

SAVINGS IN CONSTRUCTION ACT OF 1996

JUNE 26, 1996.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. WALKER, from the Committee on Science,
submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 2779]

[Including cost estimate of the Congressional Budget Office]

The Committee on Science, to whom was referred the bill (H.R. 2779) to provide for soft-metric conversion, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

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I. AMENDMENT

The amendments are as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Savings in Construction Act of 1996".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The Metric Conversion Act of 1975 was enacted in order to set forth the policy of the United States to convert to the metric system. Section 3 of that Act requires that each Federal agency use the metric system of measurement in its procurements, grants and other business related activities, unless that use is likely to cause significant cost or loss of markets to United States firms, such as when foreign competitors are producing competing products in non-metric units.

(2) Currently, many Federal agencies are requiring as a condition of obtaining Federal construction contracts that all bidders must agree to use products measured in round metric units, materials which are known as "hard-metric" products. This can require retooling, substantial capitalization costs, and other expensive production changes for some suppliers to physically change the size of the product.

(3) This "hard-metric" conversion requirement has sometimes been imposed without appropriate regard to whether that method is impractical or likely to cause significant costs or a loss of markets to United States firms.

(4) Some United States businesses that manufacture basic construction products suffer harm by being forced to convert to hard-metric production, or by being foreclosed from effectively bidding on Federal or federally assisted projects.

(5) This "hard-metric" conversion requirement may place domestic producers at a competitive disadvantage with respect to foreign producers; may reduce the number of companies that may compete for contracts with the Federal Government; and may force manufacturers to maintain double inventories of similar but incompatible products.

(6) This "hard-metric" conversion requirement has unnecessarily raised the cost to the Government of some lighting and concrete masonry products and there is consensus that relief is in order.

(7) While the Metric Conversion Act of 1975 currently provides an exception to metric usage when impractical or when it will cause economic inefficiencies, there is need for ombudsmen and procedures to ensure the effective implementation of the exceptions.

(8) The changes made by this Act will advance the goals of the Metric Conversion Act of 1975 while eliminating significant problems in its implementation.

SEC. 3. DEFINITIONS.

Section 4 of the Metric Conversion Act of 1975 (15 U.S.C. 205c) is amended—

(1) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (6), and (7), respectively;

(2) by inserting after paragraph (1) the following new paragraph:

"(2) 'converted product' means a material or product that is produced as a result of a hard-metric conversion;";

(3) by inserting after paragraph (3) the following new paragraphs:

"(4) 'hard-metric' means measurement, design, and manufacture using the metric system of measurement, but does not include measurement, design, and manufacture using English system measurement units which are subsequently reexpressed in the metric system of measurement;

"(5) 'hard-metric conversion' means a conversion that requires, in addition to the expression of the linear dimensions of a product under the metric system of measurement, a physical change in the size of that product relative to the size of that product established under the system of English measurements in production practices of the appropriate industry;";

(4) by striking “and” at the end of paragraph (6), as so redesignated by paragraph (1) of this section;

(5) by striking the period at the end of paragraph (7), as so redesignated by paragraph (1) of this section, and inserting in lieu thereof “; and”; and

(6) by adding at the end the following new paragraph:

“(8) ‘small business’ has the meaning given the term ‘small business concern’ in section 3 of the Small Business Act (15 U.S.C. 632).”

SEC. 4. IMPLEMENTATION EXCEPTIONS.

The Metric Conversion Act of 1975 (15 U.S.C. 205a et seq.) is amended by inserting after section 11 the following new section:

“SEC. 12. (a) In carrying out the policy set forth in section 3 (with particular emphasis on the policy set forth in paragraph (2) of that section) a Federal agency may require that specifications for structures or systems of concrete masonry be expressed under the metric system of measurement, but may not require that concrete masonry units be converted products.

“(b) In carrying out the policy set forth in section 3 (with particular emphasis on the policy set forth in paragraph (2) of that section) a Federal agency may not require that lighting fixtures be converted products unless the predominant voluntary industry consensus standards are hard-metric.”

SEC. 5. OMBUDSMAN.

Section 12 of the Metric Conversion Act of 1975, as added by section 4 of this Act, is further amended by adding at the end the following new subsection:

“(c)(1) The head of each executive agency that awards construction contracts shall designate a senior agency official to serve as a construction metrication ombudsman who shall be responsible for reviewing and responding to complaints from prospective bidders, subcontractors, suppliers, or their designated representatives related to—

“(A) guidance or regulations issued by the agency on the use of the metric system of measurement in construction contracts; and

“(B) the use of the metric system of measurement for products or materials required for incorporation in individual construction projects.

The construction metrication ombudsman shall be independent of the contracting officer for construction contracts.

“(2) The ombudsman shall be responsible for ensuring that the agency is not implementing the metric system of measurement in a manner that is impractical or is likely to cause significant inefficiencies or loss of markets to United States firms in violation of the policy stated in section 3(2), or is otherwise inconsistent with guidance issued by the Secretary of Commerce in consultation with the Interagency Council on Metric Policy.

“(3) The ombudsman shall respond to each complaint in writing within 30 days and make a recommendation to the head of the executive agency for an appropriate resolution thereto. In such a recommendation, the ombudsman shall consider—

“(A) the availability of converted products and hard metric production capacity of United States firms, or lack thereof;

“(B) retooling costs and capital investment impacts;

“(C) the impact on small business;

“(D) the impact on trade;

“(E) the impact on competition for Federal contracts;

“(F) the impact on jobs;

“(G) the impact on the competitiveness of United States firms; and

“(H) the cost to the Federal Government.

“(4) After the head of the agency has rendered a decision regarding a recommendation of the ombudsman, the ombudsman shall be responsible for communicating the decision to all appropriate policy, design, planning, procurement, and notifying personnel in the agency. The ombudsman shall conduct appropriate monitoring as required to ensure the decision is implemented, and may submit further recommendations, as needed. The head of the agency’s decision on the ombudsman’s recommendations, and any supporting documentation, shall be provided to affected parties and made available to the public in a timely manner.”

Amend the title so as to read:

A bill to provide for appropriate implementation of the Metric Conversion Act of 1975 in Federal construction projects, and for other purposes.

II. PURPOSE OF THE BILL

The purpose of the bill is to provide for appropriate implementation of the Metric Conversion Act of 1975 in federal construction projects.

III. BACKGROUND AND NEED FOR THE LEGISLATION

The Metric Conversion Act of 1975 (P.L. 94-168), as amended by the 1988 Omnibus Trade Act (P.L. 100-418), was enacted in order to set forth the policy of the United States government regarding the metric system. Section 3 of that Act requires that each federal agency use the metric system of measurement in its procurements, grants and other business related activities, unless that use is likely to cause significant cost or loss of markets to United States firms, such as when foreign competitors are producing competing products in non-metric units.

Currently, many federal agencies are requiring as a condition of obtaining federal construction contracts that all bidders must agree to use products measured in round metric units, materials which are known as "hard-metric" products. This can require retooling, substantial capitalization costs, and other expensive production changes for some suppliers to physically change the size of the product.

This "hard-metric" conversion requirement has sometimes been imposed without appropriate regard to whether that method is impractical or likely to cause significant costs or a loss of markets to United States firms.

Some United States businesses that manufacture basic construction products suffer harm by being forced to convert to hard-metric production, or by being foreclosed from effectively bidding on Federal or federally assisted projects.

This "hard-metric" conversion requirement may place domestic producers at a competitive disadvantage with respect to foreign producers; may reduce the number of companies that may compete for contracts with the Federal Government; and may force manufacturers to maintain double inventories of similar, but incompatible products.

This "hard-metric" conversion requirement has also unnecessarily raised the cost to the Government of some lighting and concrete masonry products, and there is a consensus that relief is in order for these industries and the taxpayer.

While the Metric Conversion Act of 1975 currently provides an exception to metric usage when impractical or when it will cause economic inefficiencies, there is need for ombudsmen and procedures to ensure the effective implementation of the exceptions.

The changes made by this Act will advance the goals of the Metric Conversion Act of 1975 while eliminating significant problems in its implementation.

While estimates of savings vary widely, one GAO analysis of several projects indicates that hard metric conversion can cost 15-20% more to implement than if soft metric conversion, which simply requires that building materials be measured in metric units instead of being manufactured in round metric dimensions.

IV. SUMMARY OF HEARING

On May 16, 1996, the Subcommittee on Technology held a hearing entitled, "Proposed Amendments to the Metric Conversion Act." The Subcommittee reviewed H.R. 2779, the Savings in Construction Act, introduced by Congressman Cox. The witnesses discussed the need for flexibility in construction metrication by using "soft metric" versus "hard metric" measurements, especially where there are cases of adverse economic impact and barriers to competition. Witnesses testified regarding the need for the bill and their concerns with its implementation.

Presenting testimony at the hearing were: The Honorable Christopher Cox (R-CA), Mr. William Fabbri, Vice-President and General Manager of Lightolier, Mr. Rod Lee, Senior Vice President of Marketing at Lithonia Lighting, Mr. Norbert Rappl, President of Comac Building Supply, Mr. Donald Emich, President of Binkley & Ober, Mr. Randall Pence, Director of Government Relations for the National Concrete and Masonry Association (NCMA), Mr. Mark Bohannon, Counsel for Technology at the U.S. Department of Commerce, Mr. William Brenner, Director of the Construction Metrication Council, Mr. Tom Cunningham, Senior Project Manager at R.M. Schoemaker, Mr. David Wright, Vice President of United Masonry Inc. of Virginia, and Ms. Lorelle Young, President of the U.S. Metric Association.

Panel 1: The Honorable Christopher Cox (R-CA) testified regarding his bill H.R. 2779, "The Savings in Construction Act." He said he is a strong supporter of metric conversion, and that metric is a vast improvement over the current U.S. system. He stated that the question today is not about converting to metric, it is about whether the government should mandate that commerce must be conducted in round "hard metric" numbers. He explained that his legislation has been narrowly drafted to address only the unnecessarily burdensome application of the existing law regarding federal construction projects. He testified that his legislation will clarify the current law and enable construction projects to be finished more efficiently and quickly. He also stated that his legislation will assist in reducing the costs to small business and taxpayers.

Panel 2: Mr. William Fabbri, Vice-President and General Manager of Lightolier, testified that when he started in the fluorescent lighting fixture industry over 2500 companies existed. Today due to automation and the capital investment required, six manufacturers now make over 80% of the fixtures sold. He said because of freight costs there are no imports or exports of any of these products outside of North America. He stated that his company would have no problem converting to "soft metric," but "hard metric" would require their products to be three-eighths of an inch narrower and three-quarters of an inch shorter. He explained that since all of his products are made with automated tooling, "hard metric" would require a permanent change by retooling, which he estimated would cost the company \$15 million. He added that because government jobs represent only 10% of his market, Lightolier could not justify spending the money to retool.

Mr. Rod Lee, Senior Vice President of Marketing at Lithonia Lighting, testified on behalf of National Electrical Manufacturers

Association (NEMA) regarding the “hard metric” requirement for bidding on federal projects. He stated that the lighting fixture industry cannot produce the “hard metric” fixtures using their current standardized tooling; therefore, additional tooling is required to produce a non-standardized product for only one customer—the federal government. He said industry-wide adoption of hard metric will not make the lighting industry more competitive internationally, since exports are practically nonexistent due to shipping costs.

Mr. Norbert Rappl, President of Comac Building Supply, stated that his concrete block company, which employs 25 people and has only one machine, studied the costs of converting to “hard metrics” and found it would cost \$183,000 to retool the plant. Moreover, he said the company would also have to keep double inventory, which he explained would cause errors in handling because the blocks would be so close in size. He also stated that due to the weight of the product they are confined to a 50-mile trading radius. He said his company could not afford to do the retooling and consequently could not bid on federally-assisted projects.

Mr. Donald Emich, President of Binkley & Ober, stated that his concrete block company is in the same situation as Mr. Rappl’s. He said there are no prospects for exporting their products world-wide. He explained that the Canadians have been producing hard metric blocks for almost 20 years and still have to carry double inventories, and make investments for mold parts in both English and metric.

Mr. Randall Pence, Director of Government Relations for the National Concrete and Masonry Association (NCMA), testified that NCMA supports the metric system, but is concerned with *how* we convert to the metric system. Currently, he stated, only a handful of block producers have the capability to make the “hard metric” blocks. He said that the current law forces a niche market for federally-assisted construction projects, and eliminates small and medium-sized producers who cannot afford to immediately produce the blocks. He explained that this will result in a tremendous amount of single-sourcing for government projects, which runs completely counter to the current initiatives to expand competition in the procurement area of the Federal Government. He also said use of “hard metric” increases costs to the taxpayer by requiring production of a specialty product.

Panel 3: Mr. Mark Bohannon, Counsel for Technology at the U.S. Department of Commerce, presented the views of the Undersecretary of Commerce, Dr. Mary Good. He stated that the Administration’s position is to support the procurement of all commercially available products and pursue a strong metric policy consistent with the international global marketplace. He said the Administration is concerned with H.R. 2779 because it believes it will prohibit the use of metric products in federal construction projects. He said the current law provides flexibility to exempt federal agencies from the use of metric when it is impractical or causes significant inefficiency, and therefore this legislation is not necessary.

Mr. William Brenner, Director of the Construction Metrication Council, testified that almost all federal construction projects have come in under budget, and to date the government has had little trouble finding companies to produce the modular metric products

at a reasonable cost. He said he would like to help develop an administrative remedy which would address the problems of the block and lighting fixture industries.

Mr. Tom Cunningham, Senior Project Manager at R.M. Schoemaker, testified regarding the project his company is currently working on with the General Services Administration. He said the project is the largest metric construction contract ever in the U.S., and currently is 95% complete. He said there haven't been any extra costs or problems due to the metric requirements.

Mr. David Wright, Vice President of United Masonry Inc. of Virginia, said his organization's first metric project is currently underway, and it was awarded at 1% below government cost estimates. He explained that the layout process using metric dimensions is actually simpler because metric uses a base measurement of ten units. He added that if they had used "soft metric" in their current project, the cost of cutting the "soft metric" blocks, so they would fit around the "hard metric" door frames, would have exceeded any material cost premium from switching to metric.

Ms. Lorelle Young, President of the U.S. Metric Association, testified that Congressional interference will only impede the conversion to metric. Instead of addressing the problem it is attempting to solve, she stated, that H.R. 2779 is "overkill" and attempts to regulate all construction products used in federal construction projects. She explained that there are exceptions within the current law, they just need to be discussed and used.

V. COMMITTEE ACTIONS

On May 16, 1996, the Subcommittee on Technology held a hearing on H.R. 2779, the Savings in Construction Act of 1996. Testimony was received from Representative Christopher Cox (R-CA), sponsor of the bill, as well as representatives of the Administration, affected industries, and metric system proponents.

The Subcommittee convened to mark up H.R. 2779 on June 19, 1996. An amendment in the nature of a substitute was offered, which was adopted by voice vote. The amendment provides specific relief for the concrete masonry and lighting industries under the Metric Conversion Act of 1975. In addition, it provides a mechanism, through the appointment of an ombudsman in each executive branch agency, for other afflicted industries to gain such relief in the future.

Subsequently in Subcommittee, an amendment to the amendment in the nature of a substitute was offered, and adopted by voice vote, that clarified a definition in Section 3 of the bill with respect to "hard" versus "soft" metric. The Subcommittee passed H.R. 2779, as amended, by voice vote and ordered the bill reported, by voice vote, to the Full Committee for further consideration.

The Full Committee met to mark up H.R. 2779 on June 26, 1996. The only amendment offered was a manager's amendment by Technology Subcommittee Chairwoman Morella to make technical corrections. This amendment was adopted by voice vote. H.R. 2779, the Savings in Construction Act of 1996, was then passed, as amended, by voice vote, and ordered reported, a quorum being present, to the Full House for consideration.

VI. SUMMARY OF MAJOR PROVISIONS OF THE BILL

Provides specific relief for the concrete masonry and lighting industries as affected by the Metric Conversion Act of 1975. The hearing record from the May 16, 1996 Technology Subcommittee hearing on H.R. 2779 was clear that these two industries had suffered an adverse economic impact which required relief.

Provides a mechanism, through the appointment of an ombudsman in each executive branch agency, for other afflicted industries to gain relief in the future. The ombudsman would be obligated to objectively assess harm to industry, the cost to the government, and apply the flexibility of the existing law to alleviate hardship.

VII. SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Cites the Act as the “Savings in Construction Act of 1996.”

Section 2. Findings

In its implementation of the Metric Conversion Act of 1975, some agencies are requiring as a condition of obtaining federal construction contracts that all bidders implement a hard-metric conversion without regard to the costs to American industry to retool and without appropriate regard to the limitations of practicability or competitive disadvantage.

A hard metric conversion requires manufacturers to build materials in round metric dimensions. In other words, all building products used would have to be slightly altered from their current dimensions.

Requiring hard metric products either forces some companies to retool or to be effectively unable to bid on federal government construction contracts. These federal requirements for hard-metric contracts result in an unnecessary added cost to industry and the federal government—especially for some lighting and concrete masonry products.

There is a consensus that relief is in order for those two industries. There is also a need for the creation of an ombudsman process to ensure the appropriate implementation of the Metric Conversion Act for other industries that can demonstrate economic inefficiencies and impracticality and to ensure that there is clear recourse for affected companies if the exemptions are not correctly implemented.

Section 3. Definitions

Hard metric, hard metric conversion, converted product, and small business are all defined for the application of the Act.

Section 4. Implementation exceptions

A federal agency may require, in its implementation of the Metric Conversion Act, that specifications for structures or systems of concrete masonry be expressed under the metric system of measurement, but may not require that concrete masonry units be converted products. A federal agency may also not require that light-

ing fixtures be converted products unless the predominant voluntary industry consensus standards are hard metric.

Section 5. Ombudsman

The head of each executive agency that awards construction contracts shall designate an existing senior agency official to serve as a construction metrication ombudsman. This ombudsman shall be responsible for reviewing and responding to complaints from prospective bidders, subcontractors, suppliers, or their designated representatives in matters relating to guidance or regulation issued by an agency on the use of the metric system of measurement in construction contracts.

The ombudsman may also review and respond to complaints regarding the use of the metric system for products or materials required for use in individual construction projects. He or she shall be independent of the contracting officer for construction contracts.

The ombudsman shall be responsible for ensuring that the agency is not implementing the metric system in a manner that is impractical or is likely to cause significant inefficiencies or loss of markets to United States firms or is otherwise inconsistent with guidance issued by the Secretary of Commerce in consultation with the Interagency Council on Metric Policy.

The ombudsman shall respond to each complaint in writing within 30 days and make a recommendation to the head of the executive agency for an appropriate resolution.

In such a recommendation, the ombudsman shall consider: the availability of converted products and hard metric production capacity of United States firms, or the lack thereof; retooling costs and capital investment impacts; the impact on small business; the impact on trade; the impact on competition for federal contracts; the impact on jobs; the impact on the competitiveness of United States firms; and the cost to the federal Government.

After the head of the agency has rendered a decision regarding the ombudsman's recommendation, the ombudsman shall be responsible for communicating the decision to all appropriate policy, design, planning, procurement, and notifying personnel in the agency.

The ombudsman shall conduct appropriate monitoring to ensure the decision is implemented, and may submit further recommendations, as needed. The head of the agency's decision on the ombudsman's recommendations, and any supporting documentation, shall also be provided to affected parties and made available to the public in a timely manner.

VIII. COMMITTEE VIEWS

Advancing the increasing use in the United States of the metric system of measurement is a goal established by Congress in the Metric Conversion Act of 1975, as amended.

Congressional intent regarding the mechanics of metric conversion, however, was not to require conversion, no matter what, and without regard to cost. To the contrary, the metric law amendments passed into law in the 1988 Trade Bill are quite clear that the nation's metrication conversion policy should account for im-

practicality and situations which are likely to cause significant costs or loss of markets to United States firms.

Congress clearly established a number of considerations which could, and should, vitiate the requirement to convert to the metric system of measurement in federal matters involving certain industries or products. While such cases should be justified under the law's intent to ensure that the metrication effort advances its goal, cases requiring exemptions, nevertheless, do exist.

This Act is made necessary because in some cases federal agencies and their employees have failed to consider these issues. At times, this has been due to a lack of intra-agency and inter-agency communication. At other times, this has been due to a lack of knowledge of the exemption language in the Metric Conversion Act, a misinterpretation or a confusion as to the intent of Congress, or a general disregard for the caveats in the metrication law.

Sometimes problems have also arisen in interpreting whether metrication must include a physical change in product size, a method known as hard-conversion. Existing metrication law is silent on the issue of hard versus soft-metrication.

The Act clarifies and amplifies Congressional intent as to these matters. It reasserts that there are conditions under which metrication will not be required, and the Act provides much greater specificity with regard to the issues that may negate the requirement for metric conversion.

The Act specifies two types of construction products whose manufacturers have conclusively shown suffer great hardship when they are required to implement a hard-metric conversion in order to compete for federally assisted projects. It also provides a vastly improved procedure for addressing future issues in a timely fashion.

The Committee stresses that it is acting to reduce the negative impacts of metrication on industries, and it is doing so based upon sound public policy considerations.

All federal agencies should take steps to make sure that any exemption from metrication as a consequence of this Act will not be used as a justification for reducing or eliminating such classes of product use on federally-assisted projects. All federal design, contracting, procurement and acquisition personnel should be instructed accordingly by agency heads and metric ombudsman.

In the Committee's view it is important that metric policy be consistently developed, consistently applied and consistently communicated. Different design, contract and procurement specialists within agencies should not be in a position to de facto implement their own personally held metrication strategies where they conflict with federal policy set forth in this legislation.

The implementation exemptions for concrete masonry and lighting fixtures eliminate decision-making authority with regard to these products because of the clear demonstration of hardship that hard-metrication would create for their manufacturers. The Committee expects that the Act will not only settle this issue for these two classes of product, but it will also formalize a higher level of review by senior agency ombudsmen in a position to recommend agency-wide solutions for future problems.

Heavy reliance is placed on the ombudsmen to consider the criteria set forth in the Act, but it is equally important that the om-

budsmen develop recommendations that will have agency-wide application to avoid a piecemeal, contract-by-contract consideration per product. Many of the criteria, are by their nature, national in scope. Many industries cannot afford to raise complaints on each individual contract.

The ombudsmen should, therefore, seek to settle issues agency-wide and nation-wide for their respective agencies. To further promote the concept of a nationally consistent metrication policy and to avoid time-consuming duplication of effort, ombudsmen are encouraged to consider decisions reached by other agency ombudsmen in their consideration of similar products when industry-satisfying solutions have been obtained.

Equally important is the function of the ombudsman to communicate the recommended solutions to all agency personnel who have a role in determining building design and product contracting, procurement and acquisition. This will entail substantial follow-up with agency staff to ensure that the policies are adequately communicated and implemented.

The Committee expects that the ombudsman should be selected only from the existing FTE (full-time equivalent) personnel by the head of each executive agency. A current high-ranking employee of the agency, and not a new hire, should fulfill the duties of the ombudsman. It is not the Committee's intent to create additional agency hiring authority for this position.

In building construction, the ceiling system is installed in an early phase of the construction which can be significantly earlier than the actual installation of ceiling tiles and lighting fixtures. This ceiling system consists of metal grids attached to structural elements that must be spaced according to the size of the recessed lighting fixtures being specified, in inch-pound or the remeasured metric-equivalent dimensions. Therefore, the design and installation of the ceiling system must be compatible with the recessed lighting fixtures. The Committee accepts NEMA Standard LE-4 as a current example of a predominant voluntary industry consensus standard.

Finally, the Committee understands that many federally assisted construction projects are currently in various stages of progress. This Act would become effective immediately upon its enactment. It is the Committee's intent that all federal agencies apply the requirements of this Act to all federally-assisted construction projects now underway for which contracts have yet to be awarded regarding products and industries affected by this legislation. Changes in design should be made if significant schedule delays and significant additional costs can be avoided.

IX. COMMITTEE COST ESTIMATE

Pursuant to rule XIII, clause 7 of the Rules of the House of Representatives, the committee estimates that enactment of H.R. 2779 would result in no cost to the federal government or to state or local governments. Enactment of H.R. 2779 would not affect direct spending or receipts. Therefore, pay-as-you-go procedures would not apply to the bill. The bill contains no intergovernmental mandates as defined by P.L. 104-4. The bill would not impose new mandates on the private sector.

X. EFFECT OF LEGISLATION ON INFLATION

In accordance with rule XI, clause 2(1)(4) of the Rules of the House of Representatives, this legislation is assumed to have no inflationary effect on prices and costs in the operation of the national economy.

XI. OVERSIGHT FINDINGS AND RECOMMENDATIONS

Clause 2(1)(3)(A) of rule XI requires each committee report to contain oversight findings and recommendations required pursuant to clause 2(b)(1) of rule X. The Committee has no oversight findings.

XII. OVERSIGHT FINDINGS AND RECOMMENDATIONS BY THE COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

Clause 2(1)(3)(D) of rule XI requires each committee report to contain a summary of the oversight findings and recommendations made by the House Government Reform and Oversight Committee pursuant to clause 4(c)(2) of rule X, whenever such findings have been timely submitted. The Committee on Science has received no such findings or recommendations from the Committee on Government Reform and Oversight.

XIII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

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

METRIC CONVERSION ACT OF 1975

* * * * *

SEC. 4. As used in this Act, the term—

(1) “Board” means the United States Metric Board, established under section 5 of this Act;

(2) “*converted product*” means a material or product that is produced as a result of a hard-metric conversion;

[(2)] (3) “engineering standard” means a standard which prescribes (A) a concise set of conditions and requirements that must be satisfied by a material, product, process, procedure, convention, or test method; and (B) the physical, functional, performance and/or conformance characteristics thereof;

(4) “*hard-metric*” means measurement, design, and manufacture using the metric system of measurement, but does not include measurement, design, and manufacture using English system measurement units which are subsequently reexpressed in the metric system of measurement;

(5) “*hard-metric conversion*” means a conversion that requires, in addition to the expression of the linear dimensions of a product under the metric system of measurement, a physical change in the size of that product relative to the size of that product established under the system of English measurements in production practices of the appropriate industry;

[(3)] (6) “international standard or recommendation” means an engineering standard or recommendation which is (A) formulated and promulgated by an international organization and (B) recommended for adoption by individual nations as a national standard; [and]

[(4)] (7) “metric system of measurement” means the International System of Units as established by the General Conference of Weights and Measures in 1960 and as interpreted or modified for the United States by the Secretary of Commerce[.]; and

(8) “small business” has the meaning given the term “small business concern” in section 3 of the Small Business Act (15 U.S.C. 632).

* * * * *

SEC. 12. (a) In carrying out the policy set forth in section 3 (with particular emphasis on the policy set forth in paragraph (2) of that section) a Federal agency may require that specifications for structures or systems of concrete masonry be expressed under the metric system of measurement, but may not require that concrete masonry units be converted products.

(b) In carrying out the policy set forth in section 3 (with particular emphasis on the policy set forth in paragraph (2) of that section) a Federal agency may not require that lighting fixtures be converted products unless the predominant voluntary industry consensus standards are hard-metric.

(c)(1) The head of each executive agency that awards construction contracts shall designate a senior agency official to serve as a construction metrication ombudsman who shall be responsible for reviewing and responding to complaints from prospective bidders, subcontractors, suppliers, or their designated representatives related to—

(A) guidance or regulations issued by the agency on the use of the metric system of measurement in construction contracts; and

(B) the use of the metric system of measurement for products or materials required for incorporation in individual construction projects.

The construction metrication ombudsman shall be independent of the contracting officer for construction contracts.

(2) The ombudsman shall be responsible for ensuring that the agency is not implementing the metric system of measurement in a manner that is impractical or is likely to cause significant inefficiencies or loss of markets to United States firms in violation of the policy stated in section 3(2), or is otherwise inconsistent with guidance issued by the Secretary of Commerce in consultation with the Interagency Council on Metric Policy.

(3) The ombudsman shall respond to each complaint in writing within 30 days and make a recommendation to the head of the executive agency for an appropriate resolution thereto. In such a recommendation, the ombudsman shall consider—

(A) the availability of converted products and hard metric production capacity of United States firms, or lack thereof;

(B) retooling costs and capital investment impacts;

(C) the impact on small business;

- (D) the impact on trade;*
- (E) the impact on competition for Federal contracts;*
- (F) the impact on jobs;*
- (G) the impact on the competitiveness of United States firms;*
- and*
- (H) the cost to the Federal Government.*

(4) After the head of the agency has rendered a decision regarding a recommendation of the ombudsman, the ombudsman shall be responsible for communicating the decision to all appropriate policy, design, planning, procurement, and notifying personnel in the agency. The ombudsman shall conduct appropriate monitoring as required to ensure the decision is implemented, and may submit further recommendations, as needed. The head of the agency's decision on the ombudsman's recommendations, and any supporting documentation, shall be provided to affected parties and made available to the public in a timely manner.

* * * * *

XIV. COMMITTEE RECOMMENDATIONS

On June 26, 1996, a quorum being present, the Committee favorably reported H.R. 2779, the Savings in Construction Act of 1996, by voice vote, and recommends its enactment.

XV. ADDITIONAL VIEWS

The Committee's actions have improved H.R. 2779 substantially. A chain of events, begun by a March 5 letter to Under Secretary of Commerce Mary Good from Congressman John Tanner and most of the other Committee Democrats, has led to a more favorable atmosphere for the concrete block and recessed lighting industries and to the legislative language that now makes up the substantive portions of H.R. 2779 as reported from the Committee on Science.

While the bill is now no longer harmful to the Federal procurement process and while its potential damage to our national policy of metric conversion has been minimized, there is still some question as to why it is necessary. Dr. Good's letter of June 25, 1996, which is attached in the markup section of this report, elaborates effectively on this point.

As Congressman Ehlers has so eloquently pointed out in Full Committee markup, our nation's failure to adopt the metric system of measurement in a timely manner has cost United States companies billions in lost trade opportunities. This situation is ongoing and has the potential to get worse. There are only two places in this world where the historic inch-pound system of measurement is taken seriously: in the United States of America and in the world's museums. All of the United States' trading partners have converted to the metric system of measurement which is undeniably the world standard for measurement. They have recognized the simplicity, rationality, and elegance of the system and we can increasingly expect them to require the use of the SI metric system in American exports to their countries. Moreover, exports now are as likely to be components as finished products. American companies that are unwilling or unable to manufacture these components in metric will lose out to foreign companies that will. We need to be careful of the message we are sending if we exempt companies from metric usage rather than help them to convert to it.

I believe the case was made in our hearings that substantial numbers of block manufacturers are unable to bid on construction projects requiring concrete blocks dimensioned in rational metric. While I agree that this is a problem, I feel we could have come up with a better solution had we been willing to try. Our bill represents a "can't do" rather than a "can do" attitude. It is backward looking rather than forward looking. If we had been more creative, we would have looked for ways to solve the block manufacturers problems while advancing the cause of metrication. We could have made sure that metric block molds are an allowable expense under Federal construction contracts, thereby increasing the number of companies who have the wherewithal to bid in rational metric. We could have funded research in the design of adjustable molds which could be used for both metric and English-dimensioned block. As a minimum, we could have sunsetted the metric block exemption and

thereby setting a time to renew the search for a better solution to this problem.

The lighting industry's case was somewhat less compelling but our solution is more appropriate. I expect in the next few years that our lighting industry will be manufacturing metric lighting products. This section at least, through its standards trigger, will allow the exemption to go away when the reason for it no longer exists.

The ombudsman concept is a dramatic improvement over the bloated procurement bureaucracy which would have been created by section 4 of H.R. 2779 as introduced, but the jury is still out on whether it is really necessary. The government has built close to a dozen major buildings using metric measurement and only two industries have not been willing to go along. One would think if metric were a problem for other building subcontractors that the problem would have arisen by now. The busiest time for the metric ombudsmen will probably be at the time of enactment when agencies must figure out what to do with buildings already on the drawing boards or under construction. I urge ombudsmen in these cases to use common sense. If redesign in soft metric can be done easily with little or no disruption to the construction project, then it is appropriate. If on the other hand respecification in soft metric causes either delays or increased costs, don't do it.

GEORGE E. BROWN, Jr.

XVI. PROCEEDINGS FROM SUBCOMMITTEE MARKUP
**SUBCOMMITTEE MARKUP ON H.R. 2779—TO
PROVIDE FOR SOFT-METRIC CONVERSION,
AND FOR OTHER PURPOSES**

WEDNESDAY, JUNE 19, 1996

HOUSE OF REPRESENTATIVES,
COMMITTEE ON SCIENCE,
SUBCOMMITTEE ON TECHNOLOGY,
Washington, DC.

The Subcommittee met at 10:10 a.m. in Room 2318 of the Rayburn House Office Building, the Honorable Constance Morella, Chairwoman of the Subcommittee, presiding.
[The text of the amendment roster follows:]

COMMITTEE ON SCIENCE

U.S. HOUSE OF REPRESENTATIVES

WASHINGTON, DC 20515

AMENDMENT ROSTER

SUBCOMMITTEE ON TECHNOLOGY MARKUP: JUNE 19, 1996

10:00 a.m.—2:00 p.m.

ROOM 2318 RAYBURN HOUSE OFFICE BUILDING

H.R. 2779, the Savings in Construction Act of 1995
As reported, amended: H.R. 2779, the Savings in Construction Act of 1996

Number	Sponsor	Description	Results
1.	Mrs. Morella	Amendment in the nature of a substitute	Passed—Voice Vote
2.	Mrs. Morella	Amendment to the Amendment in the nature of a Substitute	Passed—Voice Vote
3.			
4.			
5.			

Mrs. MORELLA. The subcommittee markup will now commence.

This morning the Technology Subcommittee will be marking up H.R. 2779, the Savings In Construction Act. It was introduced by our colleague, Congressman Christopher Cox of California, and currently cosponsored by 80 of our colleagues including a number of members of this Subcommittee.

H.R. 2779 provides for the appropriate implementation of the Metric Conversion Act of 1975 in federal construction projects.

On May 16th, the Technology Subcommittee held a hearing on proposed amendments to the Metric Conversion Act with a focus on H.R. 2779.

We heard from the sponsor of the bill, the Administration, affected industries, and metric system proponents on the need for the bill and their concerns with its implementation.

And as we proceed with debate on the measure, I'll be offering an amendment in the nature of a substitute to H.R. 2779.

This amendment reflects an agreement conducted through months of negotiations and discussions, many which predate our May hearing with Congressman Cox, the Majority Committee Staff, the Minority Committee Staff, and affected industries.

I do want to thank all parties involved for being able to come up with this compromise. Indeed, it has not been easy, but I think we have forged that agreement.

Specifically, the amendment in the nature of a substitute offered on behalf of Mr. Cox would, first of all, provide specific recourse for the concrete, masonry and lighting industries in the interpretation of the Metric Conversion Act of 1975.

The hearing record from our May hearing is clear that these two industries had suffered a demonstrated adverse economic impact which necessitates immediate relief.

Secondly, the amendment would provide a mechanism, through the appointment of an ombudsman in each Executive Branch agency for other afflicted industries to gain such relief in the future, if needed.

The ombudsman would be obligated to balance harm to the industry and objectively apply the flexibility of the existing law to alleviate hardship.

As the Chair of the Subcommittee which has jurisdiction over our nation's technology and competitiveness policy, I am a strong supporter of promoting the use of metric.

The United States remains the only major industrialized country which does not predominantly use metric as a standard measurement system.

And I believe that rolling back our current metric efforts is unwise and would only serve to ultimately impair our nation's long term international competitiveness.

H.R. 2779, however, does not do that. There is a need for flexibility in the implementation of our current metric law, and this bill would provide for that.

H.R. 2779, as amended by this substitute, simply provides for less costly and less intrusive ways of meeting the goals of the Metric Conversion Act in federal construction projects.

I would urge all of my colleagues to support both my amendment in the nature of a substitute, and favorably report out H.R. 2779 to the full Science Committee.

[The text of H.R. 2779 follows:]

[H.R. 2779, 104th Cong., 1st Sess.]

A BILL To provide for soft-metric conversion, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Savings in Construction Act of 1995".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The Metric Conversion Act of 1975 was enacted in order to set forth the policy of the United States to convert to the metric system. Section 3 of that Act requires that each Federal agency use the metric system of measurement in its procurements, grants and other business related activities, unless that use is likely to cause significant cost or loss of markets to United States firms, such as when foreign competitors are producing competing products in non-metric units.

(2) Currently, many Federal construction contracting officers are requiring as a condition of obtaining Federal contracts that all bidders must agree to use products measured in round metric units, materials which are known as "hard-metric" products. This requires retooling, substantial capitalization costs, and other expensive production changes for most construction firms and suppliers to physically change the size of the product.

(3) This "hard-metric" conversion requirement is often being imposed only for the purpose of achieving rounded numbers, and without regard to whether that method is impractical or likely to cause significant costs or a loss of markets to United States firms.

(4) United States businesses that manufacture basic construction products suffer great upheaval by being forced to either convert to hard-metric production, or be foreclosed from effectively bidding on Federal or federally assisted projects.

(5) This "hard-metric" conversion requirement places domestic producers at a competitive disadvantage with respect to foreign producers; reduces the number of companies that may compete for contracts with the Federal Government; and forces manufacturers to maintain double inventories of similar but incompatible products.

(6) This "hard-metric" conversion requirement raises the cost to taxpayers of Federal construction projects, since the Federal Government is often required to pay additional costs, known as a "metric premium," to procure hard-metric products.

(7) "Soft-metric" conversion would be a less costly and less intrusive way of meeting the goals of Section 3 of the Metric Conversion Act of 1975. The product itself would remain the same size; its dimensions simply would be expressed in metric units.

(8) As the application of the soft-metric conversion mandates no change in the size of the product, the goals of the Metric Conversion Act of 1975 will be achieved without excessive economic upheaval.

SEC. 3. DEFINITIONS.

Section 4 of the Metric Conversion Act of 1975 (15 U.S.C. 205c) is amended—

(1) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (6), and (8), respectively;

(2) by inserting after paragraph (1) the following new paragraph:

"(2) 'domestic manufacturer' means a manufacturer at least 51 percent of whose production occurs in the United States;";

(3) by inserting after paragraph (3), as so redesignated by paragraph (1) of this section, the following new paragraphs:

"(4) 'hard-metric product' means a material or product that is—

"(A) produced as a result of a hard-metric conversion; or

"(B) identical to a material or product described in subparagraph (A), although originally produced in metric-based dimensions;

"(5) 'hard-metric conversion' means a conversion that requires, in addition to the expression of the dimensions of a product under the metric system of measurement, a physical change in the size of that product relative to the size of that product established under existing production practices of the appropriate industry;";

(4) by striking "and" at the end of paragraph (6), as so redesignated by paragraph (1) of this section;

(5) by inserting after paragraph (6), as so redesignated by paragraph (1) of this section, the following new paragraph:

"(7) 'industry' has the meaning provided that term by the Board by regulation;";

(6) by striking the period at the end of paragraph (8), as so redesignated by paragraph (1) of this section, and inserting in lieu thereof a semicolon; and

(7) by adding at the end the following new paragraphs:

“(9) ‘soft-metric product’ means a material or product that is produced as a result of a soft-metric conversion;

“(10) ‘soft-metric conversion’ means a conversion that requires the expression of the dimensions of a product under the metric system of measurement without changing the physical size of the product relative to the size of that product established under existing production practices of the appropriate industry; and

“(11) ‘small business’ means a business that would be a small business under the Standard Industrial Classification codes and size standards in section 121.601 of title 13 of the Code of Federal Regulations as in effect on the date of the enactment of this paragraph.”

SEC. 4. METRIC CONVERSION.

Section 12 of the Metric Conversion Act of 1975 (15 U.S.C. 205j-1) is amended by striking subsection (b) and inserting in lieu thereof the following new subsections:

“(b) No agency of the Federal Government may develop, implement, or continue the use of construction design or procurement guidelines that require the use of a hard-metric product if a majority of the contracts that would be proposed pursuant to such guidelines would be likely to result in a certification described in subsection (c)(3)(A).

“(c) No agency of the Federal Government may establish or apply a bidding requirement or preference with respect to any federally assisted construction contract that specifies the use of a hard-metric product if—

“(1) the use of soft-metric product is technologically feasible; and

“(2) an appropriate representative (as selected pursuant to subsection (d) of the industry that manufactures the product) notifies the agency, within 30 days after enactment of this Act, that the representative makes certification or intends to make certification under paragraph (3)(A); and either—

“(3) the certification establishes or will establish that—

“(A) such industry-specific or product-specific factors exist that—

“(i)(I) the product is not readily available as a hard-metric product from 50 percent or more of the domestic manufacturers in the United States; or

“(II) a hard-metric product does not constitute 50 percent or more of the total production of that product by that industry;

“(ii) a hard-metric conversion would require domestic manufacturers that are small businesses that produce the product to incur capital outlays in an average amount greater than \$25,000 per manufacturer to invest in new equipment to produce a hard-metric product; and

“(iii)(I) based on the economic situation and customs of the industry, any potential offsetting benefits that could be achieved by that industry by carrying out a hard metric conversion to produce that product would be negligible or

“(II) hard metric conversion would substantially reduce competition for Federal contracts and increase by 1 percent or more the per unit cost of that product; or

“(III) hard metric conversion would create a special hardship with respect to domestic manufacturers that are small businesses by placing those manufacturers at a competitive disadvantage with respect to foreign competitors; or

“(4) less than 180 days have elapsed after the appropriate representative has been notified of a proposed contract specifying hard-metric product.

“(d) The head of each agency of the Federal Government shall establish a list of appropriate representatives of each industry that may make a certification under subsection (c)(3)(A). The agency head shall update that list on an annual basis. The list shall include appropriate professional or trade associations that are recognized as representing the industries.

“(e) When an appropriate representative submits a certification under subsection (c)(3)(A), the representative shall also submit a list of domestic manufacturers that have the capability to manufacture the product that is the subject of the certification as a soft-metric product.”

Mrs. MORELLA. Now I'd like to turn to the Ranking Member of the Subcommittee, Mr. Tanner, for any comments he may have.

Mr. TANNER. Thank you, Madame Chairwoman.

I will be very brief.

I understand and sympathize with the problems that the block and lighting fixture industries are facing due to the federal policy in this area.

I had hoped, and think the better way to go is to resolve this administratively. Unfortunately, the Administration has not been as forthcoming as I think they should have been in this area, and so I am prepared to support the substitute amendment provided that the Chair is willing to further refine the amendment if it looks like that might be necessary if it comes before the Full Committee.

And certainly in this Subcommittee, there's precedent for further amendments on the floor.

I would hope that the minority would be consulted if there are further amendments to be offered, either in Full Committee or on the floor in this instance.

Thank you.

Mrs. MORELLA. We will so accommodate.
Are there any other opening statements?

Mr. Calvert?

[No response.]

Mrs. MORELLA. Ms. Seastrand?

[No response.]

Mrs. MORELLA. Mrs. Myrick?

[No response.]

[The opening statement of Hon. Eddie Bernice Johnson follows:]

OPENING STATEMENT OF THE HONORABLE EDDIE BERNICE JOHNSON

I thank the Chairwoman for recognizing me.

I am somewhat puzzled by the legislation which is before us today. H.R. 2779, the Savings in Construction Act, will essentially exempt the concrete block and recessed lighting fixture industries from the requirements of hard metric measurements. While I do understand the need of the industry, and have no objections to this taking place, I am confused by the form the legislation will take.

The bill will create an ombudsman to make recommendations concerning metric conversion for other industries. If a problem does exist which would require such an ombudsman, I find it a little strange that industry has not come forward, as the block and lighting industries have done, to indicate a problem. The bill by its terms exempts the block and lighting industries from the requirements, and I thus find myself wondering what the ombudsman, in his or her new office, will be making recommendations about. Obviously, it won't be about concrete block and recessed lighting fixtures.

Additionally, current law allows exemptions for industries which are significantly hampered by metric requirements. It therefore occurs to me that this entire problem might be better addressed by an administrative solution, instead of legislation. I thank the Chair and yield back the balance of my time.

Mrs. MORELLA. I ask unanimous consent that H.R. 2779, introduced by Congressman Christopher Cox, entitled "The Savings in Construction Act of 1996" be considered as read, and open to amendment at any point.

I have an amendment, the Chair has an amendment at the desk, in the nature of a substitute, and it is the only amendment on the roster.

[The text of the amendment follows:]

AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 2779 OFFERED BY MRS.
MORELLA OF MARYLAND

Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Savings in Construction Act of 1996”.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The Metric Conversion Act of 1975 was enacted in order to set forth the policy of the United States to convert to the metric system. Section 3 of that Act requires that each Federal agency use the metric system of measurement in its procurements, grants and other business related activities, unless that use is likely to cause significant cost or loss of markets to United States firms, such as when foreign competitors are producing competing products in non-metric units.

(2) Currently, many Federal construction contracting officers are requiring as a condition of obtaining Federal contracts that all bidders must agree to use products measured in round metric units, materials which are known as “hard-metric” products. This can require retooling, substantial capitalization costs, and other expensive production changes for some suppliers to physically change the size of the product.

(3) This “hard-metric” conversion requirement has sometimes been imposed without appropriate regard to whether that method is impractical or likely to cause significant costs or a loss of markets to United States firms.

(4) Some United States businesses that manufacture basic construction products suffer harm by being forced to convert to hard-metric production, or by being foreclosed from effectively bidding on Federal or federally assisted projects.

(5) This “hard-metric” conversion requirement may place domestic producers at a competitive disadvantage with respect to foreign producers; may reduce the number of companies that may compete for contracts with the Federal Government; and may force manufacturers to maintain double inventories of similar but incompatible products.

(6) This “hard-metric” conversion requirement has unnecessarily raised the cost to the Government of some lighting and concrete masonry products and there is consensus that relief is in order.

(7) While the Metric Conversion Act of 1975 currently provides an exception to metric usage when impractical or when it will cause economic inefficiencies, there is need for ombudsmen and procedures to ensure the effective implementation of the exceptions.

(8) The changes made by this Act will advance the goals of the Metric Conversion Act of 1975 while eliminating significant problems in its implementation.

SEC. 3. DEFINITIONS.

Section 4 of the Metric Conversion Act of 1975 (15 U.S.C. 205c) is amended—

(1) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (6), and (7), respectively;

(2) by inserting after paragraph (1) the following new paragraph:

“(2) ‘converted product’ means a material or product that is produced as a result of a hard-metric conversion;”;

(3) by inserting after paragraph (3) the following new paragraphs:

“(4) ‘hard-metric’ means measurement and design using the metric system of measurement, but does not include design in English system measurement units and remeasurement in the metric system of measurement;

“(5) ‘hard-metric conversion’ means a conversion that requires, in addition to the expression of the linear dimensions of a product under the metric system of measurement, a physical change in the size of that product relative to the size of that product established under the system of English measurements in production practices of the appropriate industry;”;

(4) by striking “and” at the end of paragraph (6), as so redesignated by paragraph (1) of this section;

(5) by striking the period at the end of paragraph (7), as so redesignated by paragraph (1) of this section, and inserting in lieu thereof “; and”; and

(6) by adding at the end the following new paragraph:

“(8) ‘small business’ means a business that would be a small business under the Standard Industrial Classification codes and size standards in section 121.601 of title 13 of the Code of Federal Regulations as in effect on the date of the enactment of this paragraph.”

SEC. 4. IMPLEMENTATION EXCEPTIONS.

Section 12 of the Metric Conversion Act of 1975 (15 U.S.C. 205j-1) is amended by striking subsection (b) and inserting in lieu thereof the following new subsections:

“(b) In carrying out the policy set forth in section 3, as required by subsection (a) of this section, a Federal agency may require that specifications for structures or systems of concrete masonry be expressed under the metric system of measurement, but may not require that concrete masonry units be converted products.

“(c) In carrying out the policy set forth in section 3, as required by subsection (a) of this section, a Federal agency may not require that lighting fixtures be converted products unless the predominant voluntary industry consensus standards are hard-metric.”.

SEC. 5. OMBUDSMAN.

Section 12 of the Metric Conversion Act of 1975 (15 U.S.C. 205j-1), as amended by section 4 of this Act, is further amended by adding at the end the following new subsection:

“(d)(1) The head of each executive agency that awards construction contracts shall designate a senior agency official to serve as a construction metrication ombudsman who shall be responsible for reviewing and responding to complaints from prospective bidders, subcontractors, suppliers, or their designated representatives related to—

“(A) guidance or regulations issued by the agency on the use of the metric system of measurement in construction contracts; and

“(B) the use of the metric system of measurement for products or materials required for incorporation in individual construction projects.

The construction metrication ombudsman shall be independent of the contracting officer for construction contracts.

“(2) The ombudsman shall be responsible for ensuring that the agency is not implementing the metric system of measurement in a manner that is impractical or is likely to cause significant inefficiencies or loss of markets to United States firms in violation of the policy stated in section 3(2), or is otherwise inconsistent with guidance issued by the Secretary of Commerce in consultation with the Interagency Council on Metric Policy.

“(3) The ombudsman shall respond to each complaint in writing within 30 days and make a recommendation to the head of the executive agency for an appropriate resolution thereto. In such a recommendation, the ombudsman shall consider—

“(A) the availability of converted products and hard metric production capacity of United States firms, or lack thereof;

“(B) retooling costs and capital investment impacts;

“(C) the impact on small business;

“(D) the impact on trade;

“(E) the impact on competition for Federal contracts;

“(F) the impact on jobs;

“(G) the impact on the competitiveness of United States firms; and

“(H) the cost to the Federal Government.

“(4) After the head of the agency has rendered a decision regarding a recommendation of the ombudsman, the ombudsman shall be responsible for communicating the decision to all appropriate policy, design, planning, procurement, and notifying personnel in the agency. The ombudsman shall conduct appropriate monitoring as required to ensure the decision is implemented, and may submit further recommendations, as needed. The head of the agency's decision on the ombudsman's recommendations, and any supporting documentation, shall be provided to affected parties and made available to the public in a timely manner.”.

Amend the title so as to read as follows: “A bill to provide for appropriate implementation of the Metric Conversion Act of 1975 in Federal construction projects, and for other purposes.”.

Mrs. MORELLA. The Clerk will read the amendment.

The CLERK. Amendment in the nature of a substitute to H.R. 2779 offered by Mrs. Morella of Maryland.

Strike all after the enacting clause, and insert in lieu thereof the following:

Section 1. Short Title.

This Act may be cited as the “Savings In Construction Act of 1996.”

Sec. 2. Findings.

The Congress finds the following:

Mr. TANNER. I would ask that the amendment be considered as read, Madame Chairwoman.

Mrs. MORELLA. I have already explained the various parts of the amendment in the nature of a substitute.

And I wonder if we have any further discussion on it by any members of the Subcommittee?

[No response.]

Mrs. MORELLA. If not, the vote occurs on the amendment in the nature of a substitute.

All those in favor will say aye.

[Chorus of ayes.]

Mrs. MORELLA. Those opposed, no.

[No response.]

Mrs. MORELLA. The ayes have it, the amendment is agreed to. [The text of the amendment follows:]

AMENDMENT OFFERED BY MRS. MORELLA TO THE AMENDMENT IN THE NATURE OF A
SUBSTITUTE

Page 4, lines 1-5, amend paragraph (4) to read as follows:

“(4) ‘hard-metric’ means measurement, design, and manufacture using the metric system of measurement, but does not include measurement, design, and manufacture using English system measurement units which are subsequently reexpressed in the metric system of measurement;

Mrs. MORELLA. I have another amendment before me. This is an amendment to the amendment in the nature of a substitute.

The Clerk will report the amendment.

The CLERK. Amendment offered by Mrs. Morella to the amendment in the nature of a substitute.

Page 4, lines 1-5, amend paragraph [4] to read as follows:

“[4] ‘hard-metric’ means measurement, design, and manufacture using the metric system of measurement, but does not include measurement, design, and manufacture using English system measurement units which are subsequently reexpressed in the metric system of measurement.”

Mrs. MORELLA. In the way of a simple explanation, what this amendment to the amendment in the nature of a substitute is to define, give a redefinition of hard metric, as agreed to by all of the parties.

Is there any further discussion on the amendment to the amendment in the nature of a substitute?

[No response.]

Mrs. MORELLA. If not, the vote occurs on the amendment.

All those in favor say aye.

[Chorus of ayes.]

Mrs. MORELLA. Those opposed, no.

[No response.]

Mrs. MORELLA. The amendment is agreed to.

[Pause.]

Mrs. MORELLA. This is the pause that refreshes until we have two more people come to give us the appropriate number for a quorum, so at ease.

[Pause.]

Mrs. MORELLA. The subcommittee markup will reconvene.

The question is on the Bill H.R. 2779, the Savings in Construction Act of 1995, as amended.

And all those in favor will say aye.

[Chorus of ayes.]

Mrs. MORELLA. Those opposed will say no.

[No response.]

Mrs. MORELLA. In the opinion of the Chair, the ayes have it.

I'd now recognize the Ranking Minority Member.

Mr. TANNER. Madam Chairwoman, I move that the subcommittee report the bill H.R. 2779, as amended.

I furthermore move to instruct the staff to make technical and conforming amendments, and let the Chairwoman take all other necessary steps to bring the bill before the Full Committee for consideration.

Mrs. MORELLA. The subcommittee has heard the motion, and those in favor will say aye.

[Chorus of ayes.]

Mrs. MORELLA. Those opposed will say no.

[No response.]

Mrs. MORELLA. The motion is agreed to, and without objection, the motion to reconsider is laid upon the table.

And this concludes our Subcommittee markup on H.R. 2779.

Thank you all very much.

[Whereupon, at 10:28 a.m., Wednesday, June 19, 1996, the Subcommittee was adjourned, subject to the call of the Chair.]

XVII. PROCEEDINGS FROM FULL COMMITTEE MARKUP
**FULL COMMITTEE MARKUP ON H.R. 2779—
THE SAVINGS IN CONSTRUCTION ACT OF 1996**

WEDNESDAY, JUNE 26, 1996

HOUSE OF REPRESENTATIVES,
COMMITTEE ON SCIENCE,
Washington, DC.

The committee met, pursuant to notice, at 1:24 p.m. in Room 2318, Rayburn House Office Building, Hon. Robert S. Walker, Chairman of the Committee presiding.

The CHAIRMAN. Good afternoon.

Pursuant to notice, the Committee on Science is meeting today to consider the following matter: H.R. 2779, the Savings in Construction Act of 1996.

I ask unanimous consent for the authority to recess. If there is no objection, so ordered.

This afternoon the Science Committee will be marking up H.R. 2779, the Savings in Construction Act, introduced by Congressman Christopher Cox of California.

This bill is currently cosponsored by a bipartisan group of 80 Members, including a number of members of this committee. H.R. 2779 also had been approved by the Speaker's Advisory Group on Corrections, a group of six Democrats and six Republicans, which aids the Speaker in determining which bills are acceptable for the Corrections Day Calendar.

A number of Federal agencies, in compliance with the Metric Conversion Act of 1975 and its 1988 amendments, are requiring the use of the metric system in Federal construction projects. However, there are two ways for the conversion process to proceed, hard or soft metric conversion.

A "soft" metric conversion simply requires the use of metric units in the design of the building and measurements of its components. A "hard" metric conversion requires that every brick, every concrete block, every lighting fixture, every door and window, every piece of plywood, wallboard, rigid insulation, floor tile, et cetera, everything be manufactured in round metric units.

Hard metric conversion is not required anywhere in the law but has been required in the bureaucrat's regulations. The effect can be to force companies, including small businesses, into a Hobson's choice: Retooling their production facilities at great cost to produce products which are identical except for a slight changes in size.

With H.R. 2779, we can achieve the goals of the 1975 Metric Act without closing Federal project bids to U.S. businesses, especially

small manufacturers who cannot afford to retool or who depend upon those contracts for their livelihood.

On May 16, the Technology Subcommittee held a hearing on H.R. 2779. At that hearing we heard from a number of these affected companies. These companies that manufacture basic construction products have suffered by being forced to either convert to hard metric production or be foreclosed from effectively bidding on Federal projects.

This hard metric conversion requirement places domestic producers at a competitive disadvantage with respect to foreign producers, reduces the number of companies that may compete for contracts with the Federal Government, and forces manufacturers to maintain double inventories of similar but incompatible products.

With H.R. 2779, we can also use the metric system on Federal construction projects without adding 15 to 20 percent to the cost of each project. We can open up our Federal construction projects to all bidders and avoid raising the cost of these projects to taxpayers, since the Federal Government is often required to pay additional costs, known as a metric premium, to procure unique hard metric products.

I would like to commend the Chairwoman of the Technology Subcommittee, Mrs. Morella, for her efforts in reporting this bill to the full committee.

At the subcommittee markup, Mrs. Morella offered an amendment in the nature of a substitute to H.R. 2779 which would do some changes in this. This is the type of corrective legislation which we can all support from both sides of the aisle.

I thank the members of the Minority who have cooperated on this so that we can move forward with it.

I would like to recognize at this point Mr. Tanner, who is the ranking member of the subcommittee, for any comments he might have with regard to the legislation.

Mr. TANNER. Thank you, Mr. Chairman.

We marked this up in our subcommittee on a unanimous vote, and I understand there is an amendment which we have no objection to.

I would ask at this point for unanimous consent to insert a statement from Mr. Brown into the record. He has an amendment pending on the Floor and is unable join us at the moment.

The CHAIRMAN. Without objection.

[The prepared statement of Mr. Brown follows:]

OPENING REMARKS OF HON. GEORGE E. BROWN, JR., H.R. 2779, SAVINGS IN CONSTRUCTION ACT, JUNE 26, 1996

Mr. Chairman: As markets have become more global, successful nations have paid more and more attention to international standards and I am pleased to remind my colleagues that for the past decade, this Committee has been the most important Congressional advocate of this trend. We realized early on that U.S. businesses faced barriers of law, regulation, custom, or knowledge to our designing and manufacturing world-class products that they would lose business opportunities. Other countries will refuse entry of non-conforming products to their countries and if U.S. suppliers cannot deliver the product that their customers need, businesses and consumers overseas will look to those who can deliver.

While we have made great strides in the area of international standards, we have one great failure and that is metric policy. By not moving decisively to implement the Metric Conversion Act of 1975 until passage of 1988 amendments to that Act,

we have allowed ourselves to be the odd man out internationally. There are basically two places left in this world to see products made in non-metric measurements: museums and the United States of America. We were the last industrialized nation in the world to commit to metric conversion; we are the only one that is still dragging its feet.

In 1987, when the U.S. and Japan sat down to discuss barriers to trade, the number one problem they cited was our failure to convert to metric; the 1988 amendments that are being amended once again today, were in part, a response to that criticism. They established in no uncertain terms that the metric system of measure is to be considered the preferred system of measurement of U.S. commerce and that Federal procurement is to be done in metric. They also provided an important exception, which has worked well until recently: Federal procurement in metric is not required "to the extent that such use is impractical or is likely to cause significant inefficiencies or loss of markets to United States firms."

Today, we are considering the impact of metric procurement on Federal construction. Two industries, concrete masonry and recessed lighting, feel they have not been getting appropriate treatment under the 1988 exemption and through H.R. 2779, are, in effect, appealing their case to the Congress. H.R. 2779 as introduced drew strong opposition from the Office of Management and Budget which felt the proposal would weaken the U.S. effort in metric conversion and add major bureaucratic requirements to Federal procurement.

The Technology Subcommittee's version of the bill before us has an unsung hero, Congressman John Tanner, the Ranking Democratic Member on the Technology Subcommittee. John realized that the obvious solution to the problems of the lighting and block industry was for the Executive Branch to use its existing authority to grant exemptions. He got most of the Democratic members of our Committee to sign a letter asking the Commerce Department to intervene in the matter. The Administration responded by meeting with representatives of the affected industries, by promulgating a Federal Register Notice setting out guidelines for the usage of metric regarding concrete masonry block and recessed lighting, and by engaging in extensive discussions with Congressional staff. The efforts John set in motion have led to the compromise language we have before us today which provides specific relief for the two industries and an ombudsman process for working out problems of implementation.

The compromise language will allow buildings to be designed in metric but will treat masonry as covering a specific metric surface area. A company supplying masonry products to a Federal construction project can supply either metric or non-metric products with the final rows of non-metric products being trimmed to fit the overall metric dimensions. Of course, metric products, if they are available, will be acceptable, but cost will be the determining factor in whether metric or non-metric product is used.

The compromise also creates agency ombudsmen to work out problems related to metric usage in Federal construction. The ombudsmen should prove especially valuable for projects under design on the date of enactment. We expect them to look at the facts of each case to determine whether redesign to comply with this Act makes economic sense or whether the projects have progressed to the point where redesign in soft metric would increase project costs.

A compromise, by definition, is not a perfect solution from anyone's point of view. The Commerce Department, while not objecting to House passage of the Technology Subcommittee's version of H.R. 2779, feels that the bill is unnecessary and can be solved administratively using existing law. This, of course, was what I hoped would be possible when I signed Mr. Tanner's letter to the Department of Commerce. I still hope we reach the point where the Executive Branch has obviated the need for this legislation. I ask unanimous consent that this letter appear at this point in the record of this mark-up.

In closing Mr. Chairman, I wish to complement Mr. Tanner, Chairman Morella, and the other members of the Technology Subcommittee for their hard work in improving this legislation.

Mr. TANNER. I guess either now or before or after the amendment is offered, I would ask unanimous consent to insert a letter from Dr. Mary Good into the record with regard to the matter.

The CHAIRMAN. Without objection.

Mr. TANNER. Thank you.

[The letter referred to follows:]

U.S. DEPARTMENT OF COMMERCE,
THE UNDER SECRETARY FOR TECHNOLOGY,
Washington, DC, June 25, 1996.

Hon. GEORGE E. BROWN, Jr.,
*Ranking Member of the Committee on Science, U.S. House of Representatives, Wash-
ington, DC.*

DEAR GEORGE: Thank you for your letter of June 17, 1996. On June 19, 1996, the Technology Subcommittee voted unanimously on a Substitute Amendment to H.R. 2779, as originally introduced. We have been able to review the changes in light of the concerns that the Administration has previously raised. We will continue to monitor any additional changes to the bill as it is considered by the Committee on Science and subsequently by the full House and then the Senate.

With the changes embodied in the Substitute Amendment, the Administration will not object to House passage. Nonetheless, the Administration continues to believe that the legislation improperly supplants an administrative solution as envisioned under the Metric Conversion Act of 1975. As I indicated in my testimony before the Subcommittee in May, the steps we have taken, working with the Committee and the private sector, to issue policy guidance are the most appropriate way to address the concerns of the recessed lighting and concrete block industries.

Federal law and Administration policy both encourage use of the metric system to promote U.S. competitive advantage in international markets. The reality, as reflected in the hearings held in May, is that American industry—including the vast majority of the construction industry—is already moving toward using metric in its design, engineering and product standards. It is certainly not the Administration's intent to unduly burden American firms in this area, but instead to pursue metrication for increased cost-effectiveness for American business, efficiency in procurement, and greater access to international markets.

As we previously indicated, H.R. 2779, as originally introduced, is unnecessary. The Substitute Amendment is also unnecessary, because current Federal law and Administration policy provide the flexibility in the use of metric standards by exempting the use of metric measurements where such use is impractical or is likely to cause significant inefficiencies or loss of markets for U.S. firms.

The Administration is acutely aware that this endeavor requires a close partnership between industry and government. Both the public and private sectors are working to resolve building metrication issues. As a result of this work, we issued Guidance to Federal Agencies in May that provides the concrete block and recessed lighting industries with a specific exemption from "hard metric" requirements. We will continue to work with these industries to ensure that the policy guidance that has been issued is effectively implemented by all agencies.

Again, George, thank you for your leadership on this issue, and support for the Administration's technology agenda.

Sincerely,

MARY L. GOOD.

The CHAIRMAN. Mrs. Morella.

Mrs. MORELLA. Thank you, Mr. Chairman.

As the Chair of the Technology Subcommittee with jurisdiction over our Nation's technology and competitiveness policy, I am a strong supporter of encouraging the use of the metric system in the interests of our Nation's industrial competitiveness in world markets.

Despite current law to promote the metric system, as we all know, the United States still remains the only major industrialized country in the world which does not predominantly use metric as a standard measurement system.

Converting to the metric system is a goal that Congress has already wisely decided with the passage of the Metric Conversion Act of 1975, and it is an objective that I believe most Members of Congress fully support. It may take time, but American public acceptance of the metric system will eventually come, albeit gradually, and lead ultimately to metric conversion in the United States.

Any attempts to roll back our current metric efforts would be unwise and would only serve to impair our Nation's long-term international competitive interest.

So, with that being said, while I would oppose any efforts to eliminate the Metric Conversion Act, I do support H.R. 2779, as reported out of the Technology Subcommittee, because it maintains the integrity of our current metric law while providing flexibility in its interpretation.

H.R. 2779 simply provides for less costly and less intrusive ways of meeting the goals of the Metric Conversion Act in Federal construction projects.

The bill before us contains an amendment in the nature of a substitute which, as was mentioned, I offered during our Technology Subcommittee markup last week on behalf of Congressman Cox of California, who is the sponsor of H.R. 2779. That amendment reflected an agreement conducted through months of negotiations and discussions with Congressman Cox, the Majority committee staff, the Minority committee staff, the administration, and affected industries.

As amended, H.R. 2779 is a bill which balances the need for the Federal Government to maintain its current efforts to promote metric while providing for appropriate implementation of the Metric Conversion Act of 1975 in Federal construction projects. I believe it is worthy of the support of this full committee. I would urge all my colleagues to favorably report this bill to the House for its consideration.

Thank you, Mr. Chairman.

The CHAIRMAN. I thank the gentlelady.

We will now consider H.R. 2779, the Savings in Construction Act of 1996. I ask unanimous consent that the bill be considered as read and open to amendment at any point.

The CHAIRMAN. I ask the members to proceed with amendments in the order of the roster. I think we just have the one amendment.

The Chair would recognize the gentlewoman from Maryland for an amendment.

Mrs. MORELLA. Thank you, Mr. Chairman. I just have a technical amendment.

The CHAIRMAN. The Clerk will report the amendment.

The CLERK. Amendment to H.R. 2779 offered by Mrs. Morella—

The CHAIRMAN. Does the gentlelady ask unanimous consent that the amendment be considered as read?

Mrs. MORELLA. Indeed I do.

[The text of the amendment follows:]

AMENDMENT TO H.R. 2779 OFFERED BY MRS. MORELLA

Page 1, lines 16 through 18, strike "construction contracting officers are requiring as a condition of obtaining Federal" and insert in lieu thereof "agencies are requiring as a condition of obtaining Federal construction".

Page 4, line 24, through page 5, line 4, amend paragraph (8) to read as follows:

"(8) 'small business' has the meaning given the term 'small business concern' in section 3 of the Small Business Act (15 U.S.C. 632)."

Page 5, lines 5 through 19, amend section 4 to read as follows:

SEC. 4. IMPLEMENTATION EXCEPTIONS.

The Metric Conversion Act of 1975 (15 U.S.C. 205a et seq.) is amended by inserting after section 11 the following new section:

"Sec. 12. (a) In carrying out the policy set forth in section 3 (with particular emphasis on the policy set forth in paragraph (2) of that section) a Federal agency may require that specifications for structures or systems of concrete masonry be expressed under the metric system of measurement, but may not require that concrete masonry units be converted products.

"(b) In carrying out the policy set forth in section 3 (with particular emphasis on the policy set forth in paragraph (2) of that section) a Federal agency may not require that lighting fixtures be converted products unless the predominant voluntary industry consensus standards are hard-metric."

Page 5, lines 21 and 22, strike "(15 U.S.C. 205j-1), as amended" and insert in lieu thereof "as added".

Page 6, line 1, strike "(d)" and insert in lieu thereof "(c)".

The CHAIRMAN. You are recognized for 5 minutes to offer the amendment. The gentlelady is recognized for 5 minutes.

Mrs. MORELLA. Really, I don't need 5 minutes, I don't even need 1 minute, Mr. Chairman, because this amendment reflects the consensus that was arrived at when all parties came together, and it ends up being a technical amendment, which I believe all sides would approve of.

The CHAIRMAN. The gentlelady is correct. This is a technical amendment.

Is there any further discussion of the amendment?

If not, the Chair will put the question. Those in favor of the amendment say aye; those opposed, say no.

The ayes have it. The amendment is agreed to.

Are there further amendments to the bill?

Mr. EHLERS. Mr. Chairman, I don't have an amendment, but I wish to discuss the bill.

The CHAIRMAN. The gentleman is recognized.

Mr. EHLERS. Thank you, Mr. Chairman.

I would like to offer some comments on this bill. I did attend the first hearing that was held on this and participated in the hearing and the questioning.

It is absolutely essential that our Nation continue to move in the direction of the metric system. It has cost us innumerable billions of dollars that we have not done so before.

The history of this goes back to Thomas Jefferson, who recommended to the Congress that we adopt the metric system. It was a close vote. The Congress rejected it by a small margin because the cost to the Nation would be \$7 million. Since that time, that action of Congress has cost us billions upon billions of dollars.

What is often overlooked in talking about conversion to the metric system and the discussions of the cost of the conversion is the cost of not converting, the lost opportunities for commerce abroad, which has plagued some major industries in the past. Fortunately, industries are overcoming them by adopting a metric system de facto and simply saying we have to do it to compete. So when you go down to Sears and buy a tool box today, you are as likely to get metric as you are to get the English system. But that is a cumbersome and slow way to do it.

What concerned me about the testimony offered by the two industries that are asking for this relief, the lighting fixture industry and the cement block industry, is that they don't want to change at all. And I would have no problem with giving them some addi-

tional time, but I don't see a time deadline in here for ending this particular action of going to soft metric for a while.

As an example, the concrete block industry is arguing that it would cost them a lot of money to change their molds to make the small change that is needed in the size of the cement blocks. But when I asked them, "If we adopted this legislation, would you—when your molds wear out and you have to buy new molds anyway, will you put in metric molds?" And the answer is no, they want to keep things going the way they are.

Similarly with the lighting appliance industry, if they do not wish to make metric fixtures, they are thereby excluded from the world market because the rest of the world uses the metric system. I think that is something that the entire lighting industry should get into if we hope to improve our competitive position on that.

I don't have an amendment to offer, Mr. Chairman. I do plan to vote against the bill but do want to raise my objections simply because I think we have to be more aggressive in adopting the metric system in this country. And if we are going to give relief in cases where it is needed—and it does appear it is needed here—it should be with a definite cutoff date to ensure that the industries involved will eventually join the rest of the world in using the metric system.

Thank you very much.

Mr. VOLKMER. Will the gentleman yield?

Mr. EHLERS. I will be happy to yield.

Mr. VOLKMER. Did both of these industries feel then that they do not have any export market in the future, even if you change to metric?

Mr. EHLERS. I think it is fairly evident that the concrete block would not have much of an export market except near the Canadian and Mexican borders. The product is simply too heavy to transport.

The lighting appliance industry, if they come up with imaginative appliances, certainly could have an international market. In fact, we are just completing some remodeling in our house, and I am surprised at the number of fixtures that we looked at that were made in other countries and shipped into the U.S. So obviously that is an international market, and I believe the lighting industry could meet that.

Mr. VOLKMER. And that lighting industry in the other markets is made by metric. It is metric. All the others you looked at were all metric?

Mr. EHLERS. I cannot verify whether or not they were metric. There is a lot of slop in construction, as you well know, and typically they were marked in both systems of units.

Mr. VOLKMER. Thank you.

Mr. LARGENT. Mr. Chairman, I would just like to ask a couple of questions.

First of all, I can tell you, I have some reservations. I mean, when you think about converting things like an ounce of precaution prevents a pound of cure, and you give an inch, you take a mile, converting that to the metric I think is going to be very confusing to a lot of us.

But beyond that, I was going to just ask Mrs. Morella about the Section 5. It talks about the head of each executive agency that awards construction contracts shall designate a senior agency official.

Am I to understand then that we are not creating new positions that will be—I mean, is there a cost to this bill? I guess that is the bottom line.

Mrs. MORELLA. No, Mr. Largent, it would not involve any new bureaucracy. It would be the existing personnel, and this would be reflected—it is a good point—this would be reflected in the report language.

The CHAIRMAN. And no additional cost, I would say to the gentleman.

Are there any other statements?

If not, the Chair will put the question on H.R. 2779, the Savings in Construction Act of 1996. Those in favor will say aye; those opposed will say no.

In the opinion of the Chair, the ayes have it.

Mr. Tanner?

Mr. TANNER. Mr. Chairman, I move that the committee report the bill, H.R. 2779, the Savings in Construction Act of 1996, as amended.

Furthermore, I move to instruct the staff to prepare the legislative report, to make technical and conforming amendments, and that the chairman take all necessary steps to bring the bill before the House for consideration.

The CHAIRMAN. The committee has heard the motion. All in favor say aye; those opposed will say no.

The ayes have it. The motion is agreed to.

Without objection, the motion to reconsider is laid upon the table.

The gentleman from Michigan?

Mr. EHLERS. Mr. Chairman, I move, pursuant to clause 1 of Rule XX of the Rules of the House of Representatives, that the committee authorize the chairman to offer such motions as may be necessary in the House to go to conference with the Senate on the bill, H.R. 2779, the Savings in Construction Act of 1996, or a similar Senate bill.

The CHAIRMAN. The members have heard the motion. Those in favor will say aye; those opposed will say no.

The ayes have it.

This concludes the markup on H.R. 2779.

Before I adjourn today's markup though, I am going to make a statement with regard to the need to cancel this morning's hearing. That is all the business that we have before the committee, and we will have no more votes.

But I must express my disappointment that the hearing to examine research funding in the out years originally scheduled for today had to be postponed.

I first would like to commend Dr. Albert Teich of the American Association for the Advancement of Science, who stood ready to testify. I regret the cancellation but look forward to his testimony at a later date in July.

However, I was surprised on Monday when three of the four witnesses from the administration informed the committee that they

could not attend on their scheduled day of a two-part hearing, after my staff had specifically scheduled these dates to accommodate their calendars. My surprise turned to frustration when I learned that OMB is not inclined at this time to send anyone to testify.

A number of recent events led me to schedule this hearing. On May 8, Dr. Martha Krebs, the director of energy research at DOE, testified before the Subcommittee on Energy and Environment of the Science Committee. She stated that the President's proposed reductions on energy research programs were "applied in a mechanical way and that they do not represent policy."

Understandably, her comments caught my attention.

Meanwhile, Dan Goldin, the NASA Administrator, testified in the Senate and before our Space and Aeronautics Subcommittee that he has been assured by OMB not to worry about the out-year numbers.

These statements began to concern me.

Then, last week, NSF Director Neal Lane repeated in a letter to me that, "As the administration has acknowledged, detailed program-by-program decisions had not been made at this time, at the time that the budget was released."

My concern was intensified.

At the same time, the former director of OMB, Alice Rivlin, publicly maintains that the President did what the Congress asked: Developed a budget which achieves balance by 2002, as scored by the Congressional Budget Office.

However, in April CBO determined that the President's budget relies on \$67 billion in additional unspecified cuts in discretionary spending in the last 2 years beyond the specified but now disavowed cuts in 1998 through the year 2002.

Without these extra cuts, his budget leaves a deficit of \$81 billion in 2002, but the administration refuses to indicate where those reductions will be made.

This is the pattern of inconsistency which led me to call the hearing. Who are we to believe? Are the out-numbers real? If not, I repeat the appeal of some of my colleagues in the Senate who ask if the President's out-year numbers are not real, and the Administration chooses to deny the additional \$67 billion in cuts required to eliminate the deficit, "then we must respectfully suggest that you cease referring to the President's plan as a balanced budget." That is a quote by the Senate.

Or do we believe the President when he says his budget is balanced? If so, the administration officials must acknowledge the deep cuts President Clinton has already proposed in basic research in the next 6 years and must specify where the additional \$67 billion in cuts will fall.

Despite today's setback, it is with optimism that I intend to reschedule this hearing for July. Only after we are able to sort through the conflicting claims made by agency heads and the White House officials can we begin to examine the real effect of the out-year numbers and what those out-year numbers will mean in civilian research and development.

After all, if we are truly concerned about the future of science,
we must have a thoughtful planning about the future.

With that, this hearing is adjourned.

[Whereupon, at 1:42 p.m., the committee was adjourned.]

