Act, 1983, as reported September 9, 1982, and the provisions of H.R. 7073 shall be effective as if enacted into law; except that the provisions of section 307 (a), (b), and (d) of H.R. 7073 shall apply to any appropriation, fund or authority made available for the period October 1, 1982, through February 28, 1983, by this or any other Act. Notwithstanding any other provision of this joint resolution, for payment to Patricia Ann Benjamin, wife of Adam Benjamin, Junior, late a Representative from the State of Indiana, $60,663.

(f) Such amounts are available as may be necessary for projects or activities provided for in H.R. 6968, the Military Construction Appropriations Act, 1983, as passed the House on August 19, 1982, at a rate for operations and to the extent and in the manner provided for in such Act.

SEC. 102. Appropriations and funds made available and authority granted pursuant to this joint resolution shall be available from October 1, 1982, and shall remain available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) enactment of the applicable appropriation Act by both Houses without any provision for such project or activity, or (c) February 28, 1983, whichever first occurs.

SEC. 103. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any project or activity during the period for which funds or authority for such projects or activity are available under this joint resolution.

SEC. 104. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 105. Any appropriation for the fiscal year 1983 required to be apportioned pursuant to section 665 of title 31,

United States Code, may be apportioned on a basis indicating the need (to the extent any such increases cannot be absorbed within available appropriations) for a supplemental or deficiency estimate of appropriation to the extent necessary to permit payment of such pay increases as may be granted pursuant to law to civilian officers and employees and to active and retired military personnel. Each such appropriation shall otherwise be subject to the requirements of section 665 of title 31, United States Code.

SEC. 106. In accordance with Public Law 97–257 of September 10, 1982, not to exceed an annual rate of $13,500,000 from the fees collected and credited to the "Salaries and Expenses" appropriation of the Federal Bureau of Investigation to process fingerprint identification records for noncriminal employment and licensing services, shall be available for salaries and other expenses incurred in providing such services.

SEC. 107. Notwithstanding any other provision of this joint resolution except section 102, funding for Department of Energy, National Security Programs (formerly Operating Expenses and Plant and Capital Equipment, Atomic Energy Defense Activities), Bonneville Power Administration Fund (Borrowing Authority), Department of Defense—Civil, Department of the Army, Corps of Engineers—Civil, Operation and Maintenance, General, and the operation and mainte-

nance activities funded in Flood Control, Mississippi River and Tributaries, shall be at the same levels and subject to the same conditions specified for these activities in the Energy and Water Development Appropriations bill for fiscal year 1983 and accompanying report, as reported to the House.

SEC. 108. Notwithstanding any other provision of this joint resolution, the New England Division of the United States Army Corps of Engineers shall be maintained as a Division with all of the duties and functions of a Division retained and shall not be redesignated a District or any other type office, other than Division.

SEC. 109. Of amounts appropriated for the Water Resources Council, Water Resources Planning, for preparation of assessments and plans, in Public Law 97-88, not more than $195,000 shall remain available until expended and shall be available to pay for work performed prior to fiscal year 1982 in support of the Columbia River Estuary Data Development Program, if such work is accepted by the Water Resources Council.

SEC. 110. (a) Notwithstanding any other provision of law, no part of any of the funds appropriated for the fiscal year ending September 30, 1983, by this Act or any other Act, may be used to pay any prevailing rate employee described in section 5342(a)(2)(A) of title 5, United States

Code, or an employee covered by section 5348 of that title, in an amount which exceeds—

(1) for the period from October 1, 1982, until the next applicable wage survey adjustment becomes effective, the rate which was payable for the applicable grade and step to such employee under the applicable wage schedule that was in effect and payable on September 30, 1982; and

(2) for the period consisting of the remainder of the fiscal year ending September 30, 1983, a rate which exceeds, as a result of a wage survey adjustment, the rate payable under paragraph (1) of this subsection by more than the overall average percentage of the adjustment in the General Schedule during the fiscal year ending September 30, 1983.

(b) Notwithstanding the provisions of section 9(b) of Public Law 92–392 or section 704(b) of the Civil Service Reform Act of 1978, the provisions of subsection (a) of this section shall apply (in such manner as the Office of Personnel Management shall prescribe) to prevailing rate employees to whom such section 9(b) applies, except that the provisions of subsection (a) may not apply to any increase in a wage schedule or rate which is required by the terms of a contract entered into before the date of enactment of this Act.

(c) For the purposes of subsection (a) of this section, the rate payable to any employee who is covered by this section and who is paid from a schedule which was not in existence on September 30, 1982, shall be determined under regulations prescribed by the President.

(d) The provisions of this section shall apply only with respect to pay for services performed by affected employees after the date of enactment of this Act.

(e) For the purpose of administering any provision of law, rule, or regulation which provides premium pay, retirement, life insurance, or any other employee benefit, which requires any deduction or contribution, or which imposes any requirement or limitation, on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

SEC. 111. No part of any appropriation contained in, or funds made available by this or any other Act, shall be available for any agency to pay to the Administrator of the General Services Administration a higher rate per square foot for rental of space and services (established pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended) than the rate per square foot established for the space and services by the General Services Administration for the current fiscal year and for which ap-

propriations were granted: *Provided*, That no part of any appropriation contained in, or funds made available by this or any other Act, shall be available for any agency to pay to the Administrator of the General Services Administration a higher rate per square foot for rental space and services (established pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended) than the rate per square foot established for the space and services by the General Services Administration for the fiscal year 1982.

SEC. 112. Notwithstanding any other provision of this joint resolution, moneys deposited into the National Defense Stockpile Transaction Fund under section 9(b) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(b)) are hereby made available, subject to such limitations as may be provided in appropriation Acts and in section 5(a)(1) of such Act, until expended for the acquisition of strategic and critical materials under section 6(a)(1) of such Act (and for transportation and other incidental expenses related to such acquisition). This paragraph applies without fiscal year limitation to moneys deposited into the fund before, on, or after October 1, 1982: *Provided*, That during the fiscal year ending on September 30, 1983, not more than $120,000,000 in addition to amounts previously appropriated, may be obligated from amounts in the National Defense

Stockpile Transaction Fund for the acquisition of strategic and critical materials under section 6(a)(1) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98e(a)(1)) and for transportation and other incidental expenses related to such acquisition.

SEC. 113. Notwithstanding any other provision of this joint resolution, funds available to the Federal Building Fund within the General Services Administration may be used to initiate new construction, purchase, advance design, and repairs and alteration line-item projects which are included in the Treasury, Postal Service and General Government Appropriation Act, 1983, as reported to the House.

SEC. 114. Funds provided by this joint resolution for costs to continue the implementation of provisions contained in the District of Columbia Statehood Constitutional Convention Initiative (D.C. Law 3–171) shall be applied first toward ensuring voter education on the proposed constitution by (a) printing, by the Statehood Commission, of the proposed constitution together with objective statements both for and against its provisions as expressed by the Convention delegates taking such positions; (b) mailing of this information to the registered voters of the District of Columbia by October 15, 1982; and (c) preparing for publication as a public document a comprehensive legislative history of the proposed constitution.

SEC. 115. Notwithstanding any other provision of this joint resolution except section 102, there are appropriated to the Postal Service Fund sufficient amounts so that postal rates for all preferred-rate mailers covered by section 3626 of title 39, United States Code, shall be continued at the rates in effect on July 28, 1982 (step 13): *Provided*, That mail for overseas voting and mail for the blind shall continue to be free: *Provided further*, That six-day delivery and rural delivery of mail shall continue at the 1982 level.

SEC. 116. Funds appropriated in Public Law 97–257 to the United States Fish and Wildlife Service for "Construction and anadromous fish" and to the Office of Surface Mining Reclamation and Enforcement for "Abandoned Mine Reclamation Fund" shall remain available until expended.

SEC. 117. Notwithstanding section 101(a)(4) of this joint resolution, funds shall be available for the United States Court of Appeals for the Federal Circuit at an annual rate not to exceed $4,146,000.

SEC. 118. Notwithstanding any other provision of law or of this joint resolution, AID/afr–C–1414, Agency for International Development, shall be extended for an additional three years.

SEC. 119. Notwithstanding any other provision of this joint resolution, there is appropriated $36,500,000, to remain available until expended, for Smithsonian Institution "Con-

struction" to carry out the provisions of Public Law 97–203 to construct a building for the Museum of African Art and a gallery for Eastern art together with structures for related educational activities in the area south of the original Smithsonian Institution Building, including not to exceed $100,000 for services as authorized by 5 U.S.C. 3109.

SEC. 120. Notwithstanding any other provision of this joint resolution, there is appropriated $242,118,000, to remain available until expended, for Department of Energy "Strategic Petroleum Reserve" to carry out the provisions of Sections 151 through 166 of the Energy Policy and Conservation Act of 1975 (Public Law 94–163).

SEC. 121. Notwithstanding section 101(a)(4) of this joint resolution, of the funds provided for the Salaries and Expenses appropriation of the Small Business Administration under this joint resolution, an annual rate of $14,000,000 shall be available only for grants for Small Business Development Centers as authorized by section 20(a) of the Small Business Act, as amended.

SEC. 122. Notwithstanding section 101(a)(4) of this joint resolution, none of the funds provided by this joint resolution for the Legal Services Corporation shall be expended for any purpose prohibited or limited by or contrary to any of the provisions of H.R. 3480, as passed the House of Representatives on June 18, 1981.

SEC. 123. No provision in any appropriation Act for the fiscal year 1983 that makes the availability of any appropriation provided therein dependent upon the enactment of additional authorizing or other legislation shall be effective before the date set forth in section 102(c) of this joint resolution.

SEC. 124. Notwithstanding any other provision of this joint resolution, in the case of any employee of the Federal Government who is indebted to the United States, as determined by a court of the United States in an action or suit brought against such employee by the United States, the amount of the indebtedness may be collected in monthly installments, or at officially established regular pay period intervals, by deduction in reasonable amounts from the current pay account of the individual. The deductions may be made only from basic pay, special pay, incentive pay, or, in the case of an individual not entitled to basic pay, other authorized pay. Collection shall be made over a period not greater than the anticipated period of employment. The amount deducted for any period may not exceed one-fourth of the pay from which the deduction is made, unless the deduction of a greater amount is necessary to make the collection within the period of anticipated employment. If the individual retires or resigns, or if his employment otherwise ends, before collection of the amount of the indebtedness is completed, deduc-

tion shall be made from later payments of any nature due to the individual from the United States Treasury.

SEC. 125. Of the $70,122,000 available at an annual rate under this joint resolution for the exchange programs of the United States Information Agency, $60,415,000 shall be available for the Fulbright and International Visitor Programs, $2,620,000 shall be available for the Humphrey Fellowship Program and $7,087,000 shall be available for the Private Sector Programs.

SEC. 126. None of the funds provided in this Joint Resolution shall be obligated for any aspect of the processing or issuance of permits or leases pertaining to exploration for or development of coal, oil, gas, or geothermal resources on Federal lands within any component of the National Wilderness Preservation System or within any Forest Service RARE II areas recommended for wilderness designation or allocated to further planning in Executive Communication 1504, Ninety-Sixth Congress (House Document numbered 96–119); or within any lands designated by Congress as wilderness study areas.

SEC. 127. No reduction in the amount payable to any State under title IV of the Social Security Act with respect to any of the fiscal years 1977 through 1982 shall be made

prior to the date on which this resolution expires on account of the provisions of section 403(h) of such Act.

Union Calendar No. 517

97TH CONGRESS
2D SESSION

H. J. RES. 599

[Report No. 97–834]

JOINT RESOLUTION

Making continuing appropriations for the fiscal year 1983, and for other purposes.

SEPTEMBER 16, 1982

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed