In that event, the most likely course is that the Congress would feel compelled to act and try to gain control through the imposition of import restraints. Needless to say, this does nothing to increase the relative productivity of either foreign or American producers.

Sooner or later the Justice Department or the Congress will decide to act. The danger is that if it is later, it may be too late.

ORDER TO RECESS UNTIL 9:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9:30 a.m. tomorrow.

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

ORDER TO VITIATE SPECIAL ORDERS FOR TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the two orders for the recognition of Senators on tomorrow be vitiated.

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

ORDER FOR CONSIDERATION OF MASS TRANSIT BILL TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, after the two leaders are recognized under the standing order tomorrow, the Senate proceed to the consideration of the mass transit bill, Calendar Order No. 788.

Mr. BAKER. Mr. President, reserving the right to object, I shall not object. This item is cleared on our calendar for consideration tomorrow. My calendar shows a notation of "hold budget." I understand that that, instead, refers to an amendment by members of the Budget Committee, rather than a budget waiver.

Mr. ROBERT C. BYRD. That is my understanding.

Mr. BAKER. With that understanding, Mr. President, we have no objection to the request.

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

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished minority leader.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 9:30 a.m. tomorrow morning.

The motion was agreed to; and at 10:01 p.m., the Senate recessed until Thursday, September 28, 1978 at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate September 27, 1978:

THE JUDICIARY

B. Avant Edenfield, of Georgia, to be U.S. district judge for the southern district of Georgia vice Alexander A. Lawrence, retired.

Donald E. O'Brien, of Iowa, to be U.S. district judge for the northern and southern districts of Iowa vice William C. Hanson, retired.

CALIFORNIA DEBRIS COMMISSION

Col. John Miley Adsit, [redacted], U.S. Army, to be a member of the California Debris Commission, under the provisions of section 1 of the Act of Congress approved 1 March 1893 (27 Stat. 507) (33 U.S.C. 661), vice Col. Henry Augustus Flertzheim, Jr., reassigned.

CONFIRMATIONS

U.S. INTERNATIONAL TRADE COMMISSION

Paula Stern, of the District of Columbia, to be a member of the U.S. International Trade Commission for the term expiring June 16, 1987.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Stanford G. Ross, of the District of Columbia, to be commissioner of social security of the Department of Health, Education, and Welfare.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

HOUSE OF REPRESENTATIVES—*Wednesday, September 27, 1978*

The House met at 10 a.m.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

God has not given us the spirit of fear; but of power, and of love, and of a sound mind.—II Timothy 1: 7.

Eternal God, our Father, who has been the strength of your people in every age and who is our strength in this present hour, come anew into our hearts as we worship You in spirit and in truth. May this moment of prayer make us so aware of Your presence that we can face the duties of this day with courage and good will. Fill our minds with truth, our hearts with faith, and our hands with gracious deeds that we may walk in straight paths toward clear goals for the best interests of our beloved country and the greater good of our world. For Your name's sake. Amen.

THE JOURNAL

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

Without objection, the Journal stands approved.

There was no objection.

MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Marks, one of his secretaries, who also informed the House that on September 22, 1978 the President approved and signed bills of the House of the following titles:

H.R. 8112. An act to repeal chapter 27 of title 44 United States Code;

H.R. 9471. An act to amend title 5, United States Code, to provide that Japanese-Americans shall be allowed civil service retirement credit for time spent in World War II internment camps;

H.R. 12915. An act to amend section 2301 of title 44, relating to the National Archives Trust Fund Board; and

H.R. 13087. An act to authorize the issuance of substitute Treasury checks without undertakings of indemnity, except as the Secretary of the Treasury may require.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11302) entitled "An act to authorize appropriations for environmental research, development, and demonstrations for the fiscal year 1979, and for other purposes".

The message also announced that the Senate receded from its amendment to a bill of the House of the following title:

H.R. 1445. An act conferring jurisdiction upon the U.S. Court of Claims to hear, determine, and render judgment upon the claim of Commander Edward White Rawlins, U.S. Navy (retired).

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate to a bill of the House of the following title:

H.R. 10126. An act to amend title 5, United States Code, to establish a program to increase part-time career employment within the civil service.

The message also anounced that the Senate agrees to the amendments of the House with an amendment to a bill of the Senate of the following title:

S. 2704. An act to promote a more adequate and responsive national program of water research and development, and for other purposes.

The message also announced that the Senate insists on its amendment to the bill of the House (H.R. 8200) entitled "An act to establish a uniform law on the subject of bankruptcies," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. EASTLAND, Mr. DECONCINI, Mr. BIDEN, Mr. THURMOND, and Mr. WALLOP, to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 10173) entitled "An act

Statements or insertions which are not spoken by the Member on the floor will be identified by the use of a "bullet" symbol, i.e., ●

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

to amend title 38, United States Code, to improve the pension programs for veterans, and survivors of veterans, of the Mexican border period, World War I, World War II, the Korean conflict, and the Vietnam era, and for other purposes," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. CRANSTON, Mr. TALMADGE, Mr. RANDOLPH, Mr. STONE, Mr. DURKIN, Mr. MATSUNAGA, Mr. STAFFORD, Mr. THURMOND, and Mr. HANSEN to be the conferees on the part of the Senate.

The message also announced that the Senate further disagrees to the amendments of the House to the bill (S. 1566) entitled "An act to amend title 18, United States Code, to authorize applications for a court order approving the use of electronic surveillance to obtain foreign intelligence information," agrees to a conference requested by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. KENNEDY, Mr. ABOUREZK, Mr. METZENBAUM, Mr. BAYH, Mr. BIDEN, Mr. MORGAN, Mr. HATHAWAY, Mr. THURMOND, Mr. SCOTT, Mr. GARN, Mr. MATHIAS, and Mr. WALLOP, to be the conferees on the part of the Senate.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 2493) entitled "An act to amend the Federal Aviation Act of 1958, as amended, to encourage, develop, and attain an air transportation system which relies on competitive market forces to determine the quality, variety, and price of air services, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. CANNON, Mr. MAGNUSON, Mr. STEVENSON, Mr. FORD, Mr. STEVENS, Mr. SCHMITT, and Mr. DANFORTH to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1398. An act for the relief of Jin Suk Park;

S. 1778. An act for the relief of Luzbella Y. Imasa, doctor of medicine;

S. 2315. An act for the relief of Savita Nandini;

S. 2451. An act for the relief of Tso Tung Tang;

S. 2670. An act for the relief of Janet Abraham, also known as Janet Susan Abraham;

S. 2834. An act for the relief of Kyung Hee Kim, Dong Choon Kim, and Dong Ho Kim;

S. 2841. An act for the relief of Yang Soo Ko;

S. 3106. An act for the relief of Debbie Agatta Hepburn; and

S. 3169. An act for the relief of Rocio Edmondson.

INCREASED INSURANCE BENEFITS FOR MEMBERS

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

Mr. GLICKMAN. Mr. Speaker, last night's Washington Star carried an article which caused me considerable concern. The article noted passage of a bill, H.R. 14125, to provide special treatment for retiring Members of Congress with regard to conversion of their insurance benefits.

To be quite frank, I am not sure if the bill is a good one or not. I intend to look into that today. But regardless of the bill's merits, I think there is something fundamentally unfair about bringing a bill like this upon the floor under a unanimous-consent procedure without any hearings or advance notice to Members and on the same day the bill was introduced. We are going to be held accountable to our constituents and not too far down the road. We need to be able to respond to their questions, and you can be sure that articles like the one in last night's Star will prompt questions.

I would urge the leadership to be particularly careful in bringing up bills under unanimous consent that affect the benefits of Members of this body. Regardless of their merits, handling of bills of that type in such an off-the-cuff manner cannot help but look bad to the American taxpayer.

FAREWELL AND GOOD LUCK TO THE HONORABLE SHIRLEY N. PETTIS

(Mr. JOHNSON of Colorado asked and was given permission to address the House for 1 minute.)

Mr. JOHNSON of Colorado. Mr. Speaker, I take the well to inform my colleagues that this will be the last day on which our colleague, the gentlewoman from California, SHIRLEY N. PETTIS, will be with us.

Under doctor's orders, she will be leaving tomorrow and will not be able to return. Therefore, I expect that most of my colleagues would like to know that and would like to wish SHIRLEY farewell, and good luck, and Godspeed. She came to the Congress under particularly trying circumstances. She has proved to be a gallant woman and a competent, able, Congressperson.

Mr. Speaker, I know that all of the Members will join me in wishing Congresswoman SHIRLEY N. PETTIS a fond farewell.

THE NATIONAL WOMEN'S CONFERENCE, A TURNING POINT IN AMERICAN WOMEN'S LONG STRUGGLE FOR EQUALITY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 95–387)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying paper, referred to the Committee of the Whole House on the State of the Union and ordered to be printed:

To the Congress of the United States:

By mandating International Women's Year, Congress set in motion a series of fifty-two regional meetings that brought together women of all races, incomes, ethnic backgrounds and religious beliefs to consider the major issues confronting women. The culmination of International Women's Year was the National Women's Conference held in Houston on November, 1977. That conference was a turning point in American Women's long struggle for equality. In Houston, delegates elected at the regional meetings developed the *National Plan of Action*—a national agenda to achieve women's full rights and equality.

In response to the Plan's recommendations, the Administration has reviewed our programs designed to improve the opportunities for women. This Message summarizes the results of that review and forwards to the Congress the more detailed status report on Administration action on the IWY resolutions.

A keystone toward achieving equality for women would be the addition of the Equal Rights Amendment to the Constitution. By passing this Amendment, the Congress recognized the need to provide Constitutional guarantees against discrimination on the basis of sex. More than any other single act, ratification of the Equal Rights Amendment will affirm the right of women to participate fully in American life. To ensure that women do not lose the opportunity to secure that precious right, the deadline for ratification should be extended.

Because I feel very strongly about women's equality, I sent a memorandum last month to the heads of all departments and agencies. In that Memorandum, I directed the head of each department and agency (1) to emphasize the Administration's commitment to the Equal Rights Amendment; (2) to review the Federal Women's Program in their agency or department to determine how it can be strengthened; (3) to designate a policy-level representative from their agency or department to serve on the Interdepartmental Task Force on Women; and (4) to provide adequate staff for that representative.

However, we must not stop here. We must make every effort to help women assume their rightful place in every part of American life. This is in the national interest, for we cannot meet the important challenges of the coming decades without full participation of all our citizens, including women.

As President, I have acted upon my firm commitment to equity for women in my appointments, programs, and policies. I believe that the Federal government should serve as a model of nondiscrimination, and I shall continue to take steps toward that goal. In my Administration, women are serving in the Cabinet and at all levels of government. Still, much more remains to be done. That is why I have set in motion the Interdepartmental Task Force on Women, National Advisory Committee for Women, other key task forces, and departmental studies to recommend additional action.

My Administration is dedicated to eliminating discrimination against women. Among the crucial issues which demand our attention:

Passage of the Equal Rights Amendment and the Resolution for Extending the Deadline for Ratification;

Passage of pending legislation which improves the status of women as recommended in this report;

Enforcement of all civil rights laws, particularly Title IX of the Education Amendments of 1972, which prohibits sex discrimination in Federally-financed education programs; and

Development of improved statistical information to permit adequate evaluation of the impact of Federal programs and practices on women.

THE STATUS REPORT

International Women's Year helped raise the expectations and conciousness of American women, who now look to government, private industry, and the community for bold and energetic responses. In accepting the final report of the National Commission for International Women's Year, I reaffirmed my commitment to equality for women and my determination to help keep the spirit of Houston alive. At that time, I directed that a status report be prepared on the Administration's initial steps to implement the *National Plan of Action*. Today I am pleased to present that report with my recommendations to the Congress.

To assess our progress toward the goals described in the *National Plan of Action*, each department and agency was asked to report all current legislative and executive actions reflecting the aims and spirit of Houston. More than three hundred women, both from inside and outside the Federal Government, and representing a wide range of interests, reviewed the agency surveys. Many of their suggestions were incorporated into the final report, and I am grateful for their help.

A set of detailed recommendations for implementation of the *National Plan of Action* separate from this report was developed as part of this work. I shall transmit these recommendations to the Interdepartmental Task Force on Women and the National Advisory Committee for Women for review and advice.

Part I of the report sets forth those portions of the *Plan's* twenty-six resolutions calling for Federal action, and indicates the major Administration legislative and executive initiatives in the first eighteen months in those areas. In the months ahead we shall continue to *start* new initiatives to improve equity for women in areas included in *The Plan of Action* and beyond. Part II of the report describes other legislative measures which represent efforts to approach these issues in different ways.

REPORT HIGHLIGHTS

The report summarizes more than seventy-five important initiatives taken during the first eighteen months of this Administration to provide greater equity for women. These include new laws and programs, increased funding, and improved administration in areas addressed by the *National Plan of Action*. Let me highlight some of our major steps:

More than 21 percent of my appointments within the White House and the executive branch have been women, an all-time high for any Administration. In response to my instructions, Cabinet members and agency heads also sought out and appointed women to important positions. We shall continue to do so.

My Administration has acted:

(1) to improve Federal employment opportunities for women;

(2) to examine and make recommendations to address the problems women business owners face in obtaining Federal grants and contracts:

(3) to enforce existing civil rights laws (*i.e.*, The Equal Credit Opportunity Act of 1974, the Fair Housing Act, Title IX of the Education Amendments of 1972, and The Civil Rights Act of 1964);

(4) to improve the collection and dissemination of data on the status of women and

(5) to increase funding and visibility of programs serving women's needs.

My Reorganization Plan #1 of 1978, a major reorganization effort of the Administration, strengthens and consolidates within the Equal Employment Opportunity Commission Federal enforcement of laws and executive orders against job discrimination based on sex and race.

I have signed and am fully implementing several important new laws—Protection of Children Against Sexual Exploitation Act of 1977, The Child Abuse Prevention and Treatment and Adoption Reform Act of 1978, the Social Security Amendments of 1977, and The Age Discrimination in Employment Act Amendments of 1978.

My Administration in its first eighteen months has initiated and supported legislation aimed at meeting the needs of women in many areas identified in the *National Plan of Action*. I urge Congress to act upon this legislation quickly.

Some of the resolutions in the *National Plan of Action* require structural as well as policy changes. My Administration has developed new operations to improve the Federal government's response to women's needs:

The Interdepartmental Task Force on Women and the National Advisory Committee for Women were created by Executive Order in March, 1978, to advise me of additional action necessary to implement the *Plan of Action*.

The Department of Justice Task Force on Sex Discrimination is working with each agency to survey and eliminate sex discrimination from programs and procedures throughout the Federal government. The Task Force will recommend needed changes in existing laws.

The Interdepartmental Task Force on Women Business Owners, coordinated by the Department of Commerce, has identified barriers to business ownership for women and has made recommendations to remove them. On July 10, 1978, I asked my Cabinet to respond to the Task Force recommendations.

The Department of Commerce Office of Federal Statistical Policy and Standards was established to coordinate data collection and to set guidelines and definitions for demographic variables.

During my Administration, other Federal programs designed to meet the needs of women have been expanded:

The Women's Bureau in the Department of Labor, which focuses on the needs of women in the labor force, was upgraded, giving the Bureau Chief direct access to the Secretary of Labor. The Women's Bureau provides support for the Interdepartmental Task Force on Women and the National Advisory Committee for Women, operates significant programs designed to serve women, and publishes information on employed women.

The Federal Women's Program which is in the Office of the Chairman of the Civil Service Commission, aides Federally-employed women. In conjunction with the Federal Women's Task Force on the U.N. Decade for Women, the Federal Women's Program is playing a more active and visible role in shaping Federal employment policy.

The National Advisory Council on Women's Educational Programs is a Presidentially-appointed council which makes recommendations to Federal officials on equity for women and girls in education. During my Administration, the Council has been given an expanded mandate to help implement laws prohibiting sex discrimination in Federally-assisted education programs.

These are only a few high points of the report which surveys our progress over the past eighteen months. My Administration has been able to achieve this record in large part because of the unstinting efforts of the many dedicated women within the Government. For these efforts I am grateful.

RECOMMENDATIONS TO THE CONGRESS

For 131 years after the ratification of the U.S. Constitution, American women could not vote. Since women's suffrage in 1920, there has been considerable progress in legislative and executive action to provide equity for women. That progress has accelerated in my Administration. From 1923 to 1972, the Equal Rights Amendment languished in Congress. In 1972, Congress took a bold and affirmative step to guarantee equal rights for women. It only remains for three more states to join the majority of our Nation in passing this historic amendment. ERA must be passed not only for ourselves, but to free our sons and daughters to participate fully in our Nation's future.

Our Nation benefits when women, as well as men, are freed from stereotypes and given a broader range of choices. Our Nation benefits when all women may enter the mainstream of American life, and their talents and abilities are valued and rewarded. Our Nation benefits when the freedom of all Americans is enhanced by greater freedom for American women. We can increase this freedom.

I ask you now to join with me in guaranteeing full equity for women in the United States, and to pass in an acceptable form without delay:

—H.J. Res. 638 and S.J. Res. 134 *Extension of the Deadline for Ratification of the Equal Rights Amendment.*

—H.R. 11086 (H.R. 12452) and S. 2570 *Comprehensive Employment and Training Act.*

—H.R. 50 and S. 50 *Full Employment and Balanced Growth Act of 1978 (Humphrey-Hawkins Bill).*

—H.R. 6075 and S. 995 *Pregnancy Disability Act.*

—H.R. 11280 and S. 2640 *Civil Service Reform Act.*

—H.R. 9030 (H.R. 19050) and S. 2084 *Better Jobs and Income Act (Welfare Reform).*

These bills, which are pending before Congress, will greatly enhance the civil rights, employment and economic opportunities of women. Extension of the Deadline for Ratification of the Equal Rights Amendment recently passed the House by an overwhelming majority. I congratulate the House and call upon the Senate to take similar action. The Equal Rights Amendment is needed as a constitutional protection against discrimination on the basis of sex. The Comprehensive Employment and Training Act (CETA) and the Better Jobs and Income Act (Welfare Reform), will, among other things, enable employment training and support services for displaced homemakers and low income women. In addition, CETA will protect against sex role stereotyping in Federal training programs and sex discrimination in placement in Federally-subsidized jobs. The Civil Service Reform Act and the Humphrey-Hawkins Bill will improve employment opportunities for the most recent entrants to the labor market—women and youth. And, the Pregnancy Disability Act, which is now in conference, will protect the health benefits of pregnant workers by making it unlawful for employers to discriminate on the basis of sex.

Through enactment of these bills in the appropriate form, we ensure continued progress toward the goal of full equality so that future generations of Americans—male and female—have choices and opportunities not fully realized today.

JIMMY CARTER.

THE WHITE HOUSE, *September 27, 1978.*

FURTHER LEGISLATIVE PROGRAM

(By unanimous consent, Mr. WRIGHT was allowed to proceed out of order.)

Mr. WRIGHT. I take this time, Mr. Speaker, to discuss our plans for legislative sessions during the following 2-week period and to ask at the end two unanimous-consent requests. It is the plan of the leadership that on next Monday, October 2, we will have general debate only. On Tuesday, October 3, we will take up 20 or more suspensions, but assuming unanimous consent is granted, rollcall votes on those shall be put over until the following day, Wednesday, October 4.

The purpose of that, of course, is to accommodate those Members of the House for whom these 2 days are high religious holy days. Then on Monday, October 9, a national holiday, Columbus Day, the House will not be in session.

On Tuesday, October 10, we will have a regular session, but will not have any votes after 4 o'clock p.m., this again in recognition of the high religious holy day of Yom Kippur which begins at sundown on Tuesday, October 10. There will be no votes after 4 o'clock on Tuesday, October 10.

On Wednesday we will have a session and hope to achieve as much business as can be achieved, but I shall also ask unanimous consent that any votes which otherwise would occur on Wednesday, October 11, be postponed until the following day, Thursday, October 12.

Mr. Speaker, I do at this moment ask unanimous consent that any rollcall votes scheduled for Tuesday, October 3, may be postponed until Wednesday, October 4, and that any rollcall votes scheduled for Wednesday, October 11, may be postponed until October 12.

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

Mr. BAUMAN. Reserving the right to object, I would like to ask the majority leader whether or not this announcement of schedule in any way changes the previous statement that he made about the intention of the leadership to adjourn the Congress on or about October 14.

Mr. WRIGHT. If the gentleman will yield, absolutely not. It is our firm intention to utilize these days as effectively as we can to dispose of as much debate and general business of the House as possibly can be done, therefore, not losing the time entirely but respecting the religious convictions of our Members who want to observe these high holy days.

Mr. BAUMAN. The gentleman from Texas, I think, earlier told the House that it was his intention at some point to meet with the minority leadership and decide upon the remaining legslation that would be called up as priority matters. It occurs to me that if we are scaling down the number of remaining legislative days, and in fact setting 2 days with essentially nothing but debate, I am not quite sure what legislation remains that could be handled in this remaining time. We might better consider adjourning sine die earlier instead of just having meaningless debate for 2 days on legislation that might never see the light of day.

Mr. WRIGHT. If the gentleman will yield further, with respect to his first observation, there have been meetings between the Speaker and the majority leader and the minority leader to discuss remaining business. In regard to the second observation, it still is our plan, our intention, and our hope that we shall be able to complete the business of the Congress and to adjourn sine die on Saturday, October 14. It is my opinion, buttressed by advice and expressions I have received from numerous Members on both sides of the aisle, that it would serve the convenience and the wishes of the membership if, indeed, we can finish and be done with it rather than having to come back into a postelection session.

So it is to that end that we are trying to advise Members of what plans the House would pursue and ask their cooperation in utilizing the time as effectively as we can, while still respecting the religious convictions of our Members who want to observe these religious holidays.

Mr. BAUMAN. Mr. Speaker, I would like to say to the gentleman that a sine die adjournment is something to be devoutly wished by not only the Congress, but the country at large.

Does the majority plan any Saturday sessions in view of these shortened weeks?

Mr. WRIGHT. Mr. Speaker, if the gentleman will yield further, in response to the gentleman's question, there is no immediate plan for Saturday sessions, save and except for the probability of a session on Saturday, October 14, at which time we ardently hope we shall be able to adjourn the Congress; but I would not foreclose any possibility of a Saturday session, if by having one we can serve the end purpose of a sine die adjournment.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman for that elucidation.

Mr. Speaker, I withdraw my reservation of objection.

Mr. MILLER of Ohio. Mr. Speaker, reserving the right to object, and I shall not object.

I understood from the remarks by the majority leader that rollcall votes called for on the 3d will be taken on the 4th, and the rollcall votes called for on the 11th will be taken on the 12th; also, there will be no rollcall votes on Monday, the 2d, but I did not understand when those votes would be taken if they were called for.

Mr. WRIGHT. Mr. Speaker, if the gentleman will yield, in response to the gentleman's question, votes that otherwise would occur on Monday, the 2d, just like the votes which otherwise would occur on Tuesday, October 3, would have to be taken on Wednesday, October 4.

Mr. MILLER of Ohio. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair would like it thoroughly understood that if there are procedural votes on those days, we would have to take the procedural votes; for example, resolving into Committee of the Whole; if there were an objection to going into Committee, that would be a procedural vote and the Chair would put the question upon that procedural vote at that time. Otherwise, any other votes, other than votes on procedural matters, I would hope, would be covered by the agreement under the unanimous-consent request of the gentleman.

Mr. ASHBROOK. Mr. Speaker, reserving the right to object, on the observation of the Speaker, which is absolutely correct, I think all of us agree with the majority leader on the need to expedite business as much as possible in the next 2 weeks. I think all of us will cooperate to that end. Hopefully, the schedule will be pared down a little bit. I know at the last minute everybody has something they want to bring before the House. With mutual cooperation, I think we can keep procedural votes to a minimum and expedite business to accommodate those who want to be home.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the majority leader?

There was no objection.

ETHICS IN GOVERNMENT ACT OF 1977

Mr. DANIELSON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 1) to require candidates for Federal office, Members of the Congress, and officers and employees of the United States to file statements with the Comptroller General with respect to their income and financial transactions.

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

The question was taken; and the Speaker announced that the ayes appeared to have it.

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

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 365, nays 6, answered "present" 3, not voting 58, as follows:

[Roll No. 840]

YEAS—365

Abdnor	Carr	Flippo
Addabbo	Carter	Flood
Akaka	Cavanaugh	Florio
Alexander	Cederberg	Flynt
Ambro	Chisholm	Foley
Anderson, Calif.	Clausen, Don H.	Ford, Mich.
Andrews, N.C.	Clawson, Del	Ford, Tenn.
Andrews, N. Dak.	Clay	Forsythe
Annunzio	Cleveland	Fountain
Applegate	Cohen	Fowler
Archer	Coleman	Fraser
Ashbrook	Conable	Frenzel
Ashley	Conte	Frey
Aspin	Corcoran	Fuqua
AuCoin	Corman	Gammage
Badham	Cornell	Garcia
Bafalis	Cornwell	Gaydos
Baldus	Cotter	Gephardt
Barnard	Coughlin	Gibbons
Baucus	Cunningham	Gilman
Bauman	D'Amours	Ginn
Beard, R.I.	Daniel, Dan	Glickman
Beard, Tenn.	Daniel, R. W.	Gonzalez
Bedell	Danielson	Gore
Bellenson	Davis	Gradison
Benjamin	de la Garza	Grassley
Bennett	Delaney	Green
Bevill	Dellums	Gudger
Biaggi	Dent	Guyer
Bingham	Derrick	Hagedorn
Blanchard	Derwinski	Hall
Blouin	Devine	Hamilton
Boland	Dicks	Hanley
Bonior	Dodd	Hannaford
Bowen	Dornan	Harkin
Brademas	Downey	Harris
Breaux	Drinan	Harsha
Breckinridge	Duncan, Oreg.	Hawkins
Brinkley	Duncan, Tenn.	Heckler
Brodhead	Early	Hefner
Brooks	Eckhardt	Hightower
Broomfield	Edgar	Hillis
Brown, Calif.	Edwards, Ala.	Holland
Brown, Mich.	Edwards, Calif.	Hollenbeck
Brown, Ohio	Edwards, Okla.	Holt
Broyhill	Eilberg	Holtzman
Burgener	Emery	Horton
Burke, Fla.	English	Howard
Burke, Mass.	Erlenborn	Huckaby
Burleson, Tex.	Ertel	Hughes
Burlison, Mo.	Evans, Ga.	Hyde
Burton, John	Evans, Ind.	Ichord
Burton, Phillip	Fary	Jacobs
Butler	Fascell	Jeffords
Byron	Fenwick	Jenkins
Caputo	Findley	Jenrette
Carney	Fisher	Johnson, Calif.
	Fithian	Johnson, Colo.
		Jones, N.C.
Jones, Okla.	Murphy, Ill.	Sisk
Jones, Tenn.	Murphy, Pa.	Skelton
Jordan	Murtha	Skubitz
Kasten	Myers, Gary	Smith, Iowa
Kastenmeier	Myers, John	Smith, Nebr.
Kazen	Myers, Michael	Snyder
Kelly	Natcher	Solarz
Keys	Neal	Spellman
Kildee	Nedzi	Spence
Kindness	Nichols	St Germain
Kostmayer	Nolan	Staggers
Krebs	Nowak	Stangeland
Lagomarsino	O'Brien	Stanton
Le Fante	Oakar	Stark
Leach	Oberstar	Steed
Lederer	Obey	Steers
Lent	Ottinger	Steiger
Levitas	Panetta	Stockman
Livingston	Patten	Stratton
Lloyd, Tenn.	Patterson	Studds
Long, Md.	Pease	Stump
Lott	Perkins	Symms
Lujan	Pickle	Taylor
Luken	Pike	Thompson
Lundine	Poage	Thornton
McClory	Pressler	Traxler
McCloskey	Price	Treen
McCormack	Pritchard	Trible
McDade	Pursell	Tucker
McDonald	Quie	Udall
McEwen	Quillen	Ullman
McFall	Rahall	Van Deerlin
McHugh	Railsback	Vander Jagt
Madigan	Rangel	Vanik
Maguire	Regula	Vento
Mahon	Reuss	Volkmer
Mann	Rhodes	Waggonner
Markey	Richmond	Walgren
Marks	Rinaldo	Walker
Marlenee	Roberts	Walsh
Marriott	Robinson	Wampler
Martin	Rodino	Watkins
Mattox	Roe	Waxman
Mazzoli	Rogers	Weaver
Meeds	Roncalio	Weiss
Metcalfe	Rooney	Whalen
Meyner	Rose	White
Michel	Rosenthal	Whitehurst
Mikva	Rostenkowski	Whitley
Milford	Rousselot	Whitten
Miller, Ohio	Roybal	Wilson, C. H.
Mineta	Rudd	Wilson, Tex.
Minish	Runnels	Winn
Mitchell, N.Y.	Russo	Wirth
Moakley	Ryan	Wolff
Moffett	Santini	Wright
Mollohan	Satterfield	Wydler
Montgomery	Sawyer	Wylie
Moore	Scheuer	Yates
Moorhead, Calif.	Schroeder	Yatron
Moorhead, Pa.	Schulze	Young, Fla.
Moss	Sharp	Young, Mo.
Mottl	Shuster	Zablocki
	Sikes	Zeferetti

NAYS—6

Collins, Tex.	Hammer-schmidt	Quayle
Dingell	Lloyd, Calif.	
Goodling		

ANSWERED "PRESENT"—3

Evans, Del.	Mikulski	Wilson, Bob

NOT VOTING—58

Ammerman	Hansen	Pepper
Anderson, Ill.	Harrington	Pettis
Armstrong	Heftel	Preyer
Boggs	Hubbard	Risenhoover
Bolling	Ireland	Ruppe
Bonker	Kemp	Sarasin
Buchanan	Krueger	Sebelius
Burke, Calif.	LaFalce	Seiberling
Chappell	Latta	Shipley
Cochran	Leggett	Simon
Collins, Ill.	Lehman	Slack
Conyers	Long, La.	Stokes
Crane	McKay	Teague
Dickinson	McKinney	Thone
Diggs	Mathis	Tsongas
Evans, Colo.	Miller, Calif.	Wiggins
Fish	Mitchell, Md.	Young, Alaska
Flowers	Murphy, N.Y.	Young, Tex.
Giaimo	Nix	
Goldwater	Pattison	

Mr. D'AMOURS changed his vote from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 1, with Mr. BOLAND in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, September 20, 1978, title II of the amendment in the nature of a substitute offered by the gentleman from California (Mr. DANIELSON) H.R. 13850, which is being read as an original bill for the purpose of amendment, had been considered as having been read and open to amendment at any point.

Are there any further amendments to title II?

AMENDMENTS OFFERED BY MRS. SCHROEDER

Mrs. SCHROEDER. Mr. Chairman, I offer amendments to title II.

Mr. Chairman, I ask unanimous consent that amendments 2, 3, 5, and 6, be considered en bloc, in that they are technical amendments and could be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Colorado?

Mr. HARRIS. Reserving the right to object, Mr. Chairman, may I ask the gentlewoman from Colorado this question: I know she is familiar with the amendments I have with respect to page 21, line 11. Would the gentlewoman's amendments in any way foreclose the offering of those amendments by me?

Mrs. SCHROEDER. Absolutely not.

Mr. HARRIS. Mr. Chairman, I thank the gentlewoman, and I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mrs. SCHROEDER:

Page 32, line 25, strike the period and insert in lieu thereof ", if the reporting is an officer or employee of the agency at the time the application is received."

Page 33, after line 23, insert the following: "Such remedy shall be in addition to any other remedy available under statutory or common law.".

Page 35, line 6, after "part." insert "Section 205 (a), (b), and (d) shall not apply with respect to any such report.".

Page 35, after line 18, insert the following:

AUTHORITY OF COMPTROLLER GENERAL

SEC. 208. The Comptroller General shall have access to financial disclosure reports filed under this part for the purposes of carrying out his statutory responsibilities.

Page 35, line 20, strike out "208." and insert in lieu thereof "209.".

Page 36, line 2, strike out "209." and insert in lieu thereof "210."

Mrs. SCHROEDER (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD, and I further ask unanimous consent that where amendment No. 2 reads "Page 32, line 25," that line number "25" be changed to read "line 21," and that the word "individual" be inserted in the amendment after the word "reporting."

The CHAIRMAN. Is there objection to the requests of the gentlewoman from Colorado?

There was no objection.

Mrs. SCHROEDER. Mr. Chairman, the amendment to page 32 (No. 2) is a technical amendment suggested by the administration. This amendment simply removes the requirement in the substitute that former executive branch employees be tracked down—even 5 years after they have left their jobs—to tell them that somebody has inspected a report they once filed.

The bookkeeping which would now be required by the bill is tremendous. This amendment corrects this oversight.

The amendment to page 33 (No. 3) is explained as follows:

This amendment is a clarifying amendment which evolved from a question I asked Russell T. Baker of the Department of Justice when he was testifying before my Subcommittee on Employee Ethics and Utilization on June 16, 1977, (see Post Office and Civil Service Committee hearings, Serial No. 95-19).

The amendment makes it clear that the Attorney General's authority to sue a person who unlawfully uses a financial disclosure report does not preempt a cause of action by any other person who suffers damage through the unlawful use.

The conversation with Mr. Baker and a paragraph from a followup letter from him (also printed in the hearings) further explain the intent of the amendment. They follow:

Mrs. SCHROEDER. Let me ask some more questions—

On pages 11 and 12 section, 105c(2) of H.R. 6954, that section says that "an unlawful use of disclosure statements would invoke a civil action by the Attorney General for up to $5,000." My question is, Will that section preempt a civil action by whomever's disclosure statement it was that was illegally used? Is the Justice Department attempting to preempt actions by the employees whose disclosure statement was inadequately or unlawfully used?

Mr. BAKER. I had never thought of that before. I wouldn't think that that would be the purpose behind that provision. If you like, I can look into that with the staff assistants and give you a firm answer. That is not my understanding.

The paragraph of the letter follows:

As I indicated in my testimony, I am not aware of any intention on the part of the Administration to preempt any private rights of action which may exist for employees whose disclosure statements are used for an unlawful purpose. H.R. 6054, does give the Attorney General a civil right of action for abuse of disclosure statements, but this provision is intended to be an additional remedy, not an exclusive one.

The amendment to page 35, line 6 (No. 5) is explained as follows:

Mr. Chairman, this is an amendment to clear up an ambiguity present in the bill which is unintentional.

Section 205 requires all reports filed pursuant to the part to be made public. Section 207 of the part, however, authorizes confidential reports. This amendment simply clears up the resultant ambiguity by providing that reporting required by 207 may not be made public under section 205.

The amendment to page 35, (No. 6) after line 18, is explained as follows:

(Access of Comptroller General to reports.)

This amendment assures that the General Accounting Office will have access to reports filed under part A of title II of the Ethics in Government Act.

Two categories of forms will be filed under this part. First, the publicly available forms. Second, the confidential forms which may be required by section 207 of the part.

The Comptroller General can obviously obtain public forms by filling out an application for them under section 205(b) of the act. However, because the Ethics in Government Act intends to supercede the requirements of the Privacy Act of 1974 (5 U.S.C. 552a), the Comptroller General's authority, under 5 U.S.C. 552a(b)(10) to obtain copies of confidential statements without permission of filing individuals, if at all, is rather hazy.

I believe my amendment meets this issue properly. It permits, with regard to either public or confidential disclosure statements, that the Comptroller General have simple access, without notice or permission, so that he may carry out his responsibilities.

The CHAIRMAN. The question is on the amendments, as modified, offered by the gentlewoman from Colorado (Mrs. SCHROEDER).

The amendments, as modified, were agreed to.

AMENDMENT OFFERED BY MR. HYDE

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

The Clerk read as follows:

Amendment offered by Mr. Hyde: On page 44 of the substitute, insert the following after line 9:

PART C—SPECIAL PROSECUTOR

SPECIAL PROSECUTOR

SEC. 226. (a) Title 28 of the United States Code is amended by inserting immediately after chapter 37 the following new chapter:

"Chapter 39—SPECIAL PROSECUTOR

"Sec.
"591. Appointment.
"592. Prosecutorial jurisdiction; authority.
"593. Removal or termination.
"594. Final report; congressional oversight.
"595. Presentations by Attorney General and Solicitor General.
"596. Special panel of the court.
"597. Termination of effect of chapter.

"§ 591. Appointment

"(a) Upon receiving any specific information that any of the persons described in subsection (c) of this section has—

"(1) knowingly authorized or engaged in any Federal criminal act or omission involving the abuse of Federal office;

"(2) knowingly authorized or engaged in any act or omission constituting a violation of any Federal criminal law regulating the financing or conduct of elections or election campaigns; or

"(3) violated any Federal criminal law relating to the obstruction of justice or perjury, or conspired to violate any such Federal criminal law or to defraud the United States;

the Attorney General shall conduct, for a period not to exceed sixty days, such preliminary investigation as the Attorney General deems appropriate to ascertain whether the matter under investigation is so unsubstantiated that no further investigation or prosecution is warranted.

"(b) Upon receiving any specific information that any of the persons described in subsection (c) of this section has committed a violation of the Ethics in Government Act of 1977, as set forth in section 204 of such Act, the Attorney General shall apply to the special panel of the court for the appointment of a special prosecutor.

"(c) The persons referred to in subsections (a) and (b) of this section are as follows:

"(1) The President or Vice President.

"(2) Any individual serving in a position compensated at level I of the Executive Schedule under section 5312 of title 5 of the United States Code.

"(3) Any individual working in the Executive Office of the President and compensated at a rate not less than the rate provided for level IV of the Executive Schedule under section 5315 of title 5 of the United States Code.

"(4) The Director of the Federal Bureau of Investigation or the Director of Central Intelligence.

"(5) Any individual who held any office or position described in any of paragraphs (1) through (4) of this subsection during the incumbency of the President or during the period the last preceding President held office, if such preceding President was of the same political party as the incumbent President.

"(6) A national campaign manager or chairman of any national campaign committee seeking the election or reelection of the President.

"(7) A Member of Congress (including a Delegate to the House of Representatives or Resident Commissioner in the House of Representatives).

"(d) If the Attorney General finds the matter subject to preliminary investigation in accordance with subsection (a) of this section is so unsubstantiated that no further investigation or prosecution is warranted, the Attorney General shall file a memorandum with the special panel of the court. Such memorandum shall contain a summary of the information received and the results of any preliminary investigation.

"(e) If, after the filing of a memorandum under subsection (d) of this section, the Attorney General receives additional specific information about the matter to which such memorandum related, which information, in the judgment of the Attorney General, warrants further investigation or prosecution, the Attorney General shall, not later than thirty days after receiving such additional information, apply to the special panel of the court for the appointment of a special prosecutor.

"(f) If the Attorney General finds the matter subject to preliminary investigation in accordance with subsection (a) of this section warrants further investigation or prosecution, or if sixty days elapse from the receipt of the information and the Attorney General has not yet determined that the matter is so unsubstantiated that the matter does not warrant further investigation, then the Attorney General shall apply to the special panel of the court for the appointment of a special prosecutor.

"(g) If, in the course of any Federal criminal investigation, the Attorney General determines that the continuation of the investigation or of a resulting prosecution or the outcome of such investigation or prosecution may so directly and substantially affect the political interests of the President, of the President's political party, or of the Attorney General as to make it inappropriate in the interest of the administration of justice for the Department of Justice to conduct such investigation, then the Attorney General shall apply to the special panel of the court for the appointment of a special prosecutor.

"(h) Any memorandum or application filed under this section with the special panel of the court shall not be revealed to any third party without leave of the court. In the case of any such application, the application shall contain sufficient information to assist the special panel of the court to select a special prosecutor and to define that special prosecutor's prosecutorial jurisdiction.

"(i) Upon the receipt of an application under this section, the special panel of the court shall appoint an appropriate special prosecutor and shall inform the Attorney General and the Congress of, and make public, the name of such special prosecutor.

"(j) The Attorney General may request that the court assign new matters to an existing special prosecutor or that the prosecutorial jurisdiction of such a special prosecutor be expanded, and the special panel of the court may make appropriate orders for such assignment or expansion. A special prosecutor may accept a referral of a matter by the Attorney General, if the matter relates to a matter within the prosecutorial jurisdiction established by the special panel of the court.

"(k) The Committee on the Judiciary of either House of the Congress may request that the Attorney General apply for the appointment of a special prosecutor under this section. Not later than thirty days after the receipt of such a request, the Attorney General shall notify the committee making the request in writing of any action the Attorney General has taken under this section, and, if no application has been made to the special panel of the court under this section, why such application was not made. Such written notification shall not be revealed to any third party except that the committee may, either on its own initiative or upon the request of the Attorney General, make public such portion or portions of such notification as will not in the committee's judgment prejudice the rights of any individual.

"(l) Upon application of a majority of majority party members or a majority of all nonmajority-party members of the Committee on the Judiciary of either House of the Congress, the United States District Court for the District of Columbia may issue any appropriate order (including an order in the nature of a writ of mandamus) commanding the Attorney General to comply with any provision of this chapter.

"§ 592. Prosecutorial jurisdiction; authority

"(a) Notwithstanding any other provision of law, a special prosecutor appointed under this chapter shall have, with respect to all matters in such special prosecutor's prosecutorial jurisdiction established under this chapter, all the investigative and prosecutorial functions and powers of the Department of Justice, the Attorney General, and any other officer or employee of the Department of Justice.

"(b) A special prosecutor appointed under this chapter shall receive compensation at a per diem rate equal to the rate of basic pay for level IV of the Executive Schedule under section 5315 of title 5 of the United States Code. For the purposes of carrying out the duties of the office of special prosecutor, such special prosecutor shall have power to appoint, fix the compensation, and assign the duties of such employees as such special prosecutor deems necessary (including investigators, attorneys, and part-time consultants). The positions of all such employees are exempted from the competitive service. No such employee may be compensated at a rate exceding the maximum rate provided for GS-18 of the General Schedule under section 5332 of title 5 of the United States Code.

"(c) A special prosecutor appointed under this chapter may make public from time to time and shall send to the Congress at least annually such statements or reports as such special prosecutor deems appropriate.

"(d) There are authorized to be appropriated for each fiscal year such sums as may be necessary, to be held by the Department of Justice as a contingent fund for the use of any special prosecutors in the carrying out of this chapter.

"§ 593. Removal or termination

"(a) A special prosecutor appointed under this chapter may be removed from office, other than by impeachment and conviction, only by the special panel of the court and only for extraordinary impropriety, or such incapacitation or other condition as substantially impairs the performance of such special prosecutor's duties.

"(b) The office of a special prosecutor shall terminate upon the submission by such special prosecutor of notification to the Attorney General that the investigation of all matters within the prosecutorial jurisdiction of such special prosecutor, and any resulting prosecutions, have been completed or so substantially completed that it would be appropriate for the Department of Justice to complete such matters. No such submission shall be effective to terminate such office until after the completion and filing of the report required under section 594 of this title.

"(c) The special panel of the court may, either on such panel's own motion or upon suggestion of the Attorney General, terminate the office of special prosecutor at any time, on the grounds that the investigation of all matters within the prosecutorial jurisdiction of the special prosecutor, and any resulting prosecutions, have been completed or so substantially completed that it would be appropriate for the Department of Justice to complete such matters.

§ 594. Final report; congressional oversight

"(a)(1) In addition to any reports made under section 592 of this title, a special prosecutor appointed under this chapter shall, at the conclusion of such special prosecutor's duties, submit to the special panel of the court a report under this section.

"(2) A report under this section shall set forth fully and completely a description of the work of the special prosecutor, including the disposition of all cases brought, and the reasons for not prosecuting any matter within the prosecutorial jurisdiction of such special prosecutor which was not prosecuted. The report shall be in sufficient detail to allow determination of whether the special prosecutor's investigation was thoroughly and fairly completed.

"(3) The special panel of the court may release to the Congress, the public, or to any appropriate person, such portion of a report made under this section as the special panel deems appropriate. The special panel of the court shall make such orders as are appropriate to protect the rights of any individual named in such report and prevent undue interference with any pending prosecution. The special panel of the court may make any portion of a report under this section available to any individual named in such report for the purpose of receiving within a time limit set by the special panel any comments or factual information that such individual may submit. Such comments and factual information, in whole or in part, may in the discretion of such special panel be included as an appendix to such report.

"(4) A special prosecutor, where appropriate, shall promptly advise the chairman and ranking minority member of the House committee having jurisdiction over impeachments of any substantial and credible information which such special prosecutor receives that may constitute grounds for an impeachment. Nothing in this chapter shall prevent the Congress or either House thereof from obtaining information in the course of an impeachment proceeding.

"(b) The appropriate committees of the Congress shall have oversight jurisdiction with respect to the official conduct of any special prosecutor appointed under this chapter, and such special prosecutor shall have the duty to cooperate with the exercise of such oversight jurisdiction.

"§ 595. Presentations by Attorney General and Solicitor General

"Nothing in this chapter shall prevent the making by the Attorney General or the Solicitor General of a presentation to any court as to issues of law raised by any case or appeal.

"§ 596. Special panel of the court

"The special panel of the court to which functions are given by this chapter is the division established under section 49 of this title.

"§ 597. Termination of effect of chapter

"This chapter shall cease to have effect five years after the date on which it takes effect, except as to the completion of then-pending matters, which in the judgment of the special panel of the court require its continuance in effect, with respect to which matters it shall continue in effect until such special panel determines that such matters have been completed."

(b) The tables of chapters for title 28 of the United States Code and for part II of such title 28 are each amended by inserting immediately after the item relating to chapter 37 the following new item:

"39. Special prosecutor."

ASSIGNMENT OF JUDGES TO DIVISION TO APPOINT SPECIAL PROSECUTORS

SEC. 227. (a) Chapter 3 of title 28 of the United States Code is amended by adding at the end the following new section:

"§ 49. Assignment of judges to division to appoint special prosecutors

"(a) Beginning with the two-year period commencing on the date this section takes effect, the chief judge of the United States Court of Appeals for the District of Columbia shall assign three persons who are judges or justices for each successive two-year period to a division of the United States Court of Appeals for the District of Columbia to be the special panel of the court for the purposes of chapter 39 of this title.

"(b) Except as provided under subsection (f) of this section, assignment to the division established in subsection (a) of this section shall not be a bar to other judicial assignments during the term of such division.

"(c) In assigning judges or justices to sit on the division established in subsection (a) senior retired circuit judges and senior retired justices.

"(d) The chief judge of the United States Court of Appeals for the District of Columbia may make a request to the Chief Justice of the United States, without presenting a certificate of necessity, to designate and assign, in accordance with section 294 of this title, retired circuit court judges of another circuit or retired justices to the division established under subsection (a) of this section.

"(e) Any vacancy in the division established under subsection (a) of this section shall be filled only for the remainder of the two-year period in which such vacancy occurs and in the same manner as initial assignments to the division were made.

"(f) No judge or justice who as a member of the division established in subsection (a) of this section participated in a function conferred on the division under chapter 39 of this title involving a special prosecutor shall be eligible to participate in any judicial proceeding involving a matter which involves such special prosecutor while such special prosecutor is serving in that office or which involves the exercise of such special prosecutor's official duties, regardless of whether such special prosecutor is still serving in that office."

(b) The table of sections for chapter 3 of title 28 of the United States Code is

amended by adding at the end the following item:

"49. Assignment of judges to division to appoint special prosecutors."

DISQUALIFICATION OF OFFICERS AND EMPLOYEES OF THE DEPARTMENT OF JUSTICE

SEC. 228. (a) Chapter 31 of title 28 of the United States Code is amended by adding at the end the following:

"§ 528. Disqualification of officers and employees of the Department of Justice

"The Attorney General shall promulgate rules and regulations which require any officer or employee of the Department of Justice, including a United States attorney or a member of his staff, to disqualify himself from participation in a particular investigation or prosecution if such participation may result in a personal, financial, or political conflict of interest, or the appearance thereof. Such rules and regulations may provide that a willful violation of any provision thereof shall result in removal from office."

(b) The table of sections for chapter 31 of title 28 of the United States Code is amended by adding at the end the following:

"528. Disqualification of officers and employees of the Department of Justice."

Page 44, line 10, strike out "C" and insert in lieu thereof "D".

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

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

There was no objection.

Mr. DANIELSON. Mr. Chairman, I reserve a point of order against the amendment.

The CHAIRMAN. The gentleman from California (Mr. DANIELSON) reserves a point of order against the amendment.

Mr. HYDE. Mr. Chairman, since the body is determined to legislate "Ethics," I suggest we disarm those who will accuse us of insincerity—by including an effective enforcement mechanism in this legislation—of course, I refer to my amendment authorizing appointment of a special prosecutor under certain defined circumstances.

Former Special Prosecutor Archibald Cox told a Senate Judiciary Subcommittee in 1975 that a servant cannot investigate his master. After Mr. Cox was fired, the then-president of the American Bar Association, Chesterfield Smith, said:

It clearly was and is improper for an investigation of the Executive Branch of the government (to be conducted) by a prosecutor who is under the control or direction of either the President himself or some other person who himself is under the direction and control of the President.

We know that the Attorney General has the power to appoint a special prosecutor and did so during Watergate after public and congressional pressure became intense. But public opinion is not always easy to mobilize and it is foolish to wait until a grave crisis has developed before establishing workable procedures to meet that crisis.

With both Houses of Congress and the executive branch under control of one party, the checks and balances that might prompt more vigorous oversight are lacking, and the need for having an effective procedure to appoint a special prosecutor is all the more necessary.

My amendment puts teeth into the ethics bill, by providing a triggering mechanism authorizing the appointment of a special prosecutor under certain carefuly defined standards.

The officials covered include: First, the President and Vice President; second, Cabinet-level officials; third, Executive Office employees earning at least $39,900 per year; fourth, the Director of the FBI and the Director of the CIA; fifth, anyone who held any post in one through four as listed above during the incumbency of the President or of the last preceeding President if that President was of the same political party; sixth, a national campaign manager or chairman of a national campaign committee seeking the election or reelection of the President; and seventh, Members of Congress.

The amendment requires the Attorney General to apply for the appointment of such a special prosecutor if he determines that the investigation or prosecution of any Federal criminal wrongdoing may so directly and substantially affect the political interests of the President, the President's party, or of the Attorney General himself that it would be inappropriate for the Justice Department to conduct the investigation.

The special prosecutor is appointed by a panel of three judges of the U.S. Court of Appeals for the District of Columbia Circuit. The judges on the panel are disqualified from participating in the decision of any case involving a special prosecutor appointed by the panel. In addition to appointing the special prosecutor, the panel also defines that prosecutor's area of prosecutorial jurisdiction. Within that jurisdiction, the special prosecutor is independent of the Justice Department and may exercise all of the powers of the Attorney General.

This amendment also provides a procedure whereby a majority of either the majority or nonmajority members of the House or Senate Judiciary Committee may apply in writing to the Attorney General for the appointment of a special prosecutor.

The special prosecutor is subject to removal from office by the panel of judges for extraordinary impropriety or for such incapacitation or other condition as substantially impairs the performance of that prosecutor's duties. The office of special prosecutor terminates when the special prosecutor notifies the Attorney General that the investigation and prosecution of all matters within the office's prosecutorial jurisdiction have been completed or so substantially completed that it would be appropriate for the Justice Department to complete them.

This amendment will not only remove partisan bias from a sensitive area, but also the public's perception of such bias.

This ethics bill will be trumpeted to the American people as a victory for clean government.

I submit to my colleagues that it is not all that its supporters claim. Requiring full financial disclosure does not necessarily bring about clean good government or even good government.

My amendment strengthens the ethics bill by including certain Federal criminal offenses:

Crimes involving abuse of Federal office.

Crimes involving the financing or conduct of elections and election campaigns.

Crimes involving obstruction of justice, perjury, or conspiracy to obstruct justice, commit perjury or defraud the United States.

Some opponents of my amendment claim it is not needed now that Watergate is over.

I disagree. One need only think back a few short months to instances where a special prosecutor might have produced the truth—

First. The alleged bribery of Congress by South Koreans;

Second. The Bert Lance affair;

Third. The Peter Bourne affair involving allegations of serious criminal activity within the administration's official family. (I have twice written the Attorney General requesting an investigation, the first time being July 24. To date I have received no response.);

Fourth. The burgeoning GSA scandal, now reported to include HEW, HUD, the Veterans' Administration, and the Small Business Administration, and involving possibly $25 billion in fraud. Certainly a special prosecutor would be more impartial than the President's personal friend and "observer" Mr. Kirbo; and

Sixth. The "Vesco" allegations.

The other body has already included a provision for a special prosecutor in its legislation, the Public Officials Integrity Act, S. 555.

Our Judiciary Committee recently reported out a bill, H.R. 9705, which is similar in many instances to my amendment, although the committee bill does not include Members of Congress as subjects of investigation or prosecution.

We have an opportunity today to show the American people that the 95th Congress has that respect for law which can only exist in an atmosphere of faith and trust in our governmental institutions and in the fair and fearless prosecution of those who betray their public trust for personal or political gain.

I commend this amendment to you for your support.

The CHAIRMAN. Does the gentleman from California insist on his point of order?

Mr. DANIELSON. Mr. Chairman, I insist on the point of order.

The CHAIRMAN. The gentleman will be heard.

POINT OF ORDER

Mr. DANIELSON. Mr. Chairman, I make the point of order that the gentleman's amendment is not germane.

Mr. Chairman, the gentleman's amendment seeks to add new language to title II of the bill. The new language amends title 28 of the United States Code to provide a mechanism for the appointment of a Special Prosecutor. It appears to be identical, save for one important change, to H.R. 9705, a bill reported favorably by the Committee on the Judiciary last June 19. The reach of

the gentleman's amendment goes far beyond the subject matter and scope of title II of the bill.

Title II is entitled "Executive Personnel Financial Disclosure Requirements." It is limited exclusively to people in the executive branch of Government. The provisions of the gentleman's amendment are not limited to people in the executive branch. His amendment covers people who are not even in the government—national campaign managers—as well as people in another branch—Members of Congress.

Title II of the bill is concerned with the disclosure of personal finances and provides for a civil penalty for failure to file or falsifying a disclosure report. The gentleman's amendment deals with criminal conduct that is not related to the financial disclosures required by title II. The criminal conduct covered includes obstruction of justice and criminal violations of the Federal election laws.

Mr. Chairman, the gentleman's amendment goes far beyond the scope and subject matter of title II and, I submit, is therefore not germane.

The CHAIRMAN. Does the gentleman from Illinois desire to be heard on the point of order?

Mr. HYDE. Yes, Mr. Chairman.

Mr. Chairman, the proposed amendment, I feel, is clearly germane. The basic test of germaneness is that the fundamental purpose of an amendment must be germane to the fundamental purpose of the bill (VIII Cannon's Precedents of the House 2911: Deschler's Procedure, 28: 5). The title of the bill gives some indication of its purpose and its text further underscores that purpose, that is, to effect ethics in government.

My amendment creates a mechanism to effect ethics in government as well as to enforce the provisions of section 204 of H.R. 1. Consequently, the fundamental purpose of the amendment is closely aligned with that of the bill itself.

Another test of germaneness is whether the subject matter of the amendment relates to the subject matter under consideration. (Deschler's Procedure, 28: 3). Here, too, the relation of the amendment to the bill is clear. The subject matter of the bill is in broad terms the ethics of Government officials, which the subject matter of the amendment is the enforcement of these same ethical standards.

Another test of germaneness is whether the subject matter of the amendment lies within the jurisdiction of a committee other than that reporting the bill. This test is more clearly met than any other since the Judiciary Committee has reported in separate legislation a variant of the amendment I am offering.

Furthermore, it should be noted that the rule under which H.R. 1 is being considered specifically waives any points of order on grounds of germaneness against the substitute embodied in H.R. 13850. I submit that the language of this waiver is broad enough in both its letter and its spirit to also permit consideration of this amendment.

It is also noteworthy that the Senate passed bill (S. 555), of which H.R. 1 was one title, contained another title on appointment of Special Prosecutors. If H.R. 1, or the substitute, is passed by the House, there necessarily will be a conference pitting the Senate's comprehensive approach to ethics against a House-passed bill that covers only a fraction of the ground.

The CHAIRMAN (Mr. BOLAND). The gentleman from California (Mr. DANIELSON) makes a point of order against the amendment offered by the gentleman from Illinois (Mr. HYDE) on the grounds it is not germane to title II of the bill to which it is offered.

The gentleman from Illinois (Mr. HYDE) has made some very persuasive arguments with respect to the germaneness of the amendment to the entire bill, but the amendment offered by the gentlman from Illinois goes to title II of the bill, and for the reasons stated by distinguished gentleman from California (Mr. DANIELSON), the Chair sustains the point of order.

AMENDMENT OFFERED BY MR. MAZZOLI

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

The Clerk read as follows:

Amendment offered by Mr. MAZZOLI: On page 32, strike out lines 2 through 6 and insert in lieu thereof: States. Notwithstanding any other provision of this part, reports filed by such individuals shall be reviewed solely by the Director of the Office of Government Ethics under security procedures determined by the Director of Central Intelligence and approved by the President. In addition, such individuals may be authorized notwithstanding section 204(a), to file such additional reports reflecting an ostensible employer and salary as are necessary to protect the identity of such individuals from public disclosure if the President first finds that such filing is necessary in the national interests."

Mr. MAZZOLI. Mr. Chairman, what my amendment seeks to do is to change that section of the committee bill which deals with reporting as to assets by members of the intelligence community of the Nation.

Under the committee bill, H.R. 13850, members of the intelligence community will file correct reports—correct as to assets and correct as to employment—with the agency by which they are employed. If the President makes a requisite finding, these reports need not be made public.

Furthermore, the President can make a finding and allow for the false filing of assets by members of the intelligence community, and under the bill these false filings may be falsified as to any aspect: Employer, salary level, or assets held. These false filings, which are publicized if the President makes the requisite finding, are reviewable only by the agency head and by the President.

Just to go back one step, Mr. Chairman, I must say that one of our problems was that the subcommittee did not hear from the Intelligence Agency during the markups on our bill. But now having heard from them and having engaged in extensive discussions with the agencies, I have reached a compromise agreement and that is what has just been read by the Clerk.

My original feeling was that we should strike the entirety of the false reporting section and mandate the same filings of the intelligence community as we do for a member of the Department of Agriculture or a member of the Department of Defense or a Member of Congress.

But after discussions, the intelligence community made what I consider to be a reasonable argument in behalf of having, first of all, some opportuntiy to file incorrect information to maintain and to protect cover. That information to which I have agreed to permit filing, if the House will go along with this amendment, is as to salary level and as to the employer.

Under the committee bill, let me once again state, any amount of information can be filed falsely. That is under the committee version of the bill. If the compromise agreement is agreed to, the only things which can be falsified are the ostensible employer and the salary level.

Under the compromise amendment those false filings could be reviewed by the Director of the Office of Government Ethics. Under the committee bill the only reviewing agency would be the agency of hire and the President.

It seems to me the Office of Government Ethics ought to have a right, under security provisions which are set forth by the President, to examine the data filed.

Next year the Select Committee on Intelligence, which is headed by the gentleman from Massachusetts (Mr. BOLAND), will have a very heavy committee agenda, and one of the main items on that agenda will be charters for the intelligence community, the CIA and the FBI. Legitimately falling in the purview of that subject matter would be whether or not there should be cover arrangements of our intelligence community agents. I am not satisfied that that type of cover is necessary anymore, but that is a question which can be decided upon when we get to the charter legislation.

Mr. Chairman, I am prepared to accept, if the House is willing to agree to this committee compromise, a compromise to the pending committee bill which would permit cover at least until we have a chance to get to the charter legislation.

Mr. Chairman, I am prepared to answer any questions. If there are no questions, I urge the committee to approve this amendment, and I yield back the balance of my time.

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

Mr. Chairman, I wonder if the gentleman from Kentucky (Mr. MAZZOLI) would be kind enough to respond to a couple of questions with respect to the amendment.

Mr. MAZZOLI. Yes.

Mr. DANIELSON. The gentleman knows that at the time the bill was going through markup, and since that time, I have been concerned that we should be able to protect the legitimate needs of confidentiality and secrecy that our intelligence agents must have if we are to receive the kind of intelligence that we need in this day in which we live.

First, is this amendment a substitute for the amendment which the gentleman earlier had published in the RECORD?

Mr. MAZZOLI. If the gentleman will

yield, I would answer the question in the affirmative. This is a substitute amendment. What the Clerk has just read is the pending amendment.

Mr. DANIELSON. Can the gentleman tell me, has he consulted with the intelligence community—by that I mean, specifically, the CIA. the National Security Council, the FBI, the Intelligence Division of the Defense Department—as to whether or not they feel they can carry out their responsibilities if this should become law?

Mr. MAZZOLI. I can answer the gentleman's question in the affirmative. We have made such checks, and the intelligence agencies are in agreement and will accept this amendment as a proper measure of permitting their agents' cover to be maintained, at least until the charter amendments are looked at next year, and, at the same time, to bring them into inclusion of the ethics in Government bill.

Mr. DANIELSON. Does the gentleman know whether the intelligence community people have cleared this with the Office of the President?

Mr. MAZZOLI. That is certainly my understanding, and I can assure the House that if the Committee supports the compromise amendment, the intelligence agencies are prepared to accept this proviso.

Mr. DANIELSON. My concern, I would like to state, is that it should not be thought that we are indulging in some kind of a fiction to the effect that we are letting intelligence agents lie. That is not the point at all. The way the bill has been drafted, the intelligence agents, the CIA agents, espionage agents abroad, and the like, have to file an absolutely truthful report. The distinction we made in the original bill was that that report remain confidential and not subject to public scrutiny. I think anyone in his right mind would know that agents of a less friendly power would probably, as a first order of business, check the public records every day to find out who was committing espionage. If we try to get some information in other countries, that would defeat our whole purpose, and we might as well throw in the sponge and quit.

Having been involved in work of that nature at one time in my life. I am acutely sensitive about all of this, and for that reason we put provisions in the bill to permit intelligence agents to file an additional report which would have some cover information in it in order to protect their identity.

But if the gentleman assures me that the intelligence people, who, I hope, know their business, can live with this, then I may have no objections to the amendment.

Mr. MAZZOLI. I thank the gentleman.

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

Mr. Chairman, I think at the outset it is important that we understand my good friend and colleague, the gentleman from Kentucky (Mr. MAZZOLI), is not talking for the Intelligence Committee, as I understand it, and I do not believe he is talking for the intelligence community. I hope my friend, the gentleman from California, will pay close attention to what I say because I think it is in some contradiction to what my good friend has said.

Mr. Chairman, I think if you check with the intelligence community, the position of the intelligence community, they obviously would prefer the amendment the gentleman has presented today to the amendment that he previously had which would strike the whole section. But I do not believe you can interpret that as an outright support of his amendment.

Second, I say to my friend and colleague, the gentleman from Kentucky, making reference to the Department of Agriculture and talking about Intelligence Committee employees in the same context as the Department of Agriculture employees certainly does not do justice to the type of work that these important intelligence officials conduct throughout the world.

My only point is to illustrate there is a real world of intelligence out there. I think we have got to be awfully careful before we take the first step to peel that first layer of bark of anonymity that these men must have if they are to operate throughout the world.

There is something we must not lose sight of, which is that we do not just endanger the lives of these people if we carelessly write legislation which will help make their identity become public in an easier manner. We do not just endanger them but we also endanger second parties, because the reason we have the people out in the real world is because they are making contact with other people, sometimes themselves in danger, individuals who at the jeopardy of their own life and limb supply information to this agent which is vital to the future security of this country. So we do not just talk in terms of our agents but also the second parties and individuals who are contacted by our agents throughout the world.

There is a very vital reason why they should have a cloak of secrecy. I know that any time anybody talks about a cloak of secrecy we get upset because we think that here is where the plots and the conspiracies and all of these terrible things happen. But in the real world of intelligence it is absolutely necessary that we have men and women stationed throughout the world who do not have a badge which says: "I am with the CIA" or "I am with the Defense Intelligence" or "I am with the U.S. Government."

It is very clear for that reason that we do have out in that real world individuals who may look like they are bankers or who may look like they are businessmen or who may look like they are salesmen, but who in fact do some of the important work for our country which must be done.

My friend, the gentleman from Kentucky would peel that first layer of bark off of their cloak of secrecy by making one more agency, one more individual, possibly one more staff to have access to this secret information.

I believe the committee bill in the beginning wisely recognized the important area of intelligence gathering and recognized that if we are indeed to have people who may be working for the Government while holding out to the public that they are doing something in private pursuits, someone should know and someone should have their report and that would be the agency and the President of the United States. To take a second step, as my friend the gentleman from Kentucky would do would be to give one more agency and possibly one more staff access to the information, in my opinion, and I hope it is the opinion of members of this committee, would be to jeopardize those men and women to an extent that is not necessary.

My friend and colleague, the gentleman from Kentucky, makes a point on which I will agree. Next year we will have charter legislation. Next year the Intelligence Committees of the House and the Senate will look into charters for the FBI and the CIA. I would hope we would wait until that time to see if it is necessary to make these reports accessible to one more Government group. I would hope we would wait until charter legislation, and for that reason I hope the committee rejects this amendment.

There are groups out there, the Philip Agee's and others, who are continuously working to expose and to identify our Government agents, agents who are working in the field of intelligence. I do not think we should in any way make it easier for those people to be identified.

I know we have had leaks in the House in our Ethics Committee, in our Assassination Committee, in our prior Intelligence Committee, the Pike committee. We know the problems we have had in tight security right here in our own body and to make these vital records, to make these secrets accessible to one more governmental group only endangers, in my opinion, the security of these men and women who are working in intelligence. I know that is not the intent and the purpose of my friend, the gentleman from Kentucky, but I think that would be the actual result.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. ASHBROOK) has expired.

(By unanimous consent, Mr. ASHBROOK was allowed to proceed for 2 additional minutes.)

Mr. MOORHEAD of California. Mr. Chairman, will the gentleman yield?

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

Mr. MOORHEAD of California. Mr. Chairman, we have been reading in articles in magazines and newspapers lately about security leaks that have exposed some of our people overseas.

As you expand the number of people that have access to this kind of secret information, are you not increasing the possibility of exposure of our intelligence people and thereby putting their lives at stake?

Mr. ASHBROOK. In the ideal sense I would say probably not. In the real sense, and that is what I meant when I

said I think we are dealing with the real world, what you fear follows as logically as night follows day. That is what I meant when I was talking about peeling that first bark, that first layer off of their intelligence security. It may sound responsible but in my opinion it is not a step we should take and what it will do will be to help dry up the sources that are necessary, the very sources these men and women in the intelligence community are developing throughout the world.

Mr. MOORHEAD of California. I strongly believe we must protect the identity of our security people in the name of national security. To loosen this up, to this extent, we are seriously endangering the sources of information that are the life stream of our Nation's intelligence effort.

I urge a no vote on the amendment.

Mr. MAZZOLI. Mr. Chairman, if the gentleman will yield, I appreciate the gentleman's observations, and the gentleman makes an important contribution to the debate, as he does in our intelligence committee, but I would just ask the gentleman were not leaks and revelations occurring long before the Congress of the United States got into the area of intelligence? And therefore it is not to say that even making revelations under the committee version of the bill would not at some point wind up out in the public?

Mr. ASHBROOK. The gentleman is absolutely correct. The CIA has the same problem. They have the problem of the faithless employees, they have the Phillip Agees who are working openly overseas, disclosing the names of our intelligence agents. There are newspapers that print the names of our agents within a few weeks after they arrive at our overseas port. That thing does happen.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. MAZZOLI, and by unanimous consent, Mr. ASHBROOK was allowed to proceed for 1 additional minute.)

Mr. MAZZOLI. Mr. Chairman, if the gentleman will yield still further, and I do not want to prolong this unduly, but if that be the case, and I appreciate the gentleman's comments, then I think what the House is faced with is a vote on what might be called a sort of a philosophical situation, that is, should there be a ethics in Government bill which would contain within it a total removal of material from the public's view, and, furthermore, a falsification of information which is made public?

I guess basically we have reached the point, if the gentleman's view prevails, that then the House will have said that in a ethics in Government bill we ought to have false information and that is in the national interest. If the amendment offered by the gentleman from Kentucky, which has been agreed to in the intelligence community, and I think the Members of the Senate have approved it, then I think, philosophically, we are saying to the extent that we can, without endangering people or "blowing" their cover, we need correct information.

The CHAIRMAN. The time of the gentleman has again expired.

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

Mr. ASHBROOK. Mr. Chairman, in response to the gentleman from Kentucky, Mr. MAZZOLI, let me say that one point has not been made, I would add to what my colleague and friend has said. You start with the problem with the CIA itself. Sure, there could be leaks there. Then we have the White House. There can be leaks there, too. We have already had one buffer placed between the CIA, the White House and the public, which we have not mentioned up to this point, and that is the Intelligence Committee. There is an Intelligence Committee in the Senate and there is an Intelligence Committee in the House. If the 13 members of that Intelligence Committee come even close to doing their job, we stand as a buffer to prevent these secret operations from getting out of hand. That is our precise purpose.

There is no problem that our committee has had in getting information. My point is that we have a CIA, we have a President, we now have legislative committees. I myself think it would be a danger to take one additional layer, one additional group and make any additional person privy to the same secrets that the President and the CIA and the Intelligence Committees, representing the Congress, and supposedly the people, at this point have in the way of access.

One more group, to go back to your original question, only magnifies the problem for dissemination of information to the wrong persons.

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

Mr. ASHBROOK. I would be glad to yield to the gentleman from California.

Mr. DANIELSON. Mr. Chairman, I want one thing to appear in the RECORD, not because anyone here is misstating what he or she believes, but we keep hearing this reference to an ethics bill allowing false statements to appear. That is not an accurate statement.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. ASHBROOK) has expired.

(On request of Mr. DANIELSON and by unanimous consent, Mr. ASHBROOK was allowed to proceed for 2 additional minutes.)

Mr. DANIELSON. Mr. Chairman, will the gentleman yield further?

Mr. ASHBROOK. Certainly, I will yield to the gentleman from California.

Mr. DANIELSON. Mr. Chairman, that is not an accurate reflection of what the bill provides for. The bill provides that these intelligence agents as well as everyone else must file a truthful statement with his or her agency. The only thing that is different in the case of the intelligence community is that in addition to—I repeat—in addition to the truthful statement, they may file a cover statement, a statement in which, instead of being known as "John Smith," the person is known as "John Doe," whatever it may be, enough to cover that person, to protect his or her personal integrity and security when the agent is carrying out duties for the Government, as well as to insure that their own informants, their own sources of information, will feel free to communicate with them.

However, this bill does not eliminate the need for them to file an absolutely true and accurate statement with the appropriate authorities. This is simply the mask which permits them to carry out their responsibilities, and I see absolutely nothing wrong with that.

Mr. ASHBROOK. Mr. Chairman, I thank my colleague, the gentleman from California (Mr. DANIELSON).

If I could close my participation in the well, I think we have spent long, tortured hours in coming up with this language. I think it would be very dangerous in a few moments of debate to alter that language by this amendment. I would prefer an absolute cover for our intelligence agents but that doesn't seem possible now.

For that reason, Mr. Chairman, I think the amendment should be rejected. Next year in the charter legislation we can take another look at this matter.

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

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

Mr. MAZZOLI. Mr. Chairman, I would suggest to the gentleman that that is exactly one of the problems I had. Our committee did not have hearings on this issue. We did not have information from the intelligence community. We woke up one morning in the midst of markup, and this landed full blown on us. Indeed, we did not have the assurance we needed. Had we had the hearings, we might have achieved language something like this in the beginning.

Mr. ASHBROOK. That is true but we might not have accepted it either. That is why we should wait until next year so that we can hold exactly those hearings we are talking about.

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

Mr. Chairman, before we give detailed consideration to the Mazzoli amendment, I think it is well to understand what the committee bill already does.

It is bad enough, Mr. Chairman; it should not be made worse by the addition of the Mazzoli amendment.

Bear in mind that a person whose cover must be protected must file, under the committee bill, an accurate statement; and then it authorizes that he be permitted to file an additional cover statement. The mere fact of filing two statements tends to highlight and pinpoint those sensitive individuals who we would wish would not be called to public scrutiny.

It is true, of course, that these additional statements and the original statement need not be made public; but it is also true that such sensitive information is available to the Office of Government Ethics, which, as has been stated by the gentleman from Ohio (Mr.

ASHBROOK), is simply one more bureaucratic level having access to sensitive information. That is in the present bill.

Mr. Chairman, if we were truly to improve the present bill, we would directly authorize such persons not to file additional statements, but to file cover original statements. That is a false statement, I admit; but in the interest of national security, it ought to be authorized.

Mr. Chairman, let us look at the Mazzoli amendment. It deals only with the language on page 32. It strikes only lines 2 through 6. Lines 2 through 6 provide for the additional statement. The Mazzoli amendment makes two substantive changes in that sentence. First, it provides for review solely—and I emphasize the word solely—by the Director of the Office of Government Ethics. Bear in mind that that section 206 of the bill would therefore be in conflict with this new section because that section authorizes, in this case, the Director of the CIA to conduct a review. This would preempt that power and say that the review is solely by the Director of the Office of Government Ethics.

Mr. Chairman, I think that is an unwise change.

The second change, Mr. Chairman, adds merely six words. It adds after the word "reports," the following: "reflecting an ostensible employer and salary."

Bear in mind that the existing language permits the additional report to contain such information as will protect their identity from the public if public disclosure is made. Here the additional reports can only reflect an ostensible employer and salary.

Mr. Chairman, the very fact that we may wish to keep secret is the name of the person filing the report. We have limited that power now to only reflecting an ostensible employer and an ostensible salary. That is an unnecessary limitation.

Mr. Chairman, what should we do in the premises? In my opinion, the amendment, of course, should be rejected because it is in conflict with 206, and it limits the scope of an additional report. But I would hope that this House and the conference later on will reflect upon the wisdom in terms of the national interest of permiting certain designated persons, designated by the President of the United States, to file false reports rather than additional reports, because the price we will pay for a secret agent filing a true report and a companion false report is simply to highlight that he is in a sensitive position. That is an unnecessary risk to the national security.

Mr. Chairman, I urge rejection of the amendment.

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

Mr. WIGGINS. Of course, I yield to the gentleman from Kentucky.

Mr. MAZZOLI. I thank the gentleman for yielding.

First, the gentleman compared the review portion of the Mazzoli amendment to that of the committee bill. I am not sure about the words themselves, but certainly what the amendment is designed to do is to allow a review by the Director of the Office of Government Ethics by way of an examination. But, these forms and these reports would still have to be filed with the agency head, so they would still be in the possession of the Director of Central Intelligence or the National Security Agency, for example, for examination as well.

Mr. WIGGINS. Let us not be too sure on that point, because it says notwithstanding any other provision of this entire part, review shall be solely by the Director of the Office of Government Ethics.

Mr. MAZZOLI. I guess when we talk about review, it is a word which in the author's judgment suggests a different meaning from simply looking at the material.

The CHAIRMAN. The time of the gentleman has expired.

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

Mr. MAZZOLI. If the gentleman would yield further, review would be the official act of looking materials over, checking them out, making the computations, and seeing whether, in fact, the false reporting sections as to ostensible employer and the ostensible salary have been complied with.

Mr. WIGGINS. What about the man's name?

Mr. MAZZOLI. No. He or she would not be able to file a report with a false name. Again, I go back to the fact that this, what is before the committee today, reflects quite a few weeks of work and discussions and submissions which really were not done at the subcommittee or full committee level. But, now that they have been undertaken. they do reflect what the intelligence agencies feel is a matter, whether they support, or at least can live with. They would not object to this language and feel that they can still do their job until such time as the charter legislation has been examined by the Committee on Intelligence and the Committee on the Judiciary to decide whether or not there is a need for any false reporting.

The gentleman from California's position is that there should be false reporting ab initio and no secondary filings. The gentleman from Kentucky feels that maybe we ought to do away with false filings entirely because I am not sure that the cover arrangements are necessary any more. That I think is a subject of fundamental examination for the 96th Congress.

Pending that, the gentleman from Kentucky feels that review is different from simply the examination of the reports and second, he thinks that the only two items which ought to be falsified are the salary and the ostensible employer.

Mr. WIGGINS. I respectfully disagree and urge a no vote on the amendment.

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

Mr. Chairman, I know that we have struggled with this issue a great deal. The problem I have with the amendment is that in our effort to help the gentleman from Kentucky reconcile his position with the necessities of the intelligence agencies which require certain individuals to operate under cover, we are causing confusion. The amendment appears to be a kind of a papering over, or perhaps a temporary solution. However, I question whether or not we should accept this compromise. It seems to me that we have stated accurately in the language of the committee bill what we want as far as protection of the CIA and other intelligence agency individuals are concerned. I do not believe, as the gentleman from California (Mr. DANIELSON) has said, that in the bill as written there is any escape from any full, complete, and accurate filing of and disclosure of financial information, which is what this legislation is all about.

The gentleman from Kentucky, it seems to me, is injecting another subject into this legislation, namely the whole question as to whether or not we should have individuals operating under cover. That is not something that we should be called upon to decide here today. We should not reconcile ourselves to the fact that on a temporary basis we are going to continue the status quo and then in the charter legislation or at some later time we are going to review the entire subject of intelligence agents operating under cover.

Now, the gentleman from Kentucky persists in talking about false statements. I reject that description completely. It is no more a false statement for a CIA agent to file a statement relating to his ostensible position than it is to provide a psuedo name of some kind, or an identification which permits a person to operate either as an informant or as an agent for an intelligence agency.

We are talking about protection of our national security here. It does not seem to me that in this measure dealing with ethics in Government we can get into this kind of a discussion as to whether or not we are going to permit or not permit persons to operate under cover in connection with this legislation.

In rereading the language in the bill, it seems to me that we have adequately covered this subject there. I am apprehensive about the amendment offered by the gentleman from Kentucky. I know that the gentleman has tried to compromise this subject. I applaud him for that, but I do not think this compromise is necessary or desirable. I think if we are going to take some further action with regard to limiting cover for intelligence agents we should deal with that subject directly and we should not paper it over with this kind of proposal.

Mr. MAZZOLI. Mr. Chairman. will the gentleman yield?

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

Mr. MAZZOLI. Mr. Chairman, I thank the gentleman for yielding and I appreciate his comments.

I would advise the gentleman that, to the best of my knowledge, the Senate bill, with which we will go into conference with the House-passed version, does not have any exemption for any kind of false filing, or if the gentleman prefers another term, some other kind of pseudonymous filing.

The Senate bill says that everybody

who is a Federal employee will file a truthful report with the Office of Government Ethics, and that is it. The House, at least the House Committee on the Judiciary, decided to set up a special category of false filing.

I would certainly suggest to the gentleman that the Senate is not composed of people who want to expose our intelligence operatives or do any damage to national security. Yet it felt as did the administration which sent the bill up orignally—that this kind of concession was not necessary.

Mr. McCLORY. I think if we are going into conference, we should go in with the strongest possible position, and if we have to compromise, compromise there and not here.

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

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

Mr. DANIELSON. Mr. Chairman, I have before me a copy of the Senate bill, S. 555. At page 75, commencing at line 14, there is a statement to the effect that the President may exempt any individual in the Central Intelligence Agency, et cetera, from the requirement to file a report; so it really provides for a total exemption, rather than for the filing of a truthful report, plus a cover report, as we do in our bill.

Mr. BURLISON of Missouri. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I would like to commend the gentleman from Kentucky (Mr. MAZZOLI) for the work he has done on this amendment.

The gentleman from Ohio (Mr. ASHBROOK) has stated that the gentleman from Kentucky does not, with his amendment, state the position of the Permanent Select Committee on Intelligence. I cannot directly refute that.

I will say, however, Mr. Chairman, that I have discussed this matter with the chairman of the Permanent Select Committee on Intelligence, the gentleman from Massachusetts (Mr. BOLAND), who is the presiding officer now, and certainly we feel that the views I will expound here would be the majority view of our committee. I will have to admit we have not taken a vote on it, however, so the bottom line is that I am speaking for myself only.

Mr. Chairman, I believe it is important to retain the language of section 205 so that our intelligence agencies use of "cover" is not precluded by the provisions for public financial disclosure by Government empolyees.

I also recognize, however, the importance of outside review in the cases where the exemption in section 205 is employed. Accordingly, I support the amendment of the gentleman from Kentucky as it provides that the reports which intelligence officers must file for their "cover" jobs only misstate their true employer and the salaries they earn. Further, such reports will be reviewed only by the Director of the Office of Government Ethics under security procedures proposed by the Director of Central Intelligence and approved by the President.

Mr. Chairman, this language has been worked out with the full participation and approval of the Director of Central Intelligence. It clearly defines what information can be misstated and it provides for outside review which will not compromise the identity of intelligence officers. I believe it satisfies the concern of the gentleman from Kentucky while permitting the continuation of important intelligence activities in a way that protects the actual intelligence officers.

Mr. Chairman, without section 205, the lives of many of our intelligence officers at home and abroad will be seriously endangered. Surely it is not asking too much to make a disclosure exception when it is necessary to protect the lives of American citizens and Government employees. But the provision in the bill is not only to protect lives. It is also to protect our agents from foreign identification, assessment, targeting, and potential recruitment. The provision will also serve to preserve the willingness of intelligence services of our allies to cooperate with our CIA. If this section were not included, the Congress would be outdoing Phillip Agee and other traitors of our country who are seeking the eradication of our intelligence officers and the destruction of our democracy.

Section 205(a) does not require that all employees of the intelligence agencies be exempted, but only "if the President finds that, due to the nature of the office or position occupied by such individual, public disclosure of such report would compromise the national interest of the United States."

Nor does section 205(a), nor this amendment, permit all employees of these intelligence agencies to file false statements. This is permitted only "if the President first finds that such filing is necessary in the national interest." And it should be remembered that section 205 (a) does not exempt intelligence officers from filing reports. Rather, it exempts those reports from being made public.

Section 205(a) is essential to this bill and the amendment of the gentleman from Kentucky does it no great harm.

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

Mr. BURLISON of Missouri. I am delighted to yield to my friend, the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Chairman, I rise in strong applause of what the gentleman from Missouri (Mr. BURLISON) has said. The gentleman is a very, very valuable member of the Permanent Select Committee on Intelligence and a Member whose work on the intelligence authorization bill has already been of such measure as to bring great credit to our committee.

What the gentleman from Missouri has said is exactly right. With this measure, as amended, our national intelligence effort can still go forward and nobody will be hurt. Without the Mazzoli type of an amendment, I think the House will not have done what needs to be done.

The CHAIRMAN. The time of the gentleman from Missouri (Mr. BURLISON) has expired.

(On request of Mr. WIGGINS, and by unanimous consent, Mr. BURLISON of Missouri was allowed to proceed for 1 additional minute.)

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

Mr. BURLISON of Missouri. I yield to my friend, the gentleman from California.

Mr. WIGGINS. Mr. Chairman, I hope the gentleman in the well will acknowledge this fact: That the present section 205 and the amendment to it would provide a list in the custody of the Office of Government Ethics of those individuals, listed by name and most probably by address, who occupy positions of such unique sensitivity that the national interest would be compromised if their reports were disclosed.

Mr. BURLISON of Missouri. I would modify the gentleman's statement to this effect: Under the legislation, only the Director of Ethics himself would have access, and then only under security provisions as provided by the Director of Central Intelligence.

Mr. WIGGINS. I acknowledge that. But let us fully understand that we are providing a list of a most sensitive nature in the Office of Government Ethics.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kentucky (Mr. MAZZOLI).

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 53, noes 347, not voting 32, as follows:

[Roll No. 841]

AYES—53

Bellenson	Garcia	Richmond
Bingham	Giaimo	Rodino
Boggs	Harrington	Rosenthal
Boland	Holtzman	Roybal
Bonior	Jenrette	Scheuer
Brodhead	Kastenmeier	Schroeder
Burlison, Mo.	Maguire	Seiberling
Burton, John	Mazzoli	Simon
Burton, Phillip	Mikulski	Solarz
Carr	Mikva	Stark
Conte	Mineta	Stokes
Dellums	Moffett	Vento
Downey	Murphy, Pa.	Volkmer
Drinan	Nolan	Walgren
Duncan, Oreg.	Oberstar	Weiss
Edwards, Calif.	Obey	Whitley
Fascell	Pease	Yates
Fraser	Rahall	

NOES—347

Abdnor	Baldus	Brinkley
Addabbo	Barnard	Brooks
Akaka	Baucus	Broomfield
Alexander	Bauman	Brown, Calif.
Ambro	Beard, R.I.	Brown, Mich.
Anderson, Calif.	Bedell	Brown, Ohio
Andrews, N.C.	Benjamin	Broyhill
Andrews, N. Dak.	Bennett	Buchanan
Annunzio	Bevill	Burgener
Applegate	Biaggi	Burke, Fla.
Archer	Blanchard	Burke, Mass.
Ashbrook	Blouin	Burleson, Tex.
Ashley	Bolling	Butler
AuCoin	Bonker	Byron
Badham	Bowen	Caputo
Bafalis	Brademas	Carney
	Breaux	Carter
	Breckinridge	Cavanaugh

Cederberg
Chappell
Chisholm
Clausen, Don H.
Clawson, Del
Clay
Cleveland
Cohen
Coleman
Collins, Ill.
Collins, Tex.
Conable
Corcoran
Corman
Cornell
Cornwell
Cotter
Coughlin
Crane
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dent
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dodd
Dornan
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Okla.
Eilberg
Emery
English
Erlenborn
Ertel
Evans, Colo.
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fenwick
Findley
Fisher
Fithian
Flippo
Flood
Florio
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frey
Fuqua
Gammage
Gaydos
Gephardt
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Grassley
Green
Gudger
Guyer
Hagedorn
Hall
Hamilton
Hammer-schmidt
Hanley
Hannaford
Harkin
Harris
Harsha
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Horton
Howard
Hubbard
Huckaby
Hughes
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kazen
Kelly
Keys
Kildee
Kindness
Kostmayer
Krebs
LaFalce
Lagomarsino
Latta
Le Fante
Leach
Lederer
Leggett
Lent
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Luken
Lundine
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
Madigan
Mahon
Mann
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Mattox
Metcalfe
Meyner
Michel
Milford
Miller, Ohio
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nix
Nowak
O'Brien
Oakar
Ottinger
Panetta
Patten
Patterson
Pattison
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Pursell
Quayle
Quie
Quillen
Railsback
Rangel
Regula
Reuss
Rhodes
Rinaldo
Risenhoover
Roberts
Robinson
Roe
Rogers
Roncalio
Rooney
Rose
Rostenkowski
Rousselot
Rudd
Ruppe
Russo
Ryan
Santini
Satterfield
Sawyer
Schulze
Sebelius
Sharp
Shuster
Sikes
Sisk
Skelton
Skubitz
Smith, Iowa
Smith, Nebr.
Snyder
Spellman
Spence
Staggers
Stangeland
Stanton
Steed
Steers
Steiger
Stockman
Stratton
Studds
Stump
Symms
Taylor
Thompson
Thornton
Traxler
Treen
Trible
Tsongas
Tucker
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Waggonner
Walker
Walsh
Wampler
Watkins
Waxman
Weaver
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—32

Ammerman
Anderson, Ill.
Armstrong
Aspin
Beard, Tenn.
Burke, Calif.
Cochran
Conyers
Diggs
Fish
Flowers
Goldwater
Hansen
Hawkins
Kemp
Krueger
Lehman
McKinney
Meeds
Miller, Calif.
Moss
Murphy, N.Y.
Pepper
Runnels
Sarasin
Shipley
Slack
St Germain
Teague
Thone
Young, Alaska
Young, Tex.

Messrs. TUCKER, CHARLES WILSON of Texas, and LOTT changed their vote from "aye" to "no."

Messrs. RODINO, BONIOR, RICHMOND, MOFFETT, GARCIA, and DOWNEY changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. RAILSBACK

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

The Clerk read as follows:

Amendment offered by Mr. RAILSBACK: On page 43 after line 21, insert the following new section.

SEC. 224. In promulgating rules and regulations pertaining to financial disclosure, conflict of interest and ethics in the executive branch, the Commission shall issue rules and regulations in accordance with section 553, title 5, United States Code. Any person may seek judicial review of any such rule or regulation.

Renumber subsequent sections accordingly.

Mr. RAILSBACK. Mr. Chairman, I ask unanimous consent that I be permitted to make a modification in the amendment to strike "section 553" and substitute in its place "chapter 5."

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

Mr. DANIELSON. Reserving the right to object, would the gentleman tell me is he saying that where the language now says "section 553" he would strike that and insert "chapter 5"; is that correct?

Mr. RAILSBACK. Yes, "chapter 5." There is no substantive change.

Mr. DANIELSON. Mr. Chairman, I have no objection, and I withdraw my reservation of objection.

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

There was no objection.

The CHAIRMAN. The Clerk will report the amendment, as modified.

The Clerk read as follows:

On page 43 after line 21, insert the following new Section.

SEC. 224. In promulgating rules and regulations pertaining to financial disclosure, conflict of interest and ethics in the executive branch, the Commission shall issue rules and regulations in accordance with chapter 5, title 5, United States Code. Any person may seek judicial review of any such rule or regulation.

Renumber subsequent sections accordingly.

Mr. RAILSBACK. Mr. Chairman, I wish to speak in support of my amendment which is really clarifying in nature. This amendment assures that the public's right to know—the fundamental reason for this legislation—is fully safeguarded and not vitiated by weak disclosure or conflict of interest regulations. It is my belief that this amendment reflects the intent of the sponsors of the legislation.

Let me explain: Title II of this legislation provides for the establishment of an Office of Government Ethics in the Civil Service Commission. The Commission is given the responsibility for issuing rules and regulations detailing the specifics of required financial disclosure, and spelling out the appropriate conflict of interest rules. Although under the pending bill it is by implication rather than an express grant. While the bill outlines the general parameters of the required disclosures and the general framework of conflict of interest rules, many of the required nitty gritty details to make these requirements effective will have to be specified in regulation.

So, in the first place, my amendment assures that these rules and regulations are promulgated in accordance with the provisions of the Administrative Procedure Act. The APA mandates that public notice and an opportunity for comment are provided when rules and regulations are issued. Also, the Administrative Procedure Act allows the Civil Service Commission to hold hearings and take oral comments on these rules. This open process, with a full opportunity for public participation, is likely to result in well thought out, specific and realistic rules.

The second thing that my amendment provides is that any interested party may seek judicial review of these rules and regulations. Without this language, it would be unclear whether someone not subject to the requirements of these rules and regulations would have legel standing to challenge their validity. Since I believe that the fundamental purpose of this legislation is to safeguard the public's right to know about the financial influences on our high government officials, I think that a court should, even without this amendment, confer standing on a citizen who asserts that a regulation is inadequate. I am offering this amendment to make it absolutely clear that outside individuals can oversee the implementation of this statute by the Civil Service Commission. Unless citizens can participate in the development of and challenge these rules and regulations, I suspect that the Commission might be inclined to issue weak provisions in response to pressure from the government officials who are covered.

Hence, my amendment clarifies and does not substantially alter what I see to be the intent of this bill. I urge its adoption.

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

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

Mr. DANIELSON. Mr. Chairman, it is my understanding of the gentleman's amendment that he wants the rule and regulating power to be governed by the Administrative Procedure Act.

Mr. RAILSBACK. That is correct.

Mr. DANIELSON. Mr. Chairman, if my understanding is correct, I have no objection to the amendment.

The CHAIRMAN. The question is on

the amendment offered by the gentleman from Illinois (Mr. RAILSBACK).

The amendment, as modified, was agreed to.

AMENDMENT OFFERED BY MR. STRATTON

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

The Clerk read as follows:

Amendment offered by Mr. STRATTON: Page 47, line 9, strike out "O-6" and insert in lieu thereof "O-7".

Mr. STRATTON. Mr. Chairman, I rise to offer a perfecting amendment of the Committee on Armed Services to part C of title II of H.R. 13850, the conflict of interest portion of the bill.

This amendment occurs at page 47, line 9, of H.R. 13850, and would strike out "O-6" and insert in lieu thereof "O-7".

The committee purpose in offering the amendment is to insure uniform application of the 1-year prohibition on a former employee contacting the department or agency by which he had been employed. The bill presently applies that prohibition to civilian employees in positions classified at GS-16, while it applies it to officers of the uniformed services at pay grade O-6.

The civilian grade of GS-16 is generally considered the equivalent of the military pay grade of O-7, that is, brigadier general or the lower half of rear admiral. Since O-7 is the generally accepted equivalent of GS-16, our committee believes that the bill should be amended to apply the prohibition consistently.

On April 11, I received a letter from the General Counsel of the Department of Defense in which she objected to the language of H.R. 1 in this subsection. She noted that "in most military organizations, positions at the O-6 to O-8 levels are operational and not policymaking." She also stated, "the military and civilian application of the limitation would be comparable if the military grade level requirements were raised to the O-9 level." While I don't agree with the General Counsel that only uniformed services officers in pay levels O-9 and O-10 should be affected by this section, I see no reason to apply its prohibition to the O-6 level of uniformed services personnel. I believe that this amendment should be adopted in order to obtain a uniform application of the prohibition.

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

Mr. STRATTON. I will be glad to yield.

Mr. DANIELSON. Mr. Chairman, I have studied the amendment. It really carries out what we intended to do in the first place. I urge adoption of the amendment.

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

Mr. STRATTON. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Chairman, I would also encourage adoption of the amendment and have no objection to it.

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

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

Mr. McCLORY. Mr. Chairman, we support the gentleman's amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. STRATTON).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. STRATTON

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

The Clerk read as follows:

Amendment offered by Mr. STRATTON: Page 49, line 16, insert "with respect to the making of communications solely for the purpose of furnishing scientific or technological information under procedures acceptable to the department or agency concerned or" after "shall not apply".

Mr. STRATTON. Mr. Chairman, this second amendment of the Committee on Armed Services would amend subsection (f) of the bill to exempt communications for the purpose of furnishing scientific or technological information from the prohibition against former Government employees contacting the agency or department by which they had been employed.

The amendment to subsection (f) would occur at page 49, line 16. It would provide that the prohibition of subsections (a)(b) and (c) shall not apply "with respect to the making of communications solely for the purpose of furnishing scientific or technological information under procedures acceptable to the department or agency concerned, or".

H.R. 1's outright prohibition on "any written or oral communications on behalf of any other person" by former Government officers or employees caused great concern in the scientific community. As a result several scientists, from both industry and Government, urged our committee to provide an exception for communications, which were scientific or technological in nature, as distinguished from those which were intended to promote a program or product of a commercial employer. The scientific personnel thought that, unless such an exception were provided, they might be prohibited from furnishing information to their former agencies which could assist research and development programs. The committee considered that proposal as reasonable and, with the assistance of the Department of Defense, included in its amendments to the bill the language which we are now offering as an amendment.

Our committee sought to make the exception as restrictive as possible. The amendment would permit a very limited form of communications by the former employee with the agency or department by which he formerly had been employed. Any contacts which do not fall within that very narrow exception would be prohibited to scientists and technological personnel, just as they are to all other former Federal officials. At the same time, however, I believe that the amendment is sufficiently broad to relieve the anxiety of the scientific community.

Now I anticipate that opponents of this amendment will argue that it is unnecessary, since the subsection already provides that the head of a department or agency, in consultation with the Director of the Office of Government Ethics, can certify that a former employee can be exempted from the prohibition because of his outstanding scientific or technological qualifications. I have been advised by representatives of the scientific community, however, that they do not believe that exemption procedure is adequate since it is discretionary with the head of the agency, and the scientist will not know whether the exemption is to be granted until after completion of his Government employment.

I understand that many scientific and technological personnel would be unwilling to accept Government employment if they were required to serve under this cloud of uncertainty. The prohibitions of this section can severely impact the ability of an individual to earn a living. I do not believe that we can ask these highly trained and very valuable people to accept Government employment if, by doing so, they place their futures in the hands of bureaucrats who can summarily prevent them from returning to their chosen fields by refusing to grant an exemption after completion of faithful service to the Government. I believe we should assure our scientists that they can accept Government employment, and after its completion be able to communicate with their former Government agencies so long as their contacts are for the purpose of furnishing scientific or technological information.

Mr. Chairman, I believe that both these amendments would improve this legislation; the first by applynig it consistently to military and civilian personnel, and the second by permitting scientific communication which our committee believes is essential for national defense purposes. Accordingly, I urge the support of my colleagues in the adoption of these amendments.

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

Mr. STRATTON. I will be glad to yield.

Mr. DANIELSON. Mr. Chairman, I accept the amendment with all dispatch.

Mr. STRATTON. Mr. Chairman, I commend the gentleman for his wisdom.

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

Mr. STRATTON. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Chairman, I will be delighted to accept it also.

Mr. STRATTON. Mr. Chairman, I thank the gentlewoman.

Mr. ROBERT W. DANIEL, JR. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from Virginia.

Mr. ROBERT W. DANIEL, JR. Mr. Chairman, the second of our committee amendments to part C is an effort to insure that our Government will have access to all the scientific and technological expertise available. During our subcommittee hearings, we were con-

tacted by a number of scientists who expressed concern over the breadth of the prohibition on the contacts former Government employees might have with their former agencies or associates in those departments or agencies. They believed the language was broad enough to prohibit a contact which was solely for the purpose of conveying scientific or technological information. Such a broad prohibition, they believed, could work to the detriment of the United States. For example, it might prohibit a former Government scientist from passing along the benefit of his experience on a particular problem to his successor. To deprive the Government of the benefit of such information, which could expedite research, would be a very short-sighted policy.

Accordingly, I urge you to adopt this amendment of the Armed Services Committee.

Mr. STRATTON. Mr. Chairman, in view of the statement of the gentleman from California (Mr. DANIELSON), I will yield back the balance of my time, but first let me simply say that considering what happened the other day with regard to the Presidential veto override, it appears that the Committee on Armed Services is back in the good graces of House again.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. STRATTON).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. HARRIS

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

The Clerk read as follows:

Amendment offered by Mr. HARRIS: Page 21, strike out line 11 and all that follows down through "fixed for GS-16;" where it appears on line 19 and insert in lieu thereof the following:

(3) each individual holding a civil service position in the executive branch whose rate of basic pay is fixed by the Executive Schedule of subchapter II of chapter 53 of this title, by reference to such Executive Schedule (determined without regard to section 5308 of this title, or any comparable pay ceiling), or by the Postal Executive Schedule and such individual is at grade 33 or higher of such schedule;

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

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

There was no objection.

Mr. HARRIS. Mr. Chairman, I am offering an amendment to insure that the financial disclosure reports of all career employees covered by the bill—GS-16 and up—be kept confidential.

Specifically, my amendment deletes career, merit system employees from the bill and leaves in the bill section 207 which authorizes the President to require officers and employees in the executive branch to file confidential reports.

This approach is similar to the current practice under Executive Order 11222, under which the President determines which positions should be covered. Under the Executive order, for example, individuals in positions involving investigation, inspection, or auditing with respect to civil or criminal law enforcement or persons involved in awarding grants, subsidies, licenses, contracts or other monetary benefits are required to file confidential reports with their agency.

Thus, my amendment does not prevent the President from requiring disclosure reports from career employees. He retains that authority, but it makes it clear that the reports of career personnel would not be available to the public.

The reports of these employees could be audited and employees could be disciplined for violations. Conflicts of interest could be deterred. But these reports would remain within the agency and be handled confidentially.

I hope my colleagues will support this amendment.

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

Mr. HARRIS. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Chairman, I think this is a fine amendment, because, if I understand it correctly, the public is still protected in that if the President feels in order to maintain the integrity of the Government these matters should be made public in certain cases, they can be made public; is that correct?

Mr. HARRIS. Mr. Chairman, with regard to this amendment, the President would keep all of them confidential. May I say that if this amendment is not adopted, it would be my intent to make that point to which my colleague refers at another time.

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

Mr. HARRIS. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Chairman, I thank the gentleman for yielding. I wish to commend the gentleman from Virginia (Mr. HARRIS) for offering this amendment. This amendment will help to minimize the penalties imposed by this legislation on civil servants simply because they demonstrated the skill and aptitude to rise to a position of trust in the GS-16 through GS-18 category. If this amendment is not adopted, many potential candidates for upper level management with distinguished credentials will be deterred from applying for such positions simply because they refuse to have revealed to their friends, neighbors, and colleagues information of a delicate nature that would cause embarrassment to that civil servant and his or her family.

Accordingly, I urge my colleagues to support this amendment.

Mr. HARRIS. Mr. Chairman, I am pleased to hear my colleague's comment.

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

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

Mr. DANIELSON. Mr. Chairman, the gentleman has three amendments, and I want to be sure which one this is. Is this the one on page 21 that strikes out line 11 and all that follows?

Mr. HARRIS. Mr. Chairman, this amendment strikes out line 11 and all that follows down through "fixed for GS-16;" where it appears on line 19.

Mr. DANIELSON. This is an amendment, then, that was published in the RECORD a few days ago?

Mr. HARRIS. That is correct.

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

Mr. Chairman, as I understand the amendment, it will strike out on page 21 starting on line 11, the language of line 11 down through the designation GS-16, on line 19, and substitute the following language:

. . . each individual holding a civil service position in the Executive Branch whose rate of basic pay is fixed by the Executive Schedule of subchapter II of chapter 53 of this title, by reference to such Executive Schedule . . . or by the Postal Executive Schedule and such individual is at grade 13 or higher of such schedule.

Is that correct?

Mr. HARRIS. Yes, the gentleman is correct.

Mr. DAINELSON. Does this mean that people in Executive Level 1 must report, and their reports must be made public?

Mr. HARRIS. Absolutely.

Mr. DANIELSON. Also level 2?

Mr. HARRIS. Yes.

Mr. DANIELSON. Level 1 being the secretaries of the various departments, and Executive Level 2 being deputy secretaries, under secretaries, administrators of agencies, and chairman of agencies. Executive Level 3, would they also be required to make public reports?

Mr. HARRIS. The chairman is correct.

Mr. DANIELSON. We are getting down to solicitors general, Under Secretary of the Treasury, Chairman of the SEC, et cetera.

Then the Executive Level 4, they must report, and the reports must be made public?

Mr. HARRIS. Yes, sir.

Mr. DANIELSON. These are assistant secretaries of the departments, members of the Federal Home Loan Bank Board, et cetera. Executive Level 4, must they report and their reports be made public?

Mr. HARRIS. That is correct.

Mr. DANIELSON. These are assistant secretaries or lower, apparently, echelon.

And how about Executive Level 5?

Mr. HARRIS. They would be covered in the public disclosure.

Mr. DANIELSON. Public disclosure. Then what the gentleman is talking about here, the Director of the U.S. National Museum, the Smithsonian Institution, and they must report and the reports must be made public?

Mr. HARRIS. The chairman is correct.

Mr. DANIELSON. But what the gentleman is reaching is the civil service grades 16, 17 and 18, and the comparable grades in the Postal Service; is that correct?

Mr. HARRIS. That is correct, and, if I may say, only those who are in the competitive service. The political appointees in those grades should still have to report publicly.

Mr. DANIELSON. But what the gentleman is talking about are civil service employees who are GS-16 and above?

Mr. HARRIS. GS-16, GS-17 and GS-18; yes, sir.

Mr. DANIELSON. And, as I recall it,

the opening salary of GS–16 today is something like $42,400; am I approximately right?

Mr. HARRIS. The gentleman is approximately right.

Mr. DANIELSON. Mr. Chairman, my purpose in this colloquy is to establish for the RECORD, and also for the benefit of Members who are present and may vote, precisely who it is we are talking about. Most of us are not as intimately familiar with the civil service categories as the gentleman from Virginia.

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

Mr. DANIELSON. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. I thank the gentleman for yielding.

Mr. Chairman, I think I may have misinterpreted the amendment when I first saw it. I think the gentleman from Virginia has a second amendment which I like much better than this one, because I think the second amendment balances much better the rights of privacy against the public's right to know. I think we really do want to maintain the integrity of the professional employees, as well as of the political employees, and that says that they will be confidential unless the President saw some reason for them to be published.

So I am reluctant and sorry that I cannot support this amendment, and I certainly hope the gentleman from Virginia will offer his second amendment.

Mr. DANIELSON. In effect, the gentlewoman is revising and extending her earlier remarks and is manifesting less than enthusiastic support for the amendment.

Mrs. SCHROEDER. If the gentleman will yield, the gentleman from California has interpreted the remarks of the gentlewoman from Colorado very well.

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

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

Mr. McCLORY. I thank the gentleman for yielding.

Mr. Chairman, it is my understanding, from reading the press, that there is widespread corruption in the GSA and, apparently, at some of the higher levels, including, possibly, GS–16, GS–17 and GS–18.

I wonder whether or not we are eliminating from the public disclosure requirements the reports that would be required to be filed by their high level career civil servants in the GSA?

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

(On request of Mr. HARRIS, and by unanimous consent, Mr. DANIELSON was allowed to proceed for 2 additional minutes.)

Mr. McCLORY. That is my question. I want to know whether we are removing from the public disclosure requirements those executive civil servants.

Mr. DANIELSON. I would like, respectfully, to defer to the gentleman from Virginia (Mr. HARRIS) who can answer that better than I.

Mr. HARRIS. Mr. Chairman, if the gentleman will yield, I appreciate the gentleman yielding.

The response is "no." May I read to the gentleman the language that will be in the bill if this amendment is adopted. The language says that the President may require officers and employees in the executive branch, including the U.S. Postal Service and uniformed services not covered by this part to submit confidential reports in such form as required by this part. It would mean all these personnel, GSA and otherwise, could be required to file a report. It would mean the reports would not be made public, but they would be filed.

Mr. McCLORY. Mr. Chairman, there would be no public disclosure of GSA officials at these levels, and it seems to me that the amendment violates the entire purpose of this legislation.

Mr. DANIELSON. Mr. Chairman, would the gentleman from Virginia respond on that?

Mr. HARRIS. Mr. Chairman, if the gentleman will yield, I think quite the contrary. When the Agency in fact was being investigated these reports would have been available, not on a public basis but on a confidential basis, and they would in fact have given the basis for a very good investigation.

Mr. DANIELSON. I thank the gentleman.

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

Mr. Chairman, any time a line is drawn in legislation, the legislation is subject to criticism because it may be seen irrational with respect to those who fall on either side of that boundary. We have drawn the GS–16 line in this legislation primarily for the reason that GS–16 pay is comparable to those at the lowest executive schedule, all of whom are covered.

The gentleman's amendment raises this level to GS–18. My basic concern is: Why do we do it?

Certainly one could not argue that a GS employee lacks an opportunity for conflict contrary to the national interest but that an executive schedule appointee does have that opportunity. That distinction lacks rationality.

Indeed I see no reason to exclude personnel who are in the upper civil service levels from the mandatory disclosure requirements if we are to have that requirement at all.

The beauty—if there is beauty—in the committee bill is that it draws a line on the basis of pay. People who are in comparable pay levels will be compelled to make comparable reports. The amendment is an exception from that standard, and since the exception cannot be justified in my mind, I think we would be wise to adhere to one that at least admits of some rationality; namely, like pay shall have like duties.

I urge rejection of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. HARRIS).

The question was taken; and the Chairman being in doubt, the Committee divided, and there were—ayes 2, noes 25.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. HARRIS

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

The Clerk read as follows:

Amendment offered by Mr. HARRIS:

Page 31, line 12, strike out "Each" and insert in lieu thereof "Except as provided in subsection (e) of this section, each".

Page 34, after line 13, insert the following new subsection:

(e)(1) Except as provided in paragraph (2) of this subsection, reports of officers and employees referred to in section 201(f)(3) and of officers and employees of the Postal Service shall not be made available to the public pursuant to this section if the Director of the Office of Government Ethics determines that withholding such reports from such public availability would not affect adversely the integrity of the Government or the public's confidence in the integrity of the Government.

(2) No report of an officer or employee who is in a position which is excepted from the competitive service by reason of being of a confidential or policymaking character may be withheld from public availability under paragraph (1) of this subsection.

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

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

There was no objection.

Mr. HARRIS. Mr. Chairman, this amendment keeps all the requirements in the law that are currently in the bill but it does open open up one little recognition of privacy for those categories that the Director of Ethtics may consider would be best not to be made public.

All the reporting requirements remain the same. They are still mandatory. All of them are made public except where the Director of Ethics indicates that those categories can be kept confidential without jeopardizing the integrity of the Government.

I would urge my colleagues to adopt this amendment.

It gives, as my colleague across the aisle would have said, one element of balance here that says it is possible that there are positions in this area that can be excluded from making public the disclosure, without jeopardizing the integrity of the Government. I think we ought to give that much flexibility to the Director of Ethics.

Mrs. SCHROEDER. Mr. Chairman, if the gentleman will yield, let me say, in my enthusiastic support that I tried to give the last time, this time will stick. I think this is a good amendment. I think the gentleman from Virginia (Mr. HARRIS) has worked very, very hard on this. In essence this is what many of the members of our committee thought should have been done at the time we were discussing this issue.

I compliment the gentleman from Virginia (Mr. HARRIS) for weighing and balancing the public's right to know against individual privacy here and has come up with a good balance.

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

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

Mr. WIGGINS. Mr. Chairman, is the effect of the gentleman's amendment to authorize the Director of the Office of Ethics in Government to exclude from public disclosure any filing made by an employee at the executive branch level of GS-16 through 18, if the Director makes a finding that public disclosure would not in some way adversely affect the integrity of the Government?

Mr. HARRIS. That is basically correct.

If I may respond to my colleague, with just one refinement, it would apply only to competitive career service employees. In reply to your question, it gives that flexibility in regard to career employees in those particular grades.

Mr. WIGGINS. Would the gentleman yield further?

Mr. HARRIS. Yes.

Mr. WIGGINS. Mr. Chairman, I have these comments: I would hope that the overwhelming number of reports filed under this title would not disclose that the integrity of the Government is jeopardized, and, in fact, would simply provide those curious individuals an opportunity to investigate into the finances of people who serve in Government. In other words, the exception is liable to consume the rule. It would only be in the rarest of cases, I think, that an impropriety might be evident on the face of the report, compelling the Director to order its public disclosure. If that exemption is wise, since it covers most people why is it not wise with respect to Members of Congress?

I think the general story will be that most Members reveal no misconduct, or even a hint of misconduct. In other words, we are giving a special benefit to career civil servants that we do not give to others and I would like the gentleman to justify it.

Mr. HARRIS. I know it is difficult for Members of Congress who have chosen the public, political, elective life, after having requirements imposed upon them, not to say it should apply to everyone else just the same. Many may say you are making me live in a fishbowl and so whether the person is a GS-16 or a GS-17, whether he is a professor from the California Institute of Technology who is here for a brief time, he is coming in here and he has got to spread his financial affairs before all of his neighbors in Prince Georges County, for example, as to what his holdings are and how much he paid for his house, and what have you. I simply say with regard to the professional employees, all right, keep the requirement in if you will that they must make the disclosure, keep the requirement in that most of them will be made public, but at least let the Direcor of Ethics have some flexibility with regard to groups of employees where no purpose of public policy will be served, to make those particular groupings live in this sort of public fishbowl.

I suppose I approach this with a spirit of charity that we should not necessarily impose upon everybody else the requirements we are imposing on those who fill the office of elected Members of Congress.

I know it is difficult, I will say to my colleagues.

The CHAIRMAN. The time of the gentleman from Virginia (Mr. HARRIS) has expired.

(On request of Mr. WIGGINS and by unanimous consent, Mr. HARRIS was allowed to proceed for 1 additional minute.)

Mr. WIGGINS. Mr. Chairman, will the gentleman yield further?

Mr. HARRIS. I am happy to yield to the gentleman from California.

Mr. WIGGINS. Mr. Chairman, just in conclusion, I did not wish my comments to be misunderstood as opposition to the amendment. Indeed, I support the amendment because it is a breath of fresh, rational air in this bill.

Mr. HARRIS. I thank my colleague, the gentleman from California, Mr. Chairman.

Mr. WIGGINS. However, it does emphasize the irrationality of what we do with respect to everybody else. Indeed, we ought to follow the gentleman's pattern with respect to Members of Congress, it seems to me.

Mr. HARRIS. Mr. Chairman, I appreciate my colleague's comments.

Mr. BROOKS. Mr. Chairman, I rise in support of the amendment of the gentleman from Virginia. I do so based upon my respect for the concepts behind the Privacy Act of 1974 which I had the pleasure of supporting and over which the Government Operations Committee has legislative responsibility.

I do understand that in this difficult area of public financial disclosure versus privacy there are complex and competing policy issues which I am sure the Judiciary and the Post Office and Civil Service Committees had to deal with. I believe, however, District Court Judge Gesell was correct when he stated in a recent opinion:

> In this immediately post-Watergate period, the view exists that conflicts of interest can be expunged by forcing intimate disclosures from those dealing with or acting for the government. Within limits this may be sound, but we must beware lest excessive zeal in this direction destroy more precious fundamental values. People, even people working for the government, have within reason the right to be left alone. (*American Federation of Government Employees, Local 421, et al.* v. *Schlesinger*, Civ. Action No. 77-1985, January 13, 1978, p. 3.)

In line with that sentiment, we ought to give the Director of the Office of Government Ethics the responsibility and flexibility of determining whether some financial reports by high-level career civil service employees need not be publicly disclosed. I am aware that the Post Office and Civil Service Committee did find that there were serious problems in the present executive disclosure system which did not include public disclosure.

However, Mr. Chairman, we now have a completely new system with an independent Presidentially appointed director and staff and I suggest that before we mandate across-the-board public availability of the disclosure filings for all our career executives that we build in some flexibility when we are dealing with such precious fundamental values as privacy.

In this complex society, big government constantly impinges on all of us, including career Government employees. As Alexandr Solzhenitsyn wrote in Cancer Ward:

> As every man goes through life he fills in a number of forms for the record, each containing a number of questions * * * There are thus hundreds of threads in all. If these threads were suddenly to become visible, the whole sky would look like a spider's web, and if they materialized as rubber bands—buses, trains, and even people would all lose the ability to move, and the wind would be unable to carry torn-up newspapers or autumn leaves along the streets of the city. They are not visible, they are not material, but every man is constantly aware of their existence. . . . Every man, permanently aware of his own invisible threads, naturally develops a respect for the people who manipulate the threads.

The U.S. Congress has on a number of occasions in recent years stood up for the right of our citizens to be protected from the indiscriminate publication of personal information. There is no compelling case at this time to treat career Government employees as second-class citizens who are to be denied those basic protections.

Before we mandate across-the-board public disclosure for our career employees, I recommend we first try the procedure outlined in the gentleman from Virginia's amendment.

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

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

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

The only problem I find with this amendment—and I think it really goes to the basic purpose or purport of the bill—is this, that we are mandating public disclosure on the one hand, but then we are delegating, through the gentleman's amendment, to this one individual, who is an appointive official, the right to exempt from the mandate a certain group of individuals who will not be required to make public disclosures such as the public disclosures which are required of Members of the Congress, Federal judges, and Presidential appointees.

I think that it, perhaps, points up the folly of the pending legislation insofar as it is a broad sweep which includes not only Members of the Congress but also the executive department and the judiciary. I think that what the gentleman points out is that this legislation just is not good legislation insofar as it affects these individuals in the executive branch.

Mr. BROOKS. I think the gentleman is absolutely right.

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

Mr. Chairman, it appears to me that this amendment does just about what the previous amendment offered by the gentleman from Virginia sought to do, and that is to repeal title II of the bill.

What seems to have been done here is that we have created 30 pages of legislative language to provide for disclosure, and then if we pass the gentleman's amendment, we will allow one official to eliminate all of the disclosure.

I think I probably would be willing to vote to strike the title, but I do not think I am willing to create the whole title, create all the administration for the filing of many thousands of reports, and then provide that the reports will not be disclosed. I believe that there are somewhere about 15,000 of these reports required to be filed under title II, and under the Harris amendment they would be filed for no purpose at all. No one will ever see those reports. It seems to me the Harris amendment would totally invalidate the purposes of disclosure.

I would like to ask the gentleman, are there not 15,000 of these employees who could be exempted under his amendment?

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

Mr. FRENZEL. I yield to the gentleman from Virginia.

Mr. HARRIS. I thank the gentleman for yielding.

The total number, as I recall, of the grade levels that we referred to would be about 9,200. Presumably, under this amendment only a well-identified group and relatively small group would be designated by the Director of Ethics where disclosure would be continued to be required, and, of course, the Director of Ethics would see them. But with respect to those groups the disclosure would not be made public. This gives the Director some flexibility where it serves no public purpose not to exempt them.

Mr. FRENZEL. If the Director of Ethics exempts one person because his job does not require disclosure, I do not see how he can decide that the next person who holds the job requires disclosure. It seems to me the gentleman literally exempts all of these people from the effects of title II. It may be good policy to exempt a few people, but if we do, then why do we not exempt all the rest? I can see no reason to draw the distinction between the gentleman's subparagraph (1) and (2).

Mr. Chairman, I am going to vote against the amendment. I am not a great admirer of the title itself, but I see no reason to create a title with a lot of administrative work attached to it and then suddenly to almost repeal all of its effect.

I yield back the remainder of my time.

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

Mr. Chairman, I am an enthusiastic supporter of the title and of the bill, unlike the gentleman from Minnesota, but I share his reservations and those expressed by others, including the gentleman from California (Mr. WIGGINS), who suggested that here the exception may, indeed, prove the rule.

As the gentleman from Illinois (Mr. MCCLORY) earlier pointed out, if the GSA, for example, were somehow exempted, we still would not have the disclosures the public would surely feel that they were entitled to. The criteria really are so broad, that which would not obviously affect the integrity of the Government or public confidence therein, as really to be no guide at all to the Director of Ethics in this case. The committee rather painfully exempted intelligence agents from public disclosure under rather elaborate circumstances in the House bill.

We had a prolonged debate about that particular exemption. If this exemption were agreed to, it would make all of that discussion irrelevant, because one of the primary reasons for exempting our intelligence agents was the very fact that someone exempted them would tend to point them out; but if we are exempting other classes of personnel, and these are people at the highest level, grades 16, 17, and 18, then there is no point for expressly exempting the agents we have in the preceding section.

I think this undercuts the whole purpose of the bill. As the gentleman from Minnesota suggested, it makes a loophole in the title as large as the title itself.

Mr. Chairman, I believe the amendment ought to be rejected.

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

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

Mr. WIGGINS. Mr. Chairman, I share many of those sentiments, although frankly I support the amendment. It is well to point out that we have here in the legislative branch many staff persons who will be covered and who are not favored by the effect of this amendment. These people are career people in a sense and are in the GS–16, –17, and –18 pay level. Their reports must be disclosed whereas similar executive employees in the same pay category would not.

Mr. KASTENMEIER. Mr. Chairman, I appreciate the gentleman's comments. It suggests how unevenly this amendment falls. I urge it be rejected.

Mr. BURKE of Massachusetts. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to this amendment.

I believe the House should be very careful about what they do today in this amendment. There are investigations and allegations going on about the GSA. If some of those are proved, this House could be in a very embarrassing position. I think we ought to be very careful and oppose this amendment. There is nothing wrong with the provisions in this bill. It calls for people in high positions to reveal what we are obliged to reveal. If we have a code of ethics in this Government, it should be broadened out. It should include those people in a position to make decisions, and particularly those with special interests.

I do not think we would act properly if we adopted the gentleman's amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. HARRIS).

The question was taken; and on a division (demanded by Mr. HARRIS) there were—ayes 9, noes 22.

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

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee of the Whole appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN pro tempore (Mr. FOWLER). One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The pending business is the demand of the gentleman from Virginia (Mr. HARRIS) for a recorded vote.

Mr. HARRIS. Mr. Chairman, I renew my demand for a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

AMENDMENT OFFERED BY MRS. SCHROEDER

Mrs. SCHROEDER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. SCHROEDER: Page 34, strike out line 14 and all that follows down through line 23 and insert in lieu thereof the following:

REVIEW OF REPORTS

SEC. 206. (a) Each designated agency official or Secretary concerned shall make provisions to ensure that each report filed with him under this part shall be reviewed within 60 days after the date of such filing, except that the Director of the Office of Government Ethics only shall review those reports transmitted to him under this part within 60 days after the date of transmittal.

(b)(1) If after reviewing any report under subsection (a), the Director of the Office of Government Ethics, Secretary concerned, or designated agency official, as the case may be, is of the opinion that on the basis of information contained in such report the individual submitting such report is in compliance with applicable laws and regulations, he shall state such opinion on the report, and shall sign such report.

(2) If the Director of the Office of Government Ethics, Secretary concerned, or designated agency official, after reviewing any report under subsection (a)—

(A) believes additional information is required to be submitted, he shall notify the individual submitting such report what additional information is required and the time by which it must be submitted, or

(B) is of the opinion, on the basis of information submitted, that the individual is not in compliance with applicable laws and regulations, he shall notify the individual, afford him a reasonable opportunity for a written or oral response, and after consideration of such response, reach an opinion as to whether or not, on the basis of information submitted, the individual is in compliance.

(3) If the Director of the Office of Government Ethics, Secretary concerned, or designated agency official reaches an opinion

under paragraph (2)(B) that an individual is not in compliance with applicable laws and regulations, he shall notify the individual of that opinion and, after an opportunity for personal consultation (if practicable), determine and notify the individual of which steps, if any, would in his opinion be appropriate for assuring compliance with such laws and regulations and the date by which such steps should be taken. Such steps may include, as appropriate—

(A) divestiture,

(B) restitution,

(C) the establishment of a blind trust,

(D) request for an exemption under section 208(b) of title 18, United States Code, or

(E) voluntary request for transfer, reassignment, limitation of duties, or resignation.

The use of any such steps shall be in accordance with such regulations as the Director of the Office of Government Ethics or a Secretary concerned, as the case may be, may prescribe.

(4) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under paragraph (3) by an individual in a position (other than in the uniformed services), appointment to which requires the advice and consent of the Senate, the matter shall be referred to the President for appropriate future action.

(5) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under paragraph (3) by a member of the uniformed services, the Secretary concerned shall take appropriate future action.

(6) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under paragraph (3) by any officer or employee the matter shall be referred to the head of the appropriate agency for further appropriate action; except that in the case of the Postmaster General or Deputy Postmaster General, the Director of the Office of Government Ethics shall recomend to the Governors of the Board of Governors of the United States Postal Service the further action to be taken.

(7) For purposes of assisting employees in avoiding situations in which they would not be in compliance with applicable laws and regulations, each Secretary concerned and designated agency official (including the President in the case of the individuals employed in the Executive Office of the President) shall maintain a list of those circumstances or situations which have or may result in noncompliance with such laws or regulations. Such list shall be periodically published, and shall be furnished to those individuals employed within the agency who are required to file reports under this part. The absence of any situation or circumstance from such a list shall not be construed as an indication that an individual in such circumstance or situation would be in compliance with such laws or regulations.

(8) The preceding provisions of this subsection shall not apply in the case of the President or Vice President, or a candidate or nominee for such office.

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

The CHAIRMAN pro tempore (Mr. FOWLER). Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

Mrs. SCHROEDER. Mr. Chairman, section 206 of the substitute—H.R. 13850, page 34, lines 15 to 20—provides very simply that the agency heads and Director, Office of Government Ethics, shall "assure" that reports are filed. Thus, there is no assurance that reports are complete or that any conflicts of interest contained in reports are corrected unless—and this is a big contingency—the reports are reviewed by outside parties; for example, the press or a public interest group.

Title II of the substitute will require over 10,000 financial reports to be filed. Most assuredly, the reports of the 500 or so executive branch bigwigs will be reviewed upon release by the press, and so forth. However, not many of the other 9,500 reports will be so reviewed. Instead, they will receive public examination once a scandal surfaces—well after an initial review, which could have prevented or corrected the conflict of interest situation.

The General Accounting Office found two faults in its examination of the present executive branch financial disclosure setup. First, that reports are not filed, the item section 206 takes care of. Second, that reports are not reviewed.

Not having in-house review defeats the entire purpose of financial disclosure. It is like having tax laws and no audits or traffic laws and no traffic police. Filers of forms do not know if they are filing them right. The public has no assurance they are complete.

My amendment requires each report to be reviewed. The review does not have to be in great depth. Just assurance that all blanks are filled in and a determination that information filed which on its face looks like a conflict of interest is found to be or not to be a conflict of interest, so that corrective action—such as moving an employee to a part of an agency where his investment cannot be a conflict—will be taken before it creates the headlines, destroys the Government's case, or cancels the contract.

In addition, to help employees avoid conflicts in their own right it requires each agency to maintain a list of conflict situations which should be avoided. In this way, the person at the Interstate Commerce Commission can know in advance that, for example, the conglomerate in which he is thinking of buying stock owns a trucking firm he regulates.

These two requirements are not a new burden. They are exactly the kind of things that the present Executive Order 11222 requires, but upon which, the GAO says, agencies have placed no emphasis. The lack of review for which section 206 in the substitute offers no correction cannot be permitted to continue.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentlewoman from Colorado (Mrs. SCHROEDER).

The question was taken; and on a division (demanded by Mrs. SCHROEDER) there were—ayes 10, noes 8.

So the amendment was agreed to.

AMENDMENT OFFERED BY MR. ECKHARDT

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

The Clerk read as follows:

Amendment offered by Mr. ECKHARDT: Page 49, immediately after line 24 insert the following new subsection:

"(g) The prohibitions contained in subsection (c) of this section shall not apply with respect to any formal or informal appearance before or communication to a department or agency by a person who is a member in good standing before, and is licensed or certified to practice in a profession by, any Federal or State licensing or certifying authority for such profession, if the following conditions are met:

"(1) Such person is subject to discipline, including suspension or revocation of such person's license or certification to practice, by the licensing or certifying authority on account of—

"(A) a failure to possess the requisite qualifications to represent others,

"(B) a lack of character or integrity, or

"(C) engaging in unethical or improper professional conduct.

"(2) Such department or agency has in effect standards of ethical conduct—

"(A) for its officers and employees which, at a minimum, prescribe and subject such officers and employees to disciplinary action, including suspension or dismissal, for—

"(i) using public office for private gain,

"(ii) giving preferential treatment to any person,

"(iii) impeding Government efficiency or economy,

"(iv) compromising independence or impartiality,

"(v) making a Government decision outside official channels, or

"(vi) affecting adversely the confidence of the public in the integrity of government; and

"(B) for its former officers and employees which, at a minimum, provide for disciplinary action, including the suspension or revocation of the privilege of appearing or practicing before it, upon a finding (after notice and an opportunity for hearing) of—

"(i) failure to possess the requisite qualification for representing others,

"(ii) lack of character or integrity; or

"(iii) engaging in unethical or improper professional conduct.

"(3) Such appearance before, or communication to such department or agency is of a category exempted from the prohibitions contained in subsection (c), for purposes of this subsection, by general rule or regulation promulgated by the department or agency, in consultation with the Director of the Office of Government Ethics, and published in the Federal Register.

"(4)(A) A file containing—

"(i) any such written communication (and responses thereto),

"(ii) memoranda stating the substance of any such oral communication (and responses thereto), and

"(iii) all written communications (and responses thereto) and memoranda stating the substance of all oral communications (and responses thereto) in connection with any such appearance,

is made available for public inspection and copying immediately upon request, notwithstanding any provision of section 552(a)(6) of title 5, United States Code.

"(5) Such appearance is not before, or communication is not with, any person under the direct supervision and control of such former officer or employee, while employed with such department or agency.

"(6) Such former officer or employee files a written declaration with the department or agency that he or she is currently qualified to appear in a representative capacity before the department or agency, and that the appearance or communication is not intended to have, and cannot reasonably be expected to have, any effect described in paragraph (2)(A) (i) through (vi) of this subsection.

For purposes of this subsection, the term 'State' includes the District of Columbia and any territory or possession of the United States."

Page 49, line 25, strike out "(g)" and insert in lieu thereof "(h)".

Page 50, line 21, strike out "(h)" and insert in lieu thereof "(i)".

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

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. ECKHARDT. Mr. Chairman, this is an amendment which is, in effect, a fallback amendment from the Moorhead amendment introduced the other day to strike the 1-year period during which there would be an absolute prohibition against an ex-employee appearing before an agency if he fell in the category of a former policymaking employee. That is the Moorhead amendment introduced the other day which was passed by those having heard the argument on the floor, but ultimately defeated by the vote of those who came to the floor later.

Mr. Chairman, I think most of the arguments which were raised in favor of the Moorhead amendment the other day are also applicable to this amendment. However, some of the criticisms with respect to striking altogether the 1-year absolute prohibition, I think, are removed in this amendment.

In the first place, with respect to the 1-year period in which a person who is employed in a capacity which is policymaking may not appear before the agency, that 1-year period may not apply if the agency discretely determines areas in which such prohibition should not be applicable and if the employee involved belongs to a professional association which is licensed by the Federal or State government, as, for instance, the bar of a State, and that association provides standards of conduct which would prohibit conflicts of interest and, in addition, the agency has standards of conduct which require ethical practice before the agency, and we set forth the minimum standards in the amendment. The minimum standards described in the amendment would generally comport to that type of standard which a bar of a State would require.

The standards of the agency with respect to former and present employees are framed pretty largely after the standards now applicable to the Securities and Exchange Commission. It seems to me that this is a reasonable protection with respect to employees who have been formerly employed by the agency appearing before that agency in matters in which they did not have supervisory authority and were not engaged in the enforcement of the governmental procedure, in the first place.

We do not, of course, change provisions of existing law which prohibit former employees from appearing before an agency in a matter in which they were previously involved in behalf of the agency.

Mr. Chairman, I will say to my colleagues here that this is not a partisan proposal. Our colleague, the gentleman from North Carolina (Mr. BROYHILL), appears on the "dear colleague" letter supporting this amendment. I think that the gentleman from North Carolina (Mr. BROYHILL) and I are not merely volunteers in an area in which we have not previously been engaged. The subcommittee we are on, as chairman and as ranking minority member, deals with more of these agencies than does any other subcommittee. The SEC, of course, is a perfect example of the problem involved.

We also have the name of the gentleman from Illinois (Mr. MCCLORY) on the letter, just as we do that of the gentlewoman from Texas (Miss JORDAN).

May I say, Mr. Chairman, that I am not a newcomer to this question.

The CHAIRMAN pro tempore. The time of the gentleman from Texas (Mr. ECKHARDT) has expired.

(By unanimous consent, Mr. ECKHARDT was allowed to proceed for 3 additional minutes.)

Mr. ECKHARDT. Mr. Chairman. I appeared before the subcommittee and made the point I am making here.

I would suggest to the Members that we too frequently use terms like "revolving door" or "sunset" or some other catchy term; and then we decide issues merely upon those slogans.

I would suggest to the Members that the evil is not with respect to the revolving door.

The revolving door is in the front of the building. You see who goes in the revolving door. You see men like Manny Cohen who traveled through that revolving door into the SEC and into private practice, a man of impeccable character. You see former Attorney General Katzenbach; Clark Clifford; many others—men of integrity and ability—you see them all moving in and out of Government and in and out of private practice.

I suggest to the Members that our economy is essentially an enterprise system in which government must know something about business and business something about government. It is not evil that there be an interplay between the two.

The door we want to stop is not the revolving door. The door we want to lock is the back door, the back door to the commissions. What we are dealing with here is persons of high level, very much in the public eye, in the glass revolving door, who all the public knows are in governmental practice, and they know when these persons go into private practice. The fact that they are related to business at one time and to Government at another time is not per se evil. It is evil to breach the ethical limitations of the profession or of the agency, and we provide clearly in this amendment that there shall be no exception to the 1-year bar unless there are ethical standards promulgated by the profession which would permit removal of one's license in case of unethical practices, and unless the agency also has such rules to prevent unethical conduct.

As I said before, this does not in any way permit persons engaged in the actual case, while a person was in Government, to go into private practice and appear in the same case.

I suggest to the Members that this is a moderate amendment, a reasonable one. It strikes a balance between a very stiff limitation of the 1-year period and the amendment which struck the section altogether.

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

Mr. Chairman, with great reluctance I must rise to oppose the amendment offered by the gentleman from Texas (Mr. ECKHARDT). This is another amendment which is offered in the greatest of good faith and in all sincerity, but which has the common denominator we find throughout all these amendments or proposed amendments to the bill, namely, it seeks to exempt a specific category from the provisions of the bill.

I know that within this committee, within the House, there is not a unanimity of opinion as to whether or not this bill is good at all, for any reason. There are many who feel that it is a good bill and that we should have public disclosure of certain financial transactions and regulations regarding the revolving door or conflict of interest, and there are others who feel just as strongly and just as honestly that these provisions are not necessary. But I respectfully submit that what we are trying to do in this bill is not to correct something that has already happened; what we are trying to do is to prevent undesirable things from happening in the future. It is preventive in nature. That is the purpose of this bill.

We are requiring financial disclosure, the reporting of financial transactions not because of something that has happened in the past. We are not going to catch something that has happened in the past. We are requiring these things to prevent any corruption, any conflict from happening in the future. It is preventive; it is an inoculation; it is a vaccination; it is something to prevent evil.

Along that line let us not forget that when people have served in the Government for a number of years, when they have occupied high-level positions, they have of necessity because of human nature established a psychological superiority or advantage over those who worked for them in the past.

What we are trying to do is to prevent those people from coming back into the same office where they were the boss last year and to try to exert something on behalf of a client who is paying them. Obviously, having been working in the agency in a top-level position just a few weeks or a few months ago, they would have a psychological advantage over the people working in that agency and they can exert an influence, which by its very nature is superior and better than that which can be exercised by other people. That is what we are trying to prevent.

The bill as it is now drafted puts this inhibition only on the very top-level peo-

ple. We are not preventing some young man out of law school who worked for a year at the SEC from going out and getting a job, but we are preventing the man who was the head of the department of SEC coming back day after tomorrow and representing a client to his advantage.

Mr. Chairman, the difficulty with this bill, and all the amendments to this bill, I should say, is that we are trying to keep the foxes out of the chicken coop. It does not do any good to say that this particular fox is not going to eat any of the chickens, because the chickens do not believe it. You and I may believe it, but the chickens do not. Let us keep the fox out of the henhouse. That is exactly what this is for. If we chip away these restrictions one by one, the fox is going in there and what is going to happen, the feathers are going to fly. That is certain.

Now, as to the gentleman's amendment itself, it has a lot of inherent problems. For example, most of these people are attorneys. They are coming into these agencies to represent a client as an attorney. The amendment requires the agency to make a file, reporting every communication, every oral communication by memorandum between the agency and the former employee. And it is a public record. Are they not going to be breaching the attorney-client privilege? When I practiced law, I would have thought so. They are going to destroy the confidentiality of tax and business information. They are going to destroy the confidentiality of Government matter; so it is going to be extremely burdensome. Every time one of these people comes into the agency, you are going to have to update the fact that at 2:05 p.m. he came in; at 2:10 he walked down the hall and talked to John Bureaucrat; at 2:15 he left John Bureaucrat's office and has to dictate a memorandum and say, "While I was there, I saw X, Y, and Z."

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

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

Mr. ECKHARDT. Mr. Chairman, the gentleman is correct, that he has to report to whom he talked, but he does not have to reveal everything he said.

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

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

Mr. DANIELSON. Mr. Chairman, I made the cardinal error of all who argue a cause. I forgot to tell you, I hope you will vote this amendment down out of hand. It is nothing but the successor to the one we defeated overwhelmingly on Wednesday last. I urge a "no" vote.

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

Mr. Chairman, it seems to me that this is a very good amendment. It will encourage individuals, including those in the professions, for example, accountants, lawyers, and engineers, to go into Government service. It will provide that kind of latitude so that a person who has completed his governmental service may return to engage in his profession as he did before he undertook the service. At the same time, it provides the discipline which it seems to me is essential and is really what we are talking about, the discipline which would punish a person or discipline a person for any kind of professional misconduct including improprieties in dealing with Federal agencies or departments.

I do not know that we are going to be able through this legislation, or any legislation for that matter, to legislate human and public morals. I think we are going to provide some things which can help lay more facts and more information before the public. I think we can encourage appropriate conduct, but we should not undertake to deprive a person of certain individual rights. And that is what we are talking about; it is not an exemption. It is a ban, it is a prohibition against a person engaging freely in his individual business or profession, which is something it seems to me we should not legislate against. At the same time we are providing in this amendment that if the person who was formerly in the Government service is engaged in any wrongdoing, that person is going to be subject to discipline.

It was suggested here in the argument the other day, when we talked rather facetiously about the law of "Danielson & Eckhardt" or something like that, that while they would be barred from any contact with an agency, somehow or other they could engage somebody else to contact a Government agency in their behalf.

Now, is that the attitude of those who are promoting this legislation? Are they suggesting that we can prohibit something being done directly but that by acting indirectly one can violate the provisions of this law? And yet without this amendment we are saying that one can do that; we are authorizing it, we are supporting it, and we are countenancing it?

It seems to me that is certainly not the attitude we should be taking. We should be taking the attitude, in the first place, that most people in Government, just as in the business community and in the professions, are by and large honest, honorable individuals.

It was suggested that unless we defeat this amendment, we will demean the integrity of virtually everyone in the public service, because it is suggested that unless we retain this language which provides the complete bar for a year, all those in the public service who have had contact with somebody at a higher level are going to be subject to their influence and subject to their connivance, and they are going to be able somehow to deviously accomplish something that otherwise would not be accomplished in the bureaucracy.

I just cannot support that kind of concept of those in the public service, and I do not think it is justified. It seems to me that unless we adopt this amendmest, what we are really doing, as the gentleman from Washington (Mr. FOLEY) said the other day, is mandating and legislating mediocrity in the executive branch of Government. It does not seem to me that in providing for public disclosure we would want to take that step.

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

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

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

I was surprised at the analogy of the gentleman from California (Mr. DANIELSON) of the fox in the chicken coop. I am not quite sure how a "chicken" working for the Government becomes a "fox" when he goes into private practice, but I do understand that if we discourage talented people in Government practice, those who do enter the Government service will be weak "chickens" indeed.

Mr. McCLORY. Mr. Chairman, I understood that the gentleman from California (Mr. DANIELSON) talked about the chicken in the henhouse, and I was a little confused by that description which I had not heard before. However, if it is the rooster in the henhouse that, of course, could cause a lot of problems there.

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

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

Mr. DANIELSON. Mr. Chairman, in answer to the comment of the gentleman from Texas (Mr. ECKHARDT), the magic formula by which one changes from the chicken to the fox is a little thing called abracadabra, and that, I will say to my dear friends, enables a chicken immediately to turn into a fox, particularly once he has gone off the Government payroll and represents a private interest.

Mr. McCLORY. Mr. Chairman, I am delighted to have that astute interpretation. I shall ask unanimous consent to revise and extend my remarks, particularly with regard to my last answer.

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

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

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

My feelings about subsection (c) were made known during the debate last week. I think this section needs some measure of flexibility, and that is what the Eckhardt amendment would permit. It gives the agency the power to set rules and regulations covering those instances when a former employee could come in during that 1-year period. It would allow appearances before an agency only under certain specified conditions.

There are many times when there would be no conflict of interest whatsoever. There are many times when someone who had previously worked for the Department might want to come in on a totally noncontroversial matter, on some new matter, or on some matter that was agreed on, where his expertise would be of great assistance. To allow

an agency to set those rules and not the individual himself will totally protect the American people from any possible conflicts.

I think the Eckhardt amendment is an outstanding amendment. It moderates the most arbitrary provisions in this legislation, and I urge an "aye" vote on the Eckhardt amendment.

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

Mr. Chairman, I think I support the Eckhardt amendment, although in a moment I will ask the gentleman a few questions about matters that are uncertain in my mind.

I was not present last week as we debated section 207 and particularly the amendment to strike subsection (c) which was offered by my friend, the gentleman from California (Mr. MOORHEAD). I certainly would have supported that amendment had I been present.

Mr. Chairman, this is the most bizarre section in a bill that is bizarre enough. Under the heading of "conflict of interest" we punish a person who, by definition, has no conflict and do so because we do not have faith in Government employees to be objective. We heap no burden upon the employee, but the former employee, who has lost his conflict, is subject to prohibitions. It is, Mr. Chairman, a repudiation of advocacy. That is all we are talking about. We do not trust a former employee to advocate a point of view before a present one, because we fear that the present employee will not have the guts or the objectivity or the integrity to make a proper decision. And, of course, the penalty is not upon the present employee but, rather, upon the former employee. It is ludicrous, Mr. Chairman.

We should have stricken section (c) at the outset, and we should have—and I hope we will—make further amendments to section 207 in the bill.

It is my understanding that the provisions of the pending amendment tend to moderate subsection (c), and I am in support of that objective. But, if I may have the attention of the gentleman from Texas (Mr. ECKHARDT), I will ask him to turn to page 4 of his amendment and explain to me the meaning of sections 4 (A) and (B).

Mr. ECKHARDT. Mr. Chairman, if the gentleman will yield, the governmental agency will keep a file containing any written communications or summary of any contact during that period of time.

Mr. WIGGINS. And under what circumstances is the content of that file made public?

Mr. ECKHARDT. It is made available to the public for inspection and copying.

Mr. WIGGINS. Well, that troubles me.

Mr. ECKHARDT. We are assuming, that the person making the contact is attempting to convince Government of a particular point. Now, the person making a contention is like a lawyer in a court. He must act within those restrictions during that period of a year, because we agree that there should be an opportunity for some special surveillance on the nature of the communications.

Mr. WIGGINS. I am troubled by the notion of making available to the public correspondence from an attorney on behalf of his client to the Government or the substance of any oral communication made by that attorney to the Government on behalf of a client. There may come a time when a proceeding goes forward in which the record is available to the public, but as the gentleman knows, a lot may precede that point, which at least raises some questions in my mind as to the necessity of opening up the contents of correspondence which may reveal very private matters affecting a client.

Will the gentleman respond to that?

Mr. ECKHARDT. Mr. Chairman, I understand the gentleman's concern about this question. But we are, of course, not limiting the client to employ only that person as a representative. And we feel that, with respect to representation by such a person, for example, in a rulemaking proceeding, the type of representation should be just as open as if it were before the agency in an open hearing or in court.

I am not suggesting that the attorney should reveal confidential information.

Mr. WIGGINS. I do not believe we have necessarily perfected this language, although I support the gentleman's amendment and believe it is a basis to go forward.

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

(By unanimous consent, Mr. WIGGINS was allowed to proceed for 30 additional seconds.)

Mr. WIGGINS. Mr. Chairman, as we further consider this matter in conference I hope we will reflect upon the necessity of public availability of communications on the part of a lawyer who acts on behalf of a client in all of his contacts with the various governmental agencies. It may indeed be inappropriate to make that broad mandate of public disclosure in all cases and some exceptions would be in order in the future.

Mr. ECKHARDT. If the gentleman will yield further, what we are talking about must be made public is the fact that he advocacy is taking place and a general statement regarding the substance of that advocacy.

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

(One request of Mr. ECKHARDT, and by unanimous consent, Mr. WIGGINS was allowed to proceed for 1 additional minute.)

Mr. ECKHARDT. On page 4, it is provided that those communications which are now described in clauses (i) and (ii) and (iii) of subparagraph (A) with respect to any matter referred to in section 552(d)(6) of title 5, United States Code, shall not be made available for public inspection.

Mr. WIGGINS. That section of title 5 is the Government in sunshine section, as I remember, and to say it shall not be made available is a strange citation. I want to support the gentleman's amendment, but let us understand we will not be locked in concrete here and some refinement of it may be necessary.

Mr. ECKHARDT. I am sorry, I intended to refer to section 552(b).

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

Mr. Chairman, I strongly favor the Eckhardt amendment. Going back to the fox and the chicken coop argument of the gentleman from California (Mr. DANIELSON), I think without this amendment we will end up with the chickens; that is, the Federal employee, who will be puny and low in nutritional value.

Quoting the gentleman from California, he says the purpose of this bill is to prevent undesirable things from happening. That is what I think the gentleman from Texas is trying to do. What we are trying to do is to prevent a weak, unresponsive, unimaginative and inexperienced, know-nothing, Federal bureaucracy that will know nothing about the private sector they are intending to regulate and nothing about the day-to-day problems of the types of people they have to deal with all the time.

I contend with the amendment of the gentleman from Texas we will permit an incentive for people to come from the private sector to serve in Government in high-level positions and serve as role models for thousands and thousands of bureaucrats who can use the positive reinforcement that these people can offer, and then have these people go back into the private sector and serve in certain positive capacities.

This is the way to bring competent and responsible people into the high-level positions and have them serve their country for a period of time and then have them go back out into the private sector.

I might add we have seen President Carter has brought in many such high-level people into his administration. There is no reason why we cannot permit such people to come into the agencies such as the Securities and Exchange Commission and the Federal Trade Commission and other such commissions. There is no reason not to permit that.

All of us are concerned about having a high-level person such as a general, leave the Pentagon and then go into a company such as General Dynamics and other such companies. This amendment would prevent that. It permits certain high-level advocates in fields which are subject to licensing, and so on, and it still gives the agency the power to determine whether they should or not do that.

Coming from a small town, I feel without this amendment we are going to require that these particular people, if they are prohibited for 1 year from doing anything with the Government, go to work with large law firms, with large corporations for that 1-year period of time, be-

cause their partners—I repeat, their partners—or their associates are not prohibited from making contact under the bill.

I repeat that under the bill their partners or their associates are not prevented from making contact with the agency again and will prevent a lawyer who works for the SEC and wants to go back to a small town and practice securities law, and that is all that person knows when he goes into practice on his own, from having any contact whatsoever with the SEC or other agencies for 1 year. I think that is unfair, since it would not serve as a prohibition from that person going to work in a large law firm, or corporation, and having one of his associates from making the contact. I think that reflects a tendency in so many things that we pass here that have a strong rationale but that end up hurting the little guy, the little people, not the big people, because the big ones do not file under this bill; because all the partners of this particular person who goes back to private practice will be able to do all the work they want to do, but the person who wants to go back and practice by himself cannot do it.

I think the Eckhardt amendment is a fair compromise so as to bring the highest level of people back into the Government which we so desperately need.

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

Mr. Chairman, I rise in support of the amendment offered by the gentleman from Texas (Mr. ECKHARDT).

What is important, Mr. Chairman, is that we pass this ethics bill and that this bill serve, in some way, to restore a little bit of the faith and confidence that the public ought to have in public officials. But we need to be careful that in the passage of this bill we do not codify mediocrity, that we do not, somehow, enforce a lower standard, or below excellent standard for the people who work in the Federal Government.

It is important that, in our exuberance over ethics that we do not become so exuberant that we deny to the Government the kind of talent, the know-how, and expertise that the Government needs.

I think the provision in the bill now has that danger of denying to the Government access to those minds, that technique and that know-how which the Government certainly stands in need of.

This amendment which has been offered by the gentleman from Texas (Mr. ECKHARDT) is a good alternative. It does not deny that there are ethical considerations in a person who has at one time worked for a Federal Government agency and then returning to begin practice before that agency. As a matter of fact, it takes careful, careful cognizance of the necessity for ethical standards being observed by persons who are exempted from the revolving door provisions of the bill.

I would ask us to think carefully about what we are doing. That if people have the know-how, if people have the experience, if people have worked in agencies and developed the kind of knowledge which is necessary for Government, we do not want them to be dissuaded from a period of Government service, because of our extreme exuberance over ethics.

So, Mr. Chairman, I would urge the members of the Committee to vote for this alternative. We do not want to fall into the trap of people who can look smugly and say what we have done, and then look back in the future and regret what we have done.

I urge the adoption of the Eckhardt amendment.

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

Mr. Chairman, I support the amendment offered by the gentleman from Texas and urge that it be adopted. At the present time the bill contains a 1-year absolute ban on all contact with an agency by a former high from the broad sweep of the total ban, however, does not make any sense, since there may be any number of situations in which it is totally ethical and proper for an ex-staff person to appear before his former agency. The amendment seeks to delineate those situations. Specifically, when the ex-staff person is subject to a professional licensing authority which can impose disciplinary action for unethical conduct, such as an attorney or a CPA, then the agency could, by rule, exempt certain categories of appearances from the broad sweep of the total ban. Further, before the agency could promulgate rules exempting certain classes of appearances, it would have to put in place rules governing the ethical conduct of its present employees, as well as its former employees.

Mr. Chairman, in my view, the proposed amendment makes sense. It strikes a logical balance between the need perceived by some to close the so-called revolving door, and the need to treat former employees in a fair and rational manner. I am fearful that if we do not pass this amendment and the provision now in the bill is enacted, we will be constructing a very real impediment to Federal employment. If the effect of enactment of this bill is to discourage bright young professionals from joining Government service for several years, then all we have really achieved in closing tight the revolving door is a pyrrhic victory.

The proposed amendment would stop the kinds of abuses the bill's authors cite as inappropriate. The present provisions of the bill are an example of good intentions resulting in legislative overkill. I hope my colleagues will join me in supporting the amendment offered by the gentleman from Texas.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Texas (Mr. ECKHARDT).

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

Mr. DANIELSON. Mr. Chairman, on that I demand a recorded vote.

A recorded vote was refused.

So the amendment was agreed to.

AMENDMENT OFFERED BY MRS. SCHROEDER

Mrs. SCHROEDER. Mr. Chairman, I offer an amendment.

The clerk read as follows:

Amendment offered by Mrs. SCHROEDER: Strike out part B of title II (beginning on page 39, line 21, and ending on page 44, line 9) and insert in lieu thereof the following new part:

PART B—OFFICE OF GOVERNMENT ETHICS

OFFICE OF GOVERNMENT ETHICS

SEC. 221. (a) Chapter 11 of title 5, United States Code, is amended by adding at the end thereof the following:

"SUBCHAPTER II—OFFICE OF GOVERNMENT ETHICS

"1111. Establishment of Office of Government Ethics

"(a) There is established in the Office of Personnel Management an office to be known as the Office of Government Ethics.

"(b) There shall be at the head of the Office of Government Ethics a director (hereinafter in this chapter referred to as the 'Director'), who shall be appointed by the President, by and with the advice and consent of the Senate.

"1112. Functions of Office

"(a) The Director shall provide overall direction of executive branch policies relating to preventing conflicts of interest on the part of employees within the executive branch.

"(b) The responsibilities of the Director shall include —

"(1) monitoring and investigating compliance with the provisions of part A of title II of the Ethics in Government Act of 1978 by individuals appointed or employed (other than in the uniformed services) in the executive branch;

"(2) auditing on a random basis financial reports submitted by such individuals under part A of title II of such Act for the purpose of determining whether such reports are complete and accurate;

"(3) establishing a program under which advisory opinions relating to conflicts of interests may be provided, on request, to any person by the Director or designated agency official;

"(4) supervising and defining the duties and responsibilities of ethics counselors;

"(5) evaluating the effectiveness of the provisions of laws and regulations relating to conflicts of interest and reporting to the Office of Personnel Management for transmittal to the Congress any recommendations for legislative or administrative action he considers appropriate;

"(6) establishing, after consultation with the Attorney General, an effective system for reporting allegations of violations of conflict-of-interest laws to the Attorney General, as required by section 535 of title 28; and

"(7) providing information on and promoting understanding of ethical standards in the executive branch.

"1113. Administrative provisions

"At the request of the Director, each agency in the executive branch is directed to—

"(1) make its services, personnel, and facilities available to the Director and ethics counselors to the greatest practicable extent for the performance of his functions; and

"(2) except when prohibited by law, furnish to the Director or any ethics counselor all information and records in its possession which the Director may determine to be necessary for the performance of his duties.

"1114. Ethics counselors

"(a) Such ethics counselors as the Director may determine necessary (not to exceed 75 positions) shall be appointed by and subject to the control of the Director. Such counselors shall be assigned between and among

the various agencies in the executive branch on a rotating basis. One such counselor may be assigned to two or more of such agencies in circumstances in which the Director determines it appropriate to do so. One ethics counselor assigned to an agency shall serve as that agency's designated agency official.

"(b) Ethics counselors shall—

"(1) be appointed without regard to section 3503(a) of this title, and

"(2) be subject to removal only under the procedures under section 7521 of this title, relating to administrative law judges.

"1115. Regulations relating to disclosure of financial interests and conflicts of interest

"(a)(1) Subject to paragraph (3) of this subsection—

"(A) any regulation under part A of title II of the Ethics in Government Act of 1978, and

"(B) any regulation relating to conflicts of interest applicable to employees or classes of employees within the executive branch,

shall, except as provided in paragraph (2), be prescribed only by the Director and shall be prescribed in accordance with section 553 of this title, notwithstanding any exception therein for matters relating to agency management or personnel.

"(2) Paragraph (1) of this subsection shall not apply with respect to—

"(A) any exercise of authority vested in and performed by the President; or

"(B) any exercise of authority vested in a Secretary concerned.

"(3)(A) Regulations to which paragraph (1) of this subsection applies shall not take effect unless approved by the Dierctor of the Office of Personnel Management. Unless disapproved by the Director of the Office of Personnel Management within 30 days after transmittal of the proposed regulations to them, such regulations shall be deemed approved.

"(B) In addition to the approval required under subparagraph (A) of this paragraph, any regulation to which paragraph (1) of this subsection applies shall not take effect unless the Director transmits to the Congress a copy of such regulation, as approved under subparagraph (A) of this paragraph, and before the close of the 60-day period of continuous session beginning on the date of such transmittal neither House of the Congress has adopted a resolution the matter after the resolving clause of which states: 'That the hereby disapproves the regulation transmitted to the Congress by the Director of the Office of Government Ethics on .', the blank spaces therein being filled in appropriately.

"(C) For the purpose of subparagraph (B) of this paragraph—

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

"(ii) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 60-day period.

"(b) Any interested person may seek judicial review under chapter 7 of this title of any regulation to which subsection (a)(1) of this section applies."

(b)(1) Chapter 11 of title 5, United States Code, is further amended by inserting after section 1101 the following:

"SUBCHAPTER II—OFFICE OF PERSONNEL MANAGEMENT"

(2) The analysis for chapter 11 of title 5, United States Code, is amended—

(A) by inserting before the item relating to section 1101 the following:

"SUBCHAPTER I—OFFICE OF PERSONNEL MANAGEMENT"; and

(b) The analysis for chapter 11 of title 5, United States Code, is amended by inserting at the end thereof the following:

"SUBCHAPTER II—OFFICE OF GOVERNMENT ETHICS

"Sec.

"1111. Establishment of Office of Government Ethics.

"1112. Functions of Office.

"1113. Administrative provisions.

"1114. Ethics counselors.

"1115. Regulations relating to disclosure of financial interests and conflicts of interest.".

(2) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(144) Director of the Office of Government Ethics, Office of Personnel Management.".

(c) No individual employed by the Government on the date of the enactment of this Act shall be separated or reduced in grade, rank, or compensation by reason of the transfer of any duties resulting from the amendments made by this title.

(d)(1) There are authorized to be appropriated, for each of the fiscal years 1979, 1980, and 1981, such sums as are necessary for the compensation of ethics counselors appointed under section 1114 of title 5, United States Code (as added by this Act).

(2) There is authorized to be appropriated for each of the fiscal years 1979, 1980, and 1981, the sum of $1,000,000 to carry out the purposes of the amendments made by this section and section 201 of this Act, other than purposes for which appropriations are authorized in paragraph (1) of this subsection.

(e) Not later than one year after the date of the enactment of this Act, the Director of the Office of Government Ethics shall—

(1) conduct a comprehensive review of existing laws and regulations relating to conflicts of interest; and

(2) submit to the Congress a report on such review, together with such recommendations for legislative or administrative action as the Director considers appropriate.

(f) Section 1308(a) of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (3),

(2) by striking out the period at the end of paragraph (4) and inserting "; and" in lieu thereof; and

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

"(5) a report to be prepared by the Director of the Office of Government Ethics which shall include—

"(A) a summary of the activities of the Director and ethics counselors appointed under section 1114 of this title in carrying out the functions of the Office of Government Ethics; and

"(B) any recommendations of the Director for legislative or administrative action considered to be appropriate by the Director.".

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

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

Mrs. SCHROEDER. Mr. Chairman, first, the confidential financial reporting system now operating in the executive branch is a disaster. In the past 3 years, the GAO has issued 21 reports testifying to its faults. Among GAO's findings are the rules are not evenly applied in all agencies and that agency ethics counselors only work part time on their responsibilities. Both these faults are the result of agency heads being responsible for governing their own ethics programs. We need look no further than the recent disclosures of activities of the General Services Administration to see how bad things can be.

The substitute (H.R. 13850) continues to place ethics program responsibility upon agency heads and to envision part-time ethics counselors. My amendment creates full-time ethics counselors under the complete control of the Director of the Office of Government Ethics. I want to point out that although the administration opposes my amendment, the President himself, in employing Charles Kirbo to step into the GSA scandals, is following its philosophy. The amendment is also quite similar in concept to the independence we voted overwhelmingly to give agency Inspector Generals.

Second, my amendment does not hide the cost of administering the ethics program in the form of agency budget submissions for their own ethics counselors all over the budget. The GAO stated in its comments on the provision that—

Overall, the cost to the Government could be the same whether the counselors were controlled by the agencies or the Office.

Under my amendment we can tell what they are.

Third, the reason for the Ethics in Government Act is to assure the public that Federal employees are not financially involved in decisions they make. My amendment requires all executive branch regulations concerning the act to be made subject to the rulemaking procedures of the Administrative Procedures Act, gives the right to interested persons to go to court to modify or enforce the rules, and finally, permits Congress to veto the rules.

In its February 28, 1977, report (FPCD-77-59, p. 7), the General Accounting Office described some of the problems with agency financial disclosure systems as follows:

Problems in agencies' financial disclosure systems for employees arose because of the low priority assigned to the systems in terms of staffing, funding, and agency and executive branch support. In most agencies, ethics counselors and deputy counselors had full-time responsibilities in addition to their ethics duties. Too frequently, the program, from implementation to operation, was being handled casually and on an ad hoc basis.

The effect of these deficiencies became apparent in our reviews of financial disclosure statements in 3 departments and 13 agencies. We found that:

10 percent (735 of 7,193) of the financial disclosure statements required to be filed were not filed and

12 percent (793 of 6,458) of the financial disclosure statements filed disclosed interests that were questionable in light of the employees' duties.

Our sample reviews of positions with no requirement for filing statements showed that over 2,500 employees should have been filing statements based on their duties and responsibilities.

Areas in which agency systems must be improved are:

Policy and criteria tailored to agency responsibilities;

Procedures with adequate criteria for collecting, reviewing, and controlling disclosure statements;

Procedures for monitoring; and

Methods for creating employee awareness.

The one inescapable conclusion that has emerged from the various GAO studies as well as my subcommittee's hearings on financial reporting and disclosure systems is that the present system, under which the responsibilities for financial reporting and disclosure programs remain with the individual agencies, simply has not worked. Establishing an Office of Government Ethics with a presidentially appointed Director to monitor agency conflicts of interest and financial reporting programs should improve agency performance in these areas.

Given the general political climate and the administration's sincere commitment to correcting the shortcomings of the existing Executive order program, most agency heads will place sufficient emphasis on ethics and financial reporting programs to insure that they work in an acceptable manner.

To insure, however, that financial reporting and disclosure systems will receive not just at the present but also in the future the attention they require, it is essential that those individuals responsible for monitoring and administering the program, the agency ethics officers, be accountable to one person, not to a myriad of different agency heads. Such accountability can only be achieved if the Director is given the authority not just to oversee the performance of agency ethics counselors, but also to appoint, direct, and supervise those counselors.

Accordingly, my amendment establishes a pool of full-time ethics counselors (not to exceed 75 positions) who will be appointed by and responsible to the Director of the Office of Government Ethics.

One ethics counselor will be designated as the designated agency official of each agency. In the case of smaller agencies, one counselor may serve as the designated agency official for two or more agencies.

The ethics counselors will be full-time ethics counselors. Since they are accountable to the Director rather than an agency head, they are free to make difficult decisions regarding conflict-of-interest problems with regard to agency employees without concern as to whether a particular decision could adversely affect their tenure in the agency. Independence of the ethics officers is further enhanced by the requirement that they be rotated on a periodic basis between the agencies.

The amendment strikes out title II, part B, of the substitute and inserts a new text. Section 201(a) of the substitute amends part II of title 5, United States Code, relating to the Civil Service Commission, by inserting after chapter 11 a subchapter II consisting of five new sections (5 U.S.C. 1111–1115) relating to the Office of Government Ethics. The provisions of the new subchapter are explained below by code section reference. Because the reorganization plan affecting the Civil Service Commission will be in effect on or before the effective date of the bill we are considering, references are made henceforth to the Office of Personnel Management.

ESTABLISHMENT OF OFFICE OF GOVERNMENT ETHICS

Subsection (a) of section 1111 creates an Office of Government Ethics within the Office of Personnel Management. Subsection (b) states that the Office of Government Ethics will be headed by a Director who will be appointed by the President, by and with the advice and consent of the Senate. The position of Director is established as an executive level V position ($47,500).

Subsection (a) of section 1112 provides that the Director of the Office of Government Ethics will be responsible for the overall direction of executive branch policies related to the prevention of conflicts-of-interest on the part of employees within the executive branch.

Subsection (b) of section 1112 delineates the specific responsibilities of the Director of the Office of Government Ethics.

Paragraph (1) provides that the Director shall be responsible for monitoring and investigating compliance with the provisions of part A of title II of the Ethics in Government Act relating to financial reporting and disclosure. This includes the responsibility for overseeing the manner in which designated agency officials and other agency officials are fulfilling their responsibilities with respect to receiving and reviewing financial disclosure reports, and making such reports available to the public as provided under the act.

Paragraph (2) provides that the Director shall be responsible for auditing, on a random basis, financial reports submitted under the subchapter to determine whether those reports are complete and accurate. The auditing required under this paragraph will be of two types. First, the Director may audit certain reports for purposes of determining whether, on the basis of the information submitted on the reports, individuals have complied with applicable laws and regulations pertaining to conflicts of interest, and not to determine if the report itself is accurate. This review will be conducted in much the same manner as the review by the designated agency official within each agency. In other words, the review consists of comparing the individual's financial holdings as stated in his report with the duties and responsibilities of his employment to see whether conflicts-of-interest problems exist. The second type of review requires the Director to audit a random sample of statements to determine whether the statements themselves are complete and accurate.

Paragraph (3) requires the Director to establish a program under which advisory opinions relating to conflicts of interest may be provided on request to any person by the Director or an agency ethics officer. There is a similar provision in S. 555 (section 402(b)(1)), although that provision requires a more formalized procedure with respect to the issuance of such opinions (see, S. Rept. 95–170, 95th Cong., 1st sess., pp. 148–149). This is in addition to the Director's responsibility to assist agency ethics counselors and to give informal advice and advisory opinions to individuals who file their financial disclosure statements with the Director. Under this paragraph any person may request an advisory opinion, although the actual issuance of an opinion is discretionary with the Director or agency ethics officer. These advisory opinions will have substantial impact on employees other than the individual requesting the opinion and might involve issues of interest to many employees throughout the executive branch and to interested private citizens.

This paragraph does not require the Director himself to render an advisory opinion to any person who requests one. For example, most advisory opinions to employees will probably be rendered by agency ethics counselors. However, when an important matter of first impression or a matter of general applicability arises, the Director should be the one to render the opinion, not a designated agency official. When the Director decides that such an issue is involved, he should, whenever possible, provide interested parties with an opportunity to transmit written comments with respect to the issue.

It is important that advisory opinions of the kind described in this paragraph be compiled, published, and made available to designated agency official employees, and the public.

Paragraph (4) provides that the Director is responsible for supervising and defining the duties and responsibilities of ethics counselors. It should be noted that section 1114 of title 5, as added by this bill, provides that ethics counselors shall be appointed by and subject to the control of the Director. Paragraph (4) places with the Director the additional responsibility of supervising and defining the duties and responsibilities of these ethics counselors.

Paragraph (5) requires the Director to evaluate the effectiveness of the provisions of laws and regulations relating to conflicts of interest and to report to that Office of Personnel Management for transmittal to the Congress any recommendations he considers appropriate.

Paragraph (6) requires the Director to establish, after consultation with the Attorney General, an effective system for reporting allegations or violations of conflicts of interest to the Attorney General as required by section 535 of title 28, United States Code. Under section 535 of title 28 any information, allegation, or complaint received in a department or agency relating to violations of law involving Government employees must be reported to the Attorney General by the agency head. It is the responsibility of the Director to establish, after consultation with the Attorney General, such a referral system (see also, S. Rept. 95–170, 85th Cong., 1st sess., p. 149).

Paragraph (7) requires that the Director provide information on and promote understanding of ethical standards in the executive branch. It is anticipated

that under the section the Director will conduct an ongoing program to inform executive branch employees of the requirements of the law and of regulations governing their conduct and establish procedures to promptly notify employees of any changes in those laws and regulations. The lack of an effective informational program in the past has been well documented. While it is possible that the Director might delegate to an agency head or ethics counselor responsibility for informing employees of individual agencies of rule changes by that agency, the Director retains the primary supervisory responsibility for insuring that adequate notice is rendered to the individual employee. In addition procedures should be established for notifying individually of rule changes and these notices must precisely explain the regulation, its application, and the consequence of failure to comply (see also, S. Rept. 95–170, 95th Cong., 1st sess. p. 149).

ADMINISTRATIVE PROVISIONS

Section 1113 provides that each executive branch agency at the request of the Director shall (1) make its services, personnel, and facilities available to the Director and to ethics counselors to the greatest extent practicable for the performance of his functions relating to financial reporting and disclosure, and (2) except when prohibited by law, furnish to the Director or any agency ethics counselor all information and records in its possession which the Director may determine to be necessary for the performance of his duties.

ETHICS COUNSELORS

Section 1114 provides for the appointment and assignment of agency ethics counselors. Subsection (a) provides that the Director may appoint not to exceed 75 ethics counselors. These counselors are to be subject to the control of the Director and assigned by the Director between and among the various agencies in the executive branch on a rotating basis. It should be stressed, that although these ethics counselors are appointed by and responsible to the Director (and therefore, not under the supervision, direction, or control of the agency at which they serve) it is intended that each counselor work closely with agency heads and other appropriate agency officials with respect to matters which are under their responsibility.

Subsection (a) specifically provides that one counselor may be assigned to two or more agencies in cases where the Director determines such action is appropriate. For example, one ethics counselor could serve as the designated agency official for three or more small agencies. At the same time, two or more ethics counselors could be assigned to a single large agency provided that one of those counselors is designated to serve as the agency's ethics officer. I anticipate that ethics counselors will be rotated on a 2- or 3-year basis.

Subsection (b)(1) of section 1114 provides that ethics counselors shall be appointed without regard to section 3503 (a) of title 5, United States Code, relating to transfer of functions. Section 3503 (a) generally provides that when a function is transferred from one agency to another, employees who are preference eligibles are entitled to be transferred with the function. The Director, in appointing ethics counselors under section 1114, should be free to choose from those who are currently serving as ethics counselors as well as any other individuals he may consider qualified. He should not be required to appoint, as an ethics counselor, any particular individual simply because in the past that individual had served as such a counselor.

Subsection (b)(2) provides that ethics counselors shall be subject to removal only under the procedures under section 7521 of title 5, relating to administrative law judges. These procedures are specified in part 930 of title 5, Code of Federal Regulations, and generally provide for removal only for good cause, established and determined by the Commission, after opportunity for a hearing on the record (5 CFR § 930.214(a)).

REGULATIONS RELATING TO DISCLOSURE OF FINANCIAL INTERESTS AND CONFLICTS OF INTEREST

Section 1115 provides for the prescription and approval of regulations relating to financial reporting and disclosure and conflicts of interest. Subsection (a)(1) provides that regulations issued under part A of title II of the Ethics in Government Act of 1978, relating to financial reporting and disclosure, and any regulations relating to conflicts-of-interest applicable to employees or classes of employees within the executive branch shall be prescribed only by the Director and should be prescribed in accordance with the rulemaking procedures set forth in section 553 of title 5 (formerly the Administrative Procedure Act), notwithstanding any exception in that section for matters relating to agency or personnel.

It is the intent of this provision that Government-wide regulations relating to financial disclosure and conflicts of interest (other than members of the uniformed services) be prescribed by the Director, and that individual agency regulations relating to financial reporting and disclosure and conflicts of interest shall also be prescribed by the Director. In the latter case, agencies shall submit to the Director proposed regulations and that those regulations would then be subject for public comment under section 553 prior to being prescribed by the Director. This is similar to the procedure followed under Executive Order No. 1122 which now requires Civil Service Commission approval of standards of conduct regulations issued by the various agencies. New section 1115(a), however, insures that such regulations will be subject to public comment prior to their being prescribed. Paragraph (a)(2) provides two exceptions to the requirement. First, exercises of authority vested in and performed by the President. Second, regulations concerning uniformed personnel made by a Secretary concerned.

Subsection (a)(3) provides for administrative approval and congressional review of regulations prescribed by the Director. Paragraph (2)(A) provides that these regulations shall not take effect unless approved by the Director of the Office of Personnel Management (OPM). If the Director (OPM) fail to disapprove such regulations within 30 days after transmittal of the proposed regulations to them, the regulations are deemed to have been approved.

Subsection (a)(3)(B) provides for a one-House veto of regulations prescribed by the Director. Clause (i) of subsection (a)(3)(B) provides that regulations prescribed by the Director shall not take effect unless the Director transmits a copy of those regulations, as approved by the Director (OPM) and before the close of the 60-day period of continuous session beginning on the date of such transmittal, neither House of Congress has adopted a resolution disapproving the regulations.

Clause (ii) provides that continuity of a legislative session shall be considered to be broken only by an adjournment of Congress sine die, and that days on which either House is not in session because of adjournment of more than 3 days to a day certain are excluded in the computation of the 60-day period.

JUDICIAL REVIEW

Subsection (b) of section 1115 provides that any interested person may seek judicial review under chapter 7 of title 5 (formerly the Administrative Procedure Act) of any regulation prescribed by the Director under subsection (a)(1) of section 1115.

The basic purpose of this bill is that the public has a right to a Government of officers and employees who avoid conduct which affects adversely the confidence of the public in the integrity of the Government. This purpose can only be carried out if the public has a method of assuring that the purpose is not thwarted by inaction, bad interpretation, unjustified changes in policy, favoritism, and the like.

For purposes of determining whether an individual would have standing to seek judicial review of a regulation prescribed by the Director, the term "interested person" must be given the broadest possible meaning. Standing for review is not limited only to those who might be required to report or who might have their conduct regulated. The right of a member of the general public is sufficient to give such a member a personal stake with respect to any controversy related to regulations prescribed by the Director.

MISCELLANEOUS PROVISIONS

Section 221(b)(1) of the amendment amends the analysis of part II of title 5, United States Code, to reflect the addition of the new subchapter relating to the Office of Government Ethics.

Section 221(b)(2) amends section 5316 of title 5, to include the Director of the Office of Government Ethics, Office of Personnel Management, in level V of the executive schedule.

Section 221(c) provides that no individual employed by the Government on the date of enactment of the act shall be separated or reduced in grade, rank, or compensation by reason of a transfer of any duties resulting from the amendments made by title II of the bill.

AUTHORIZATION OF APPROPRIATIONS

Section 221(d) authorizes, first for each of the fiscal years 1979, 1980, and

1981 such sums as are necessary for the compensation of ethics counselors appointed under section 1114 of title 5, United States Code (as added by this act); and second, for each of the fiscal years 1979, 1980, and 1981 $1 million to carry out the purposes of the amendments made by title II of the bill.

REPORTS

Section 221(e) requires that the Director, not later than 1 year after the date of enactment of the act, first, conduct a comprehensive review of existing laws and regulations regarding conflicts-of-interest, and second, submit to the Congress a report of such review together with his recommendations for legislative or administrative action.

Section 221(f) amends section 1308(a) of title 5, United States Code, relating to annual reports, by adding a requirement that the annual report of the Office o' Personnel Management (formerly the Civil Service Commission) include a report to be prepared by the Director o the Office of Government Ethics. The Director's report is required to include, first, the summary of activities of the Director and ethics counselors appointed under section 1114 of title 5, as added by the bill, and second, any recommendations of the Director or legislative or administrative action which he considers appropriate.

The costs of the amendment and the bill are derived from the report of the Congressional Budget Office on the provision similar to my amendment in the Committee on Post Office and Civil Service bill (H.R. 6954, part I). The CBO statement is included, as follows:

SEPTEMBER 22, 1977.

1. Bill No.: H.R. 6954.

2. Bill title: Ethics in Government Act of 1977.

3. Bill status: As ordered reported by the House Committee on Post Office and Civil Service, September 21, 1977.

4. Bill purpose: The bill is designed to preserve and promote ethical standards throughout the executive branch. Title I establishes financial disclosure requirements for Government personnel in the executive branch. Title II establishes an Office of Government Ethics in the Civil Service Commission. The purpose of the office will be to monitor and review procedures established under this act. In addition, the bill authorizes the appointment of up to 75 ethics counselors to be assigned between and among the various agencies in the executive branch, and the bill authorizes the appropriation of such sums as may be necessary for their compensation, $1 million is authorized to be appropriated in fiscal years 1978 through 1981 to carry out other purposes of the act.

5. Cost estimate by fiscal years:

	Millions
Authorization level: [1]	
1978	$1.0
1979	1.0
1980	1.0
1981	1.0
1982	----
Estimated cost:	
1978	2.9
1979	3.3
1980	3.4
1981	3.5
1982	----

[1] Does not include estimate of amounts required for compensation of ethics counselors for which a specific amount is not authorized. The costs of this bill fall within budget function 800.

6. Basis of estimate: Because of the nature of the work of the ethics counselor, it is assumed that the average compensation paid to the counselors will be at the GS-15 grade level ($33,800) plus 18 percent benefits. Because several executive agencies currently have full time ethics counselors (pursuant to executive order 11222 issued in 1965) it is assumed that only 50 of the authorized 75 positions will actually result in new positions. The total cost for compensation of the 50 new ethics counselors is estimated to be $2 million in 1978. Subsequent year costs are increased based upon CBO projected Federal salary increases.

This estimate also assumes that the full authorization level ($1 million) will be appropriated each year and that approximately 90 percent of the funds will be spent in the year appropriated, and the remainder in the following year.

7. Estimate comparison: None.

8. Previous CBO estimate: On September 9, 1977, CBO prepared a cost estimate for the version of H.R. 6954 referred to the House Committee on the Judiciary This cost estimate is higher due to the cost for compensation of the authorized ethics counselors.

9. Estimate prepared by: Thomas Elzey.

10. Estimate approved by:

C. G. NUCKOLS,
(For James L. Blum, Assistant Direc-
rector for Budget Analysis).

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

Mr. Chairman, I rise in support of the Schroeder substitute.

The 14,000 executive branch employees located throughout the world, filing public financial disclosure statements under H.R. 13850, present a far different form of administrative headache than the filing of public disclosure statements by either the judicial or legislative branch. This is why the Subcommittee on Employee Ethics and Utilization, on which I am the ranking minority member, and which drafted the Post Office and Civil Service Committee proposal, now embodied in the gentlelady's amendment, spent a significant portion of its 6 days of hearings on ethics and financial disclosure legislation on the mechanics of establishing an Office of Government Ethics, whose responsibility will be the regulation of the ethical behavior of employees within the executive branch.

The organizational structure for the Office of Government Ethics, that the Subcommittee on Employee Ethics and Utilization so carefully devised in this amendment is a much different animal than the one contained in H.R. 13850. It has the clout and resources to assure that financial disclosure and conduct rules are evenly applied in the executive branch. It offers assurances that the dismal record of disclosure and conduct regulation in the executive branch—a record lambasted in 21 General Accounting Office reports in the last 3 years—can be reversed. The Post Office and Civil Service Committee proposal accomplishes this by: First, placing ethics counselors organizationally within the Office of Government Ethics under the supervision of one director, rather than leaving them under the scattered control of agency heads; second, laying guidelines for rulemaking; and third, permitting a congressional veto of rules to assure that ethical conduct regulations do not weigh more heavily upon one group of employees than another.

The Post Office and Civil Service Committee proposal to place ethics counselors under the Office of Government Ethics has been criticized as being a "novel" approach. This is simply not true. It is based upon the system under which administrative law judges have been working effectively for 30 years. It also is quite similar in concept to H.R. 8588, the bill we passed on April 18 by a 388-to-6 vote providing for the establishment of Offices of Inspector Generals within certain executive departments and agencies.

If we are concerned about the costs of establishing an Office of Government Ethics as we have been, we want to point out that right now most of the costs of ethics counselors are being wasted on an unproductive system, which GAO has repeatedly criticized and which H.R. 13850 intends to perpetuate. As the GAO stated in its comments on the Post Office Committee's Office of Government Ethics:

> Overall, the cost to the Government could be the same whether the counselors were controlled by the agencies or by the Office.

Very simply, H.R. 13850's version of the Office of Government Ethics hides the true cost of the program deep in agency budgets where Congress will have no more of a handle on those costs than we do now.

Accordingly I urge support of the Post Office and Civil Service Committee's version of the Office of Government Ethics as offered by Representative SCHROEDER as a substitute for part B of title II of H.R. 13850.

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

Mr. Chairman, I very strongly oppose this amendment. The bill as it is presently structured provides for an Office of Government Ethics and a director thereof, who shall have the power to make rules and regulations, and so forth, after consulting with certain officials and to supervise generally the fact that the provisions of the bill are implemented, are carried out.

This amendment, I respectfully submit, rewrites, in effect, the entire provision on the Office of Government Ethics and it creates a monster—an absolute bureaucratic monster—to take care of the provision of ethics included in this bill. Under the terms of the bill which is now before you, within each Government agency some person or persons will be designated as the agency official to see to it that the terms of the bill are carried out. This amendment would create within the Office of Government Ethics a sort of an independent police force, a band of roving commissars, who will be sprinkled throughout the various Government agencies willy-nilly on a rotating basis to look under every leaf and twig, to turn every page to find out whether a member of this bureau or that bureau has adequately complied—adequately in the sense of the opinion of his Director of Government Ethics, with his concept of what the situation ought to be.

The CHAIRMAN pro tempore. (Mr.

PHILLIP BURTON). The time of the gentleman from California has expired.

(At the request of Mr. MOORHEAD of California, and by unanimous consent, Mr. DANIELSON was allowed to proceed for an additional 5 minutes.)

Mr. DANIELSON. Mr. Chairman, I thank the gentleman.

Mr. Chairman, this would be an intolerable burden on the agencies of our Government. Can you imagine, you are running a Government agency, some commission, the FCC, the SEC, you name it, and here comes one morning Johnny Bright Eyes, and says, "I am the ethics counselor. I am going through your agency. I am going to look through these ethics reports and I am going to go through them and if I do not like anything, I am going to counsel you. I am going to be your nanny. I am going to tell you in the future what you will have to do."

Can you not imagine how the morale of the employees in Government will be absolutely shattered by this monstrosity?

Mr. MOORHEAD of California. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. I yield to my colleague, the gentleman from California.

Mr. MOORHEAD of California. Mr. Chairman, I strongly support the statement of the gentleman from California (Mr. DANIELSON).

I believe in our deliberations in the subcommittee we worked out a very good compromise for this problem. The office will have all the teeth that it needs. At the same time, we will not be building a bureaucratic monstrosity, as the gentleman suggests.

I wonder if we did get such a department, who would police the 200 to 300 people we would be placing in the Bureau of Ethics we had created.

I would hope this amendment would be defeated and that we move forward with this legislation in a positive way with the high caliber legislation we have developed in the committee.

Mr. DANIELSON. Mr. Chairman, I thank the gentleman for his contribution.

It is true that we need teeth in this legislation, but we do not need that many teeth, we do not need Jaws.

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

Mr. DANIELSON. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Chairman, as a lover of monsters and sharks, I think the gentleman has overplayed what this really does.

Let us assume in the Equal Employment Act or another act that we had allowed every employer to name someone under him to police his own Coca-Cola Co., or whatever it was, on equal employment or OSHA or anything, I think we would find we had not moved as far as we have moved. We have several Johnny Bright Eyes that go in to see people and, granted, they are not over receptive and recommended every single time, but we are doing that.

I am saying if you look at the record of the Federal Government on ethics enforcement, you find it is abominable. That is what the Committee on Post Office and Civil Service did. That is why it proposed this as an alternative for a much more uniform application.

Mr. DANIELSON. Mr. Chairman, if the gentlewoman will let me reclaim a moment of my time, I thank the gentlewoman for her contribution; but I respectfully say she is wrong, in my judgment.

The point I am getting at is this, we do not need a special corps of counselors, who must presumptively be so ethical that they are able to run around and tell everybody else what is the standard of ethics.

They must be measured against their own standard. That tends to be a little bit presumptuous, in my opinion.

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

Mr. DANIELSON. I yield to the gentleman from New York.

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

I would like to pose a question to the gentleman from California. Do we know what the present system of administering the financial disclosure system costs and how many full- and part-time counselors within the various agencies there are?

Mr. DANIELSON. I will reply by saying that we do not have a system presently for these counselors, and that is why we have this legislation before us. The legislation before us provides a good system, with a Director of Ethics, but we let our agencies appoint some designated official within the agency to keep track of the filing of reports, to see that they are in good form, and to see that everything is answered.

Mr. Chairman, we do not presently have such a system, and that is why I urge a no vote on the amendment and an aye vote on the bill.

Mr. GILMAN. Mr. Chairman, will the gentleman yield further?

Mr. DANIELSON. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Chairman, that is precisely the point. We need a centralized organization to monitor and enforce the financial disclosure system, and so that we can accurately determine the true cost of this operation, and finally have a handle on the number of ethic counsellors operating within the executive branch.

Mr. DANIELSON. Mr. Chairman, let me reply by saying that I just cannot in good conscience support anything that would create a special elite corps of snoopers who worm their way in and out through the various agencies to examine these ethics reports.

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

(On request of Mrs. SCHROEDER, and by unanimous consent, Mr. DANIELSON was allowed to proceed for 1 additional minute.)

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

Mr. DANIELSON. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Chairman, I would just like to repeat what the Comptroller General's Office told our committee as to this section. They said they felt that what this section and this amendment were proposing would be very good because it would establish for the first time "a professional corps of ethics counselors trained and experienced in ethics law and regulations, with full-time responsiblity for all matters of ethical conduct * * * "

Mr. DANIELSON. Mr. Chairman, if the gentlewoman will allow me to reclaim my time, the Comptroller General's Office said in that same letter that there is a question whether the ethics counselors will be able to obtain the confidence of agency employees and it would be a serious question since they themselves would not be agency employees.

Mrs. SCHROEDER. Mr. Chairman, if the gentleman will yield, this shows that the GAO knows what the problem is, and that is why I say this is a necessary amendment to the bill to make sure it is enforced uniformly.

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

Mr. Chairman, this bill is created, because there is still somehow a belief abroad in the land that more laws will somehow make this Government better. More laws will only make the Government bigger.

We have enacted all kinds of laws in the last few years. We have made changes in the rules which will keep anybody honest who wants to remain honest. We have set guidelines. We have changed the rules which are necessary to keep those things from happening that have happened in recent years in this Congress and in this House.

Now we are creating in this legislation the Office of Government Ethics. We are creating a Director of Government Ethics. We are in fact creating our own "Vatican" that will oversee the way the Government will function. Not just what the laws themselves are but what the ethics are.

I took a minor in philosophy when I was in college in undergraduate school. I took all kinds of courses in philosophical concepts. In all that time I never heard anyone tell me what ethics itself consists of. Ethics are an individual interpretation of moral law.

We have major religions in this country and in the world which have substantial differences, because their leaders cannot agree on what ethics consists of, let alone the theology of even their own religion.

We have now created a Director of Ethics in this bill, and we are now going to create the "priesthood" of ethics counselors.

I have learned certain things about the Moslem religion in the Near East, and in the more strict countries such as Saudi Arabia, in the middle of the afternoon, this is what happens: I have forgotten the name of the man in the tower who cries out for prayer, but I know the name of those who are required by the laws of Islam to be religious police; they

are the mullahs. They go about the towns with a stick in hand and physically they exercise their capacity to push and bully a citizen who has not arrived at the mosque in time. For those shopkeepers who do not get their gates down fast enough, they beat on the gate and they call in the regular police and have the shopkeepers arrested.

For what? For violations of religion.

We are creating here an office which will allow a new "religion" to be established, a new office to promulgate not laws but ethics.

What is ethics? It is whatever the Director of Ethics says it is. And now we will have mullahs to enforce whatever the Director says it is—or she, I guess, in our time now—whover it is who says this is what is "ethics" today. The mullahs of the U.S. Government under this bill will now go around to the various agencies and say what ought to be. I cannot think of anything that would slow down our system of the reasonable function of government than a kind of religious police, policing whatever ethics there are from the Director in his office, sitting there being the ultimate authority, with no challenge.

Some time ago this House defeated the Consumer Protection Agency bill. One of the major reasons for defeating the Agency, I believe, was because no one could say what the consumer interest was or define what a consumer interest would be at any given time. Is saccharin to be banned or not? What is the consumer interest? We do not know.

I would have to say that we are trying again to create some kind of a moral person here who would have his own religious force and who is unchallengeable by any other means except a change in the law here. We should not have a religious mullah in this system of government. It is a step backward, obviously, in the conduct of good, sound, and sensible government.

Mr. GARY A. MYERS. Mr. Chairman, will the gentleman yield.

Mr. RYAN. I yield to the gentleman from Pennsylvania.

Mr. GARY A. MYERS. I thank the gentleman for yielding.

Mr. Chairman, if I understand the amendment correctly, the amendment would not set up a set of individuals who would develop criteria for ethics, but would be responsible to see whether the law was being carried out.

Mr. RYAN. No, not the law. The ethics, as interpreted by the Director of Government Ethics. And who does he report to?

Mr. GARY A. MYERS. As I understand it, the individuals who would be working for the agencies, their responsibility would simply be reviewing and attempting to have in compliance individuals employed in the agencies, and if they are not in compliance, to apprise them of that and bring them into compliance.

Mr. RYAN. But whose interpretation is that? That becomes the job of the religious police, the agency counselors, or call them what you will. That becomes their objective judgment, which can be overruled only by the Director of Government Ethics and no one else.

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

(On the request of Mr. GARY A. MYERS and by unanimous consent, Mr. RYAN was allowed to proceed for 2 additional minutes.)

Mr. GARY A. MYERS. If the gentleman will yield for one more question, would the gentleman agree that it would be better for an individual to have an administrative person reviewing his compliance or noncompliance and apprising him of the results than to have nothing done until the Department of Justice brings some sort of legal suit against him for noncompliance?

Mr. RYAN. If we follow the gentleman's reasoning, the only time the Justice Department becomes involved is when there is a legal suit. The gentleman and I know that the Justice Department and the various elements within the Justice Department constantly receive suggestions for investigation. In the last election, when I was running for reelection, my opponent asked for an investigation of me, alleging a conflict of interest. Within days the U.S. attorney in San Francisco asked the FBI to come down and look around. I am happy to say that they found nothing of a conflict of interest. The work of this "thieves" department of the FBI was done.

Mr. GARY A. MYERS. If the gentleman will yield further, that sort of makes my point—the point being that if you have administrative people whose responsibility it is to assure the individuals who are responsible for compliance that they are in compliance by the current filings, it would give them a much more comfortable situation than, sometimes, for one reason or another, within their own agency, perhaps unintended, but somehow or another they had drifted into noncompliance.

Mr. RYAN. Would they then be more comfortable with an ethics counselor than an FBI investigation?

Mr. GARY A. MYERS. It seems to me that the objective of an ethics counselor is to prevent a situation materializing where an individual would be in substantial noncompliance and therefore under the threat of an FBI investigation.

Mr. RYAN. But noncompliance of what?

Mr. GARY A. MYERS. In meeting the mandates of the law, of the ethics standards.

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

(On request of Mrs. SCHROEDER and by unanimous consent, Mr. RYAN was allowed to proceed for 2 additional minutes.)

Mrs. SCHROEDER. Mr. Chairman, if the gentleman will yield, first of all, I would like to assure the gentleman that we believe in freedom of religion—and there will not be religious police. We do not impair the constitutional right to practice one's religion freely.

Mr. RYAN. When you deal with ethics you deal with religion.

Mrs. SCHROEDER. I would like to explain to the gentleman how this will work, and I think the gentleman was pointing that out. The head of the ethics office will be answerable to the President, and the rulemaking procedures will be under the Administrative Procedures Act, with the right of interested parties to go to court.

And finally the bill also permits a congressional veto of regulations on ethics.

Mr. RYAN. May I ask the gentlewoman a question on that point?

Mrs. SCHROEDER. I would be happy to have the gentleman ask a question.

Mr. RYAN. What is the difference in the gentlewoman's mind between ethics as she sees it and law as she sees it?

Mrs. SCHROEDER. We are setting down some criteria for ethical conduct and defining it so it is not vague.

Mr. RYAN. The law already says you shall not steal.

Mrs. SCHROEDER. I think we will define ethical conduct so we have a nice bright line as to proper conduct.

Mr. RYAN. Who makes the line?

Mrs. SCHROEDER. It comes out of the Office of Ethics.

Mr. RYAN. How do they determine that line?

Mrs. SCHROEDER. First of all, there are many ethical laws already on the books, which I would be happy to read to the gentleman, which I think he would not want to take the time of the House to have read.

Mr. RYAN. No. But how is this different from the laws on the books?

Mrs. SCHROEDER. It refines further ethical criteria and standards.

Mr. RYAN. The gentlewoman thinks we need more than we have already?

Mrs. SCHROEDER. The gentleman is making two different arguments. He is making the argument where we need no further laws. That is one argument.

The second argument is, if we have futher laws or even if we enforce all the laws currently on the books, which I will be happy to show the gentleman, how can we best enforce them? My feeling is it is best to have uniform enforcement so everyone can be sure each agency is complying with the law, in the same way. Otherwise someone can spring up and say, "Ah hah, your agency did not comply. You have violated the law." I think uniformity of enforcement protects both the employees and the public. Whether or not we need more laws is not the issue in front of us. I think in the Post Office and Civil Service Committee they worked hard on the question of how do we best enforce the ethical laws on the books and the additional ones we will be passing? My amendment is their proposal.

Mr. RYAN. I think a less-than-fertile imagination will indicate why we should not be voting for this particular amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Colorado (Mrs. SCHROEDER).

The question was taken; and on a division (demanded by Mrs. SCHROEDER) there were—ayes 4, noes 22.

So the amendment was rejected.

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

Mr. Chairman, last week the committee adopted several amendments to title I. The sections in title I which were amended are also contained in title II and deal with substantially identical subjects. Therefore, it would normally be necessary to conform title II to reflect those changes made by the committee to title I.

I have discussed this matter with the gentleman from California (Mr. DANIELSON). In order to avoid the necessity of considering 4 or 5 separate amendments to title II so as to bring it into conformity with title I, I have decided merely to move to strike the last word and to point up that these changes in title II will be necessary and trust that the committee in conference will deal with them as technical amendments and will bring title II into conformity with the amendments adopted by the committee to title I.

Mr. DANIELSON. Mr. Chairman, the gentleman from California (Mr. WIGGINS) has spoken with me about this. The amendments are conforming amendments for the purpose of achieving uniformity, and I appreciate his courtesy in not imposing upon the time of the committee and not bringing up some items which will be necessary to conform anyway and trust we will make these changes in conference.

Mr. WIGGINS. I thank the gentleman.

AMENDMENTS OFFERED BY MR. LEACH

Mr. LEACH. Mr. Chairman, I offer two amendments that are at the desk, of a similar nature, to titles II and III, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN pro tempore. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. LEACH: Page 30, after line 14, insert the following new section:

SPECIAL REPORTS TO CONGRESS

SEC. 204. (a) Concurrently with the transmittal of any nomination of any Presidential nominee subject to this title under section 201(b), the Director shall transmit a report containing the information required under subsection (b) of this section to the Committee on Post Office and Civil Service of the House of Representatives, the Committees on Armed Services of the House of Representatives and the Senate, the Committee on Governmental Affairs of the Senate, and such other committees of the Congress as may have appropriate jurisdiction.

(b) The following shall be included in any report required to be submitted by subsection (a) of this section:

(1) A copy of the report required by such nominee under section 201(b), together with a written statement by the Director as to whether or not, in the opinion of the Director, the nominee is in compliance with applicable laws and regulations.

(2) A written statement by the Director, by the reporting individual, and by the head of any agency with respect to which, during the period covered by the report under section 201(b), the reporting individual (or any relative of the reporting individual or any entity with which the reporting individual is affiliated)—

(A) had, or sought to obtain, contractual or other business or financial relations with such agency, or

(B) conducted operations or activities which are regulated by such agency,

as to whether or not, to their knowledge, the reporting individual, any relative of the reporting individual, or any other financial entity with which the reporting individual is affiliated was a party to any criminal, civil, or administrative proceeding which would relate to the matters for which the nominee would be responsible in the position to which nominated (as determined by the Director by regulation).

(3) If the existence of any criminal, civil, or administrative proceeding is reported under paragraph (2), a description of the nature of such proceeding and its outcome and the factors on which such outcome was based.

(c) For purposes of this section:

(1) "civil, criminal, or administrative proceeding" means—

(A) any civil or criminal proceeding to which the United States or any State is a party;

(B) any administrative proceeding by the United States or any State denying any benefit on the basis of any act or omission by the person who is the subject of such proceeding or which restricts, by consent, the activities of the person who is the subject of such action; and

(C) any investigation of a type which normally precedes any action described in subparagraph (A) or (B) of this paragraph; and

(2) an individual shall be considered to be affiliated with any entity if such individual, or any relative of such individual, has a substantial interest in such entity or held any position in such entity which is required to be reported under this title.

Page 30, line 16, strike out "204" and insert "205" in lieu thereof.

Page 31 line 12, strike out "205" and insert "206" in lieu thereof.

Page 32, line 3, strike out "204(a)" and insert "205(a)" in lieu thereof

Page 34, line 15, strike out "206" and insert "207" in lieu thereof.

Page 35, line 2, strike out "207" and insert "208" in lieu thereof.

Page 35, line 20, strike out "208" and insert "209" in lieu thereof.

Pagee 36, line 2, strike out "209" and insert "210" in lieu thereof.

Page 61, after line 19, insert the following new section:

SPECIAL REPORTS TO CONGRESS

SEC. 304. (a) Concurrently with the transmittal of any nomination of any Presidential nominee subject to this title under section 301(b), the Committee shall transmit a report containing the information required under subsection (b) of this section to the Committees on the Judiciary of the House of Representatives and of the Senate, and such other committees of the Congress as may have appropriate jurisdiction.

(b) The following shall be included in any report required to be submitted by subsection (a) of this section:

(1) A copy of the report required by such nominee under section 301(b), together with a written statement by the Committee as to whether or not, in the opinion of the Committee, the nominee is in compliance with applicable laws and regulations.

(2) Written statements by the Committee, by the reporting individual, and by the head of any agency with respect to which, during the period covered by the report under section 301(b), the reporting individual (or any relative of the reporting individual or any entity with which the reporting individual is affiliated)—

(A) had, or sought to obtain, contractual or other business or financial relations with such agency, or

(B) conducted operations or activities which are regulated by such agency,

as to whether or not, to their knowledge, the reporting individual, any relative of the reporting individual, or any other financial entity with which the reporting individual is affiliated was a party to any criminal, civil, or administrative proceeding which would relate to the matters for which the nominee would be responsiole in the position to which nominated (as determined by the Committee by regulation).

(3) If the existence of any criminal, civil, or administrative proceeding is reported under paragraph (2), a description of the nature of such proceeding and its outcome and the factors on which such outcome was based.

(c) For purposes of this section:

(1) "civil, criminal, or administrative proceeding" means—

(A) any civil or criminal proceeding to which the United States or any State is a party;

(B) any administrative proceeding by the United States or any State denying any benefit on the basis of any act or omission by the person who is the subject of such proceeding or which restricts, by consent, the activities of the person who is the subject of such action; and

(C) any investigation of a type which normally precedes any action described in subparagraph (A) or (B) of this paragraph; and

(2) an individual shall be considered to be affiliated with any entity if such individual or any relative of such individual, has a substantial interest in such entity or held any position in such entity which is required to be reported under this title.

Page 61, line 21, strike out "304" and insert "305" in lieu thereof.

Page 62, line 11, strike out "305" and insert "306" in lieu thereof.

Page 64, line 13, strike out "306" and insert "307" in lieu thereof.

Page 65, line 4, strike out "307" and insert "308" in lieu thereof.

Page 66, line 2, strike out "308" and insert "309" in lieu thereof.

Page 66, line 6, strike out "309" and insert "310" in lieu thereof.

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

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Iowa that the amendments be considered en bloc?

There was no objection.

The CHAIRMAN pro tempore. Is there objection to the amendment that is offered to title III?

There was no objection.

Mr. LEACH. Mr. Chairman, my amendments focus exclusively on Presidential nominees but impose no new obligations on these nominees. They simply require that the reports filed under this bill be forwarded to both Houses of Congress with a written statement from the Director of the Office of Government Ethics that the nominee is in compliance with applicable law. However, the amendments do impose certain new obligations on the Director of the Office of Government Ethics and in some cases on Federal agencies and departments must report whether the nominee

has been involved in civil, criminal, or administrative proceedings which may be relevant to the position to which the nominee is proposed.

The purpose of these amendments is to underline that the House at its discretion may choose to exercise a role during the confirmation process.

Since World War II only eight Cabinet nominees and 16 Subcabinet nominees have been turned down. One writer has even described the confirmation process as "half rubber and half stamp." My feeling is that with regard to ethics and conflicts of interest, Members of this body have an appropriate role to play during the confirmation process, with the clear understanding that the constitutional responsibility to confirm Presidential nominees resides exclusively with the other body.

Mr. Chairman, I urge adoption of these amendments.

Mr. DANIELSON. Mr. Chairman, I rise in opposition to the amendments.

Mr. Chairman, these amendments in effect call for the Director of Government Ethics to send the reports on a nominee to both the Houses of the Congress. I respectfully submit that this is in contravention of the constitutionally established procedure—I am not going to say it is unconstitutional—but I say it is constitutionally surplusage, it is unnecessary and redundant. The Constitution requires that many Presidential appointments be subject to the advice and consent of the Senate. There is no such requirement with respect to the House of Representatives with the exception of the nomination of a new Vice President under the 25th amendment.

I would submit that having this requirement would be, in the first place, redundant, it would be placing the House of Representatives in a position where it might be viewed as impinging upon the functions of the Senate, which is undesirable.

I point out that it calls for full financial reports for nominees who have at least—at one time it was 5 years, for your information I understand that the current form of the gentleman's amendment has the 5-year limitation stricken. So I suppose that goes back to the time beyond which the memory of man runneth not to the contrary.

It is entirely possible that the nominee may not have maintained such minute records back to time immemorial. This would involve excessive paperwork. Information of 10 years ago might not be sufficiently complete to enable discovery of what is factual and what is not.

It would require, under this amendment, that the Director of Government Ethics, and the head of any agency with which the nominee, or his family, or a member of his family, or any entity with which he has been affiliated, had control or regulatory relations, to certify that the nominee, or the affiliated entity, was not the subject of criminal investigation.

This would be extremely burdensome for a person who has been working, for example, for a large corporation, which has contracts with many agencies, because in most cases there would be absolutely nothing to report, nevertheless there would have to be an extensive investigation to find out whether someone who worked for Texas International Airways or the Ford Motor Co. had ever had a Government contract and whether any of these were presently being investigated.

It would have no relevancy to the qualifications of the individual under consideration. This would be very cumbersome. It would be expensive, and it would be an undue invasion of privacy.

Anyway, Mr. Chairman, it is totally unnecessary since I have been informed that the other body, in the exercise of its advice and consent function, does conduct rather thorough investigations. They have their own sources of information, and they have the right to interrogate the nominee himself. Therefore, any information they want from the nominee can be obtained by the other body from the nominee.

Mr. Chairman, I say that these amendments are not necessary to the bill. In fact, they tend to impair its effectiveness.

Therefore, Mr. Chairman, I urge a "No" vote on these amendments.

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

Mr. DANIELSON. I yield to the gentleman from Iowa.

Mr. LEACH. Mr. Chairman, I have just two points of clarification. One, there is no new reporting requirement of the nominee. It is a 1-year period, exactly as in the bill. Therefore, all that is expected from the nominee is what is currently expected through the provisions of the bill.

There is a new reporting requirement from the Federal Government, but only related to those Federal agencies and departments to which the nominee is most directly related in his proposed new position.

Second, with respect to the constitutional issue, I agree that, at first glance, it may look like there is a new function for House Members. However, we have asked the Library of Congress to express a legal opinion.

I would like to read from that opinion very briefly.

The Library of Congress states the following:

> The issue raised is whether such a qualification or precondition interferes with the constitutional prerogatives of the President and/or the Senate in the appointment process by limiting the choice available to the President or by implicating the House in the confirmation process. We think not.

Later, the opinion concludes with this statement:

> * * * Moreover, requirement that the report be submitted to House committees as well as appropriate Senate committees does not implicate the House or those committees in the confirmation process. * * *

Mr. DANIELSON. Mr. Chairman, I believe the gentleman from Iowa (Mr. LEACH) simply repeated what I said in my argument, which is that I see nothing unconstitutional about this matter. However, I do see an encroachment by the House on what is a constitutionally delegated responsibility of the other body.

Mr. Chairman, I think it would be unbecoming of us to take this step. I fervently oppose it.

Furthermore, Mr. Chairman, I respectfully submit that the Library of Congress is not the lawyer for the Government, and I do not defer to the Library of Congress on this question.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Iowa (Mr. LEACH).

The amendments were rejected.

AMENDMENT OFFERED BY MR. RYAN

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

The Clerk read as follows:

> Amendment offered by Mr. RYAN: Page 51, after line 22, insert the following:
>
> SEC. 243. Unless otherwise provided by any statute enacted after the date of enactment of this act, the amendments made by this title are hereby repealed effective on the first day of the first calendar month beginning 5 years after the date of the enactment of this Act. If such provisions are repealed by reason of this subsection, any reference to the Director of the Office of Government Ethics shall be deemed to be a reference to the Chairman of the Civil Service Commission or his designee, and any reference to any agency ethics counselor or officer shall be deemed to be a reference to such Federal employee or officer as the Chairman of the Civil Service Commission may prescribe.

Mr. RYAN. Mr. Chairman, please do not misunderstand. I read this ethics bill from front to back, line by line. I do not agree with those who believe that somehow creating still another new agency will, in fact, in the imagination we all have, somehow cause all of the ills of Government to go away, if we just find, somehow, a single agency which will make us all good and ethical.

The fact is, Mr. Chairman, this Government works pretty well in my mind, right now. Obviously, there are others who believe differently.

However, if we are to have this radical change—and it is a radical change—to place this in the statutes now for the entire Federal Government, ought we not at least say that this is an idea worthy of experiment which may work? We all know that when an agency is created, no matter how small or large, no matter what its function, even if the function is done away with because of changes in history which occur, such as the end of the Korean war and the Contract Renegotiation Board, which still exists 22 years later along with others like it, once that agency is created, it tends to go on and on.

My suggestion here is that we take this new idea and try it out, and if we, the Congress, are not satisfied that this particular agency has some real positive useful function within our Government, we simply say, "Expire. It is not enough. We will try something else."

Five years is an adequate length of time to try this experiment. Do we begin a wholly new concept in Government with a permanent agency? The Members know as well as I do—in fact, it is a law around here if there is ever one once created, it is never taken apart. If we

have this agency, let us take a look at what it does to show that it is somehow needed.

Read the language on page 38 of the bill, on line 13:

. . . (4) conducting the review of financial statements . . . to determine whether such statements reveal possible violations of applicable conflict of interest laws or regulations and recommending appropriate action to correct any conflict of interest or ethical problems revealed by such review;

What is an ethical problem to be corrected? Who will do it? How will it be enforced, and on what basis?

At the bottom of page 38 it says:

interpreting rules and regulations issued by the President or the Commission governing conflict of interest and ethical problems and the filing of financial statements;

No. (7) on page 39, line 3:

consulting when requested, with agency ethics counselors. . . .

We would eliminate agency ethics counselors with my last amendment, but they are still there. If this amendment fails, I suggest that someone try to eliminate the reference to agency ethics counselors, because I believe the Director of the Commission will then put them into effect anyway, in spite of congressional intent—

consulting when requested, with agency ethics counselors—

To which I have referred earlier—

and other responsible officials regarding the resolution of conflict of interest problems in individual cases;

What does that mean? I know of nothing in the law that tells us or gives us any indication of where we should go from there except the Director of the Ethics Agency himself who has this broad cachet paragraph. Now on page 39 again, No. (8):

ordering corrective action on the part of agencies and employees which the Director deems necessary;

Any appeal from that order the Director says or he deems necessary—

requiring such reports from executive agencies as the Director deems necessary;

The paperwork becomes a blizzard.

No. (10):

assisting the Attorney General in evaluating the effectiveness of the conflict of interest laws and in recommending appropriate amendments;

"Assisting the Attorney General." Now we have that dark shadow or blinding light standing just behind the left shoulder of the Attorney General, assisting him in the determination of who is clean, who is ethical, who is not in conflict.

The CHAIRMAN. The time of the gentleman has expired.

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

Mr. RYAN. I can go on, Mr. Chairman. One cannot say that this particular section is not a revolutionary change, an experiment in what we are trying to get done here. Is there anything wrong with setting some kind of limits so that the agency has to come back in 5 years and tell us what they did? What is wrong with that? More importantly, in case there is some good in here and there is need for continuity and we do not continue it ourselves, do they have any relief? They certainly do. The agency itself becomes part of the Civil Service Commission that I presume for the last 200 years has had something to do with ethics and the conduct of Government employees. This, then, is a new concept. Any new concept ought to be placed in the position of being probationary, and that is exactly what this amendment does.

I urge its adoption.

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

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

Mr. GONZALEZ. I thank the gentleman for yielding.

The CHAIRMAN. The time of the gentleman has expired.

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

Mr. GONZALEZ. The reason I rise is because I am trying to locate that section the gentleman is referring to, pages 38 and 39, but I believe the gentleman had reference to the original H.R. 1.

Mr. RYAN. Whatever version this is. It is section 222, beginning with subsection (4).

That is where I began to make reference:

"The Director shall provide, * * *" under "Authority and Functions." That is the section.

Mr. GONZALEZ. The gentleman referred to page 38 and page 39, but I am afraid it is not page 38 and page 39 of H.R. 13850. I was wondering if the gentleman knew what the equivalent page number of H.R. 13850 was.

Mr. RYAN. I do not know. I have only H.R. 1 here, with the House report.

Mr. GONZALEZ. The gentleman is referring to the House report?

Mr. RYAN. Yes.

Mr. GONZALEZ. Well, that clarifies it. I thank the gentleman.

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

Mr. Chairman, I wonder if the gentleman from California (Mr. RYAN), will be kind enough to respond to some questions?

Mr. RYAN. I would be happy to.

Mr. DANIELSON. Mr. Chairman, in the first place, I want to ask the gentleman's indulgence and forgiveness. I failed to make a point of order to the gentleman's second section, which would insert a section 310, which is in title III, which is not the bill before the House, and also contains language which would not fit title III, since the Director of Government Ethics is not even involved in title III. It was an oversight on my part.

Mr. RYAN. Mr. Chairman, I am not sure what the gentleman means.

Mr. DANIELSON. I am looking at the gentleman's amendment as it appeared in the CONGRESSIONAL RECORD.

Mr. RYAN. Well, I have my own copy here. I do not know.

Mr. DANIELSON. Well, I will skip over that for a moment; but I want to ask this very pertinent question. What the gentleman really is seeking in this amendment, as I understand it, is to put a 5-year sunset on the bill.

Mr. RYAN. Precisely.

Mr. DANIELSON. The gentleman made a very eloquent argument and touched on a number of very pertinent points; but the thrust of the amendment is to put a 5-year sunset on the bill.

Mr. RYAN. That is right, on title II of the bill.

Mr. DANIELSON. To title II only?

Mr. RYAN. Yes.

Mr. DANIELSON. To title II of the bill?

Mr. RYAN. Yes.

Mr. DANIELSON. Mr. Chairman, I oppose the amendment. I respectfully submit, this does not require very extended debate. The issue is clear. Should we have a 5-year sunset or should we not have a 5-year sunset?

I submit that the Members of the committee can make up their minds on that very quickly.

I will urge a "no" vote. I know the gentleman from California has urged an "aye" vote. I suppose the next thing would be to call for the question and let the chips fall where they may.

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

The question was taken; and on a division (demanded by Mr. DANIELSON) there were—ayes 9, noes 8.

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

Mr. Chairman, if enough Members will rise for a recorded vote, I will withdraw my point of order of no quorum.

Mr. Chairman, I withdraw my point of order.

The CHAIRMAN. The gentleman from California withdraws the point of order of no quorum.

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 138, noes 266, not voting 28, as follows:

[Roll No. 842]

AYES—138

Akaka	Conable	Florio
Ashbrook	Corcoran	Flowers
Barnard	Coughlin	Forsythe
Baucus	Crane	Fountain
Beard, Tenn.	Daniel, Dan	Frenzel
Bedell	Daniel, R. W.	Fuqua
Bevill	Davis	Gibbons
Bowen	de la Garza	Gilman
Breaux	Devine	Goldwater
Broomfield	Dickinson	Gonzalez
Brown, Mich.	Dodd	Gore
Brown, Ohio	Dornan	Gradison
Broyhill	Early	Guyer
Burke, Fla.	Edwards, Ala.	Hall
Burleson, Tex.	English	Hanley
Butler	Erlenborn	Hannaford
Caputo	Ertel	Heftel
Carter	Evans, Colo.	Hightower
Cavanaugh	Evans, Del.	Holland
Cederberg	Findley	Horton
Clawson, Del	Flippo	Hubbard
Collins, Tex.	Flood	Hughes

Jacobs
Jeffords
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kasten
Kelly
Kostmayer
Krebs
LaFalce
Lagomarsino
Lent
Levitas
Lloyd, Calif.
Lott
Lujan
McClory
McDade
McDonald
McEwen
Marlenee
Martin
Mattox
Meyner
Miller, Ohio
Mineta
Mitchell, N.Y.
Montgomery
Moorhead, Calif.
Myers, John
Nichols
Panetta
Pettis
Poage
Pressler
Quayle
Quillen
Rahall
Rhodes
Roberts
Robinson
Rousselot
Rudd
Ruppe
Ryan
Satterfield
Schulze
Sebelius
Shuster
Sikes
Sisk
Smith, Iowa
Stangeland
Stanton
Steiger
Stockman
Stratton
Stump
Symms
Vander Jagt
Waggonner
Walsh
Wampler
Weaver
White
Whitehurst
Wiggins
Winn
Wolff
Yatron
Young, Fla.

NOES—266

Abdnor
Addabbo
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Ashley
Aspin
AuCoin
Badham
Bafalis
Baldus
Bauman
Beard, R.I.
Beilenson
Benjamin
Bennett
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonior
Bonker
Brademas
Breckinridge
Brinkley
Brodhead
Brooks
Brown, Calif.
Buchanan
Burgener
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Carney
Carr
Chappell
Chisholm
Clausen, Don H.
Clay
Cleveland
Cochran
Coleman
Collins, Ill.
Conte
Conyers
Corman
Cornell
Cornwell
Cotter
Cunningham
D'Amours
Danielson
Delaney
Dellums
Derrick
Derwinski
Dicks
Dingell
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Calif.
Edwards, Okla.
Eilberg
Emery
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fenwick
Fisher
Fithian
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Fraser
Frey
Gammage
Garcia
Gaydos
Gephardt
Giaimo
Ginn
Glickman
Goodling
Grassley
Green
Gudger
Hamilton
Hammer-schmidt
Harkin
Harrington
Harris
Harsha
Hawkins
Heckler
Hefner
Hillis
Hollenbeck
Holt
Holtzman
Howard
Huckaby
Hyde
Ichord
Ireland
Jenkins
Jenrette
Johnson, Calif.
Jordan
Kastenmeier
Kazen
Kemp
Keys
Kildee
Kindness
Latta
Le Fante
Leach
Lederer
Leggett
Lehman
Livingston
Lloyd, Tenn.
Long, La.
Long, Md.
Luken
Lundine
McCloskey
McCormack
McFall
McHugh
McKay
Madigan
Maguire
Mahon
Mann
Markey
Marks
Marriott
Mathis
Mazzoli
Meeds
Metcalfe
Michel
Mikulski
Mikva
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Moore
Moorhead, Pa.
Moss
Motti
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Gary
Myers, Michael
Natcher
Neal
Nedzi
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Patten
Patterson
Pattison
Pease
Perkins
Pickle
Preyer
Price
Pritchard
Pursell
Quie
Railsback
Rangel
Regula
Reuss
Richmond
Rinaldo
Risenhoover
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roybal
Russo
Santini
Sawyer
Scheuer
Schroeder
Seiberling
Sharp
Simon
Skelton
Skubitz
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
St Germain
Staggers
Stark
Steed
Steers
Stokes
Studds
Taylor
Thompson
Traxler
Treen
Trible
Tsongas
Tucker
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Walker
Watkins
Waxman
Weiss
Whalen
Whitley
Whitten
Wilson, Bob
Wilson, Tex.
Wirth
Wydler
Wylie
Yates
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NOT VOTING—28

Ammerman
Anderson, Ill.
Armstrong
Burke, Calif.
Cohen
Dent
Diggs
Fish
Hagedorn
Hansen
Krueger
McKinney
Milford
Miller, Calif.
Murphy, N.Y.
Nix
Pepper
Pike
Runnels
Sarasin
Shipley
Slack
Teague
Thone
Thornton
Wilson, C. H.
Wright
Young, Alaska

Messrs. AuCOIN, MARRIOTT, HAMMERSCHMIDT, WIRTH, and TAYLOR changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. GONZALEZ

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

The Clerk read as follows:

Amendment offered by Mr. GONZALEZ: page 35, line 2: strike all of line 2 through line 11; at line 11, insert "The" in lieu of "Such".

Mr. DANIELSON. Mr. Chairman, I reserve two points of order on the amendment.

The CHAIRMAN pro tempore (Mr. FOWLER). The gentleman from California (Mr. DANIELSON) reserves two points of order against the amendment.

Mr. GONZALEZ. Mr. Chairman, my amendment addresses itself to page 35 of the bill before the Committee of the Whole, section 207.

Mr. Chairman, the fact that the bill is brought up at this point in time I think is deplorable because of many reasons, but mostly because I am convinced that had the Committee itself and the individual members had a chance to do this in a dispassionate, calm atmosphere, and not in an election year, and not under the pressures of professional "Congress haters"—I do not care what the House ever does, we are going to have to come up each year with a new ethics bill if we are to try to satisfy the professional "Congress haters" that have always existed throughout the history of our Nation.

However, Mr. Chairman, section 207 says in subparagraph (a) the following:

The President may require officers and employees of the executive branch not covered by this title to submit confidential reports in such form and manner as he shall prescribe.

In subparagraph (c) this language appears.

The provisions of this title requiring the reporting of information shall supersede any general requirement . . .

Later, Mr. Chairman, I hope to offer an amendment to strike section 307 in the next title because there the same power is given to the judicial conference.

Mr. Chairman, what this sets up is an inquisitor magnificent in the person of the President, the Chief Executive of the United States. He can require confidential information with respect to any hapless employee, not the ones which the bill is palmed off to us as affecting. The bill has been palmed off to us in the House as affecting the upper-level employees.

Mr. Chairman, this section makes the President a total czar. He can require any kind of confidential information. He can say that he would be interested in knowing the sex habits of a general at the Pentagon. Under this section there is nothing to prohibit that.

Mr. Chairman, I am not saying that that is undesirable. Maybe it is desirable in some people's minds; but I think the Members certainly do not see the need for this section. If this section is included in the bill, then we can do away with the rest of the bill which has to do with the executive branch of the Government. Why have that? This paragraph gives the President this enormous power. Can any Member imagine what could happen and what could be done in the future with individuals who, through arrogance or through willful misuse of power, could compel a subordinate to do things that he should not do?

After all, what about the travail of the Nation just 3 years ago when countless numbers of employees did things under the order of whom? Ostensibly the President.

Mr. Chairman, I think that if every Member had a chance to make an inquiry of the professional staff of these committees, they would agree with me that this section can be done away with and should be done away with, without in any way harming the main thrust of the bill as presented in the remaining sections.

Mr. Chairman, I hope that this amendment will be adopted and that we will do something which I think will redound to the credit of the House in subsequent days and months when we soberly reflect on what we are doing here.

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

Mr. Chairman, my friend, the gentleman from Texas, has read into section 207 matters which I do not believe are in fact there. Earlier on during the consideration of this bill, broad authority was given to the President to require any information of any Government employee and to make that information public. That broad discretion was subject to much criticism before the Committee on the Judiciary, and instead much narrower language was adopted. Now, under section 207(a), the President may require of those employees who are not covered confidential reports, and I quote now from the bill "in such form as is required by this part."

It was the intent of the drafters of that language to limit the power and the discretion of the President to require only such information from noncovered employees as would be compelled of covered employees under this bill. He would not, for example, be permitted to inquire into the sex habits of generals in the Pentagon

or any other matter of a personal nature unless that information were compelled in this bill.

I admit, Mr. Chairman, there is some ambiguity in the language "in such form as is required by this part," and in order to clear up that ambiguity, I will ask for the attention of the gentleman from California (Mr. DANIELSON) to inquire whether he agrees with my interpretation of the word "form" as meaning that the discretion of the President to require additional information applies only to that information which is required in the bill. Is that true?

Mr. DANIELSON. If the gentleman will yield, is the gentleman referring to section 207 on page 35?

Mr. WIGGINS. Yes, I am.

Mr. DANIELSON. Yes, "in such form as is required by this part," that is, this part of title II of the bill, the executive branch aspects of the bill.

Mr. WIGGINS. Is it not true that the the President could not compel the confidential report of information which was not required to be disclosed under this bill?

Mr. DANIELSON. That is correct. This bill reaches only certain categories of people, generally determined by their compensation level. The President would have a right to require officers and employees who are not covered by this part, let us say a grade 15—I am just pulling a number out of the air—to submit his confidential report but in a form which is prescribed by this part.

Mr. WIGGINS. Yes.

Mr. Chairman, in conclusion, I think it is absolutely essential that the Chief Executive Officer who is at least a nominal supervisor of all the employees in the Federal branch should have the power to compel disclosure of information on a private basis which may bear upon the performance, integrity, and capacity of individuals who work in the executive branch. That is not to say that that private information should be made public, but certainly an employer should have a right to review the conduct of his employees on a confidential basis.

Mr. DANIELSON. If the gentleman will yield for one moment more, I fully concur. These additional reports contemplated by section 207 should not be a public record, but they are important to the President in making his decisions, but they are not required to be made public as are the other reports.

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

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

Mr. GONZALEZ. I thank the gentleman for yielding.

Although I was hoping the gentleman would agree with the reason why this section should be deleted, he does explain that there is a possibility of ambiguity here. But look at that subsection (b):

The provisions of this title requiring the reporting of information shall supersede any general requirement under any other provision of law or regulation with respect to the reporting of information required for purposes of preventing conflicts of interest or apparent conflicts of interest.

That raises further problems of ambiguity because under this general definition of conflicts of interest are apparent conflicts of interest. Such things as this possibility I referred to do not seem as outlandish at all in the reality of what happens day in and day out on occasions.

The CHAIRMAN. The time of the gentleman has expired.

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

Mr. WIGGINS. I yield to the gentleman.

Mr. GONZALEZ. I thank the gentleman for yielding.

Does not the gentleman see that subsection (b) further enlarges the area of ambiguity?

Mr. WIGGINS. No, I do not. I think it is explicit. It says that this bill shall supersede existing law with one exception, namely, the Foreign Gifts and Decorations Act. What could be clearer than that?

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

Mr. DANIELSON. No, Mr. Chairman, I do not at this point.

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

Mr. Chairman, in essence I agree with what both gentlemen from California were saying. I just want to point out to the body that actually if this amendment were to pass, we would be going back to a much broader power in the President. We would be going back to section 7301 of title 5 of the United States Code, under which it says that the President can prescribe regulations for the conduct of employees in the executive branch. That is a very broad mandate of Executive power.

What we are addressing in section 207 (a) and 207(b) of this bill is a limitation on that broad definition of Presidential power in title 5.

Therefore, I would urge this amendment be defeated, because if it passes we would lose this limitation of power.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. GONZALEZ).

The amendment was rejected.

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

Mr. Chairman, everyone in this body is certainly concerned about ethics. So, too, does every one of us consider ourselves ethical, honest and dedicated servants of our constituencies. Many have argued in favor of this bill stating that it was absolutely necessary to not only keep Members honest, but to eliminate in the minds of the public even the perception of possible conflict of interest, This argument was used most frequently in support of an outside earnings limitation for Members—a provision I vigorously opposed.

I do, however, intend to vote for the final passage of the legislation even though it includes this onerous, unnecessary and constitutionally suspect provision. I feel very strongly that the full disclosure sections are the most important and are all that are necessary to remove any conflicts of interest or even hints of conflict of interest.

I would like to state quite clearly, however, my reasons for objecting to the outside earnings limitation and why I feel it is unconstitutional. I fear we may lose the whole law because of that provision.

The issues in limiting a Member's income are not clear cut. On the question of a Member's work representing his constituency, whether he is doing a satisfactory job or not should be up to the voters of his District—not the U.S. Congress. In fact, that is the way the Founding Fathers wanted it in drawing up the Constitution. They specifically rejected a limitation on outside activities. If a Member fails to vote on issues affecting his district, fails to provide a level of services demanded by his constituents, fails to answer his mail or meet with the people he represents, I assure you the voters will turn the slacker out. Similarly, with full disclosure of finances, if a constituency feels that a Member has been unduly influenced by outside sources or is unable to adequately serve them due to too many outside interests, they will have the information available to vote him out of office.

It seems ridiculous to presume that a limitation will encourage Members to work better or create a greater atmosphere of ethics in the House. If a Member wants to earn additional income, there are enough loopholes in the rule and the law that will permit it. In fact, the likely result of the rule as written is to cause Members to take circuitous routes to obtain the earned income.

The most condemning aspect of the rule is its discrimination against Members with certain earned income as opposed to unearned income or income from a family business.

I would venture to say that a Member with a vast portfolio of stocks and other investments that pay him handsome dividends—exempt from the rule of course—is just as likely to spend a great deal of time obtaining that income as someone earning income from a law practice, for example. More importantly, though, it might put him in a position of greater conflict of interest, yet we only rely on public disclosure to keep such a Member honest.

Similarly, a Member with a family business to run is going to commit a great deal of time and worry to that business, but he is exempt. Would the Member who is able to earn a high fee from speaking engagements spend any more time in obtaining the income than the Member who heads a family business? I think not.

The earnings limitation affects a limited number of Members while exempting a great deal of other Members

with vast incomes from other sources. The rule hits the people who work for a living rather than those who enjoy vast profits from personal business enterprises or investments. Instead of a body formed of representatives of the people, we will have an exclusive club of wealthy investors and corporate heads who can continue to earn vast sums of money despite the intent of these rules. The net effect will put more and more Members out of touch with the public they seek to serve. Wealth has a tendency to breed separatism and wealthy Members—inexperienced novices—will be the only ones to survive the implementation of this rule.

Others argue that there are ample numbers of individuals who are willing to serve in Congress even with the limitation. This may be true, but will they be the most qualified to serve in the Congress? While it is difficult to demonstrate to an individual making $10,000 to $20,000 a year that maximum earnings permitted is inadequate, those serving now know that the caliber of individual who is able and capable of serving is also able and capable of working outside the Congress at substantially higher levels of income. They should not be required to forgo that income as long as they can adequately serve their constituents. We have seen many capable and highly skilled members retire because of it; and there are many individuals, who would have made excellent representatives, but who declined the nomination to run for office.

This job of a Congressman does not have any civil service protection or tenure. We can be thrown out of office every 2 years. Why should anyone who has the skills and expertise to do well forfeit all of that and risk being out on the streets in 2 years?

Many of us here have argued against the outside earnings limitation for older Americans receiving Social Security. It works the same way. It limits the amount an individual can earn by his own industry, but not what he can earn from investments.

Thus, the over-65er who cannot survive on social security payments and must work to pay his bills loses social security, while the individual with substantial income from investments is permitted to receive all his social security payments whether he needs them or not.

Our rule is even more discriminatory since those who earn income from family businesses are still permitted to retain that income source, while those who earn income from certain partnerships are not.

I frankly wonder how many Members would be willing to accept an absolute limitation of earnings regardless of source. I suspect the overwhelming majority would not enact such a rule, yet they enact this rule because it only affects a few and it does not affect them.

We just recently took up the equal rights amendment. During debate on that issue, many Members talked about equality as a matter of principle. I have been a consistent supporter of human rights everywhere and have fought against discrimination of any sort anywhere, even in the U.S. Congress. I get greatly disturbed, though, when I see otherwise sincere Members of the House, who are actively involved in such doctrinal rights issues as the ERA, decide to selectively avoid similar fights for equal rights on an issue such as outside earnings limitations for Members.

These considerations are a question of political and moral judgment. There are other considerations which are far more weighty and strike at the very substance of the outside earnings limitation provision. There are five key areas of constitutional dispute. Some of these issues may be resolved as the case of Laxalt against Kimmitt wends its way through the appeals process. Others will have to await a new case. However, I want to outline these issues for my colleagues.

First, there is the argument that a restriction on outside compensation earned by a Member on his own time imposes an additional qualification for holding congressional office. The Constitution sets certain specific standards for office. The House and Senate may detail rules of conduct for its Members, but this restriction sets a specific condition for holding office that does not relate to conduct.

Proponents of the measure have argued that the limitation is necessary to remove even the hint of possible conflict of interest. They readily admit that outside income per se does not present a conflict of interest or mean an individual is unethical—only certain types of earned income. Moreover, by permitting a certain amount of earned income, it would seem that the proponents are admitting that earned income does not represent a conflict of interest in all instances.

Thus, in an effort to establish a code of conduct to prevent conflict of interest and part-time work by Congressmen, they have set an arbitrary barrier to private enterprise on the part of all Congressmen. There were countless other methods that could have been used to prevent conflicts of interest or to encourage full-time work, and they should have been used rather than this arbitrary and questionable method.

A second constitutional argument closely related to the first is that such a provision limiting income deprives a person of property without due process of law. This aspect is particularly compelling as it relates to sitting Members. Many will have to divest themselves of assets in order to continue to serve in the House. Similarly others who seek office will have to divest themselves of assets prior to or subsequent to election to office.

A third consideration is that prohibiting Members from collecting reasonable fees for public speaking may make such public speaking undesirable. Similarly, due to the outside earnings limitation, a Member's ability to freely associate or be engaged in legal activities is restricted due to his inability to collect compensation for such associations or activities. This seems to me an unjust violation of the free speech and debate clause and the free association clause of the Constitution without an overriding interest in protecting other constitutionally guaranteed rights. Certainly, if such a restriction were placed on members of the press, the freedom of the press issue would be quickly raised. We do not question the potential conflict of interest between a newspaper's journalistic responsibilities and their advertising income. The former is given full protection under the Constitution seemingly without regard to any other rights. Yet the potential for conflict of interest in that area is high.

A fourth constitutional consideration is that such a limitation will discourage or deter participation in the electoral process. Clearly placing more restrictions on an individual seeking to run for office will result in fewer individuals competing for a seat in the Congress. While some have argued this limitation does not specifically bar anyone from running since all they have to do is forfeit their income, it does in fact create a situation that will preclude many from running. This will severely limit the number of qualified individuals from which candidates can be selected.

A fifth, and very serious consideration is that the limitation discriminates against certain Members with earned income, while exempting Members with unearned income. The arguments of proponents was that they would have liked to apply the provision across the board, but that treatment of earned income was easier to handle than treatment of unearned income. I submit that such an argument on its face demonstrates that the provision is discriminatory.

The question then becomes whether it is discriminatory within the framework of the Constitution. The Supreme Court in *Ferguson* v. *Skrupa* (372 U.S. 726, 732 (1963)) stated that it is "'invidious discrimination' which offends the Constitution." The Court is attempting to draw a difference between certain types of discrimination and indicated further that "discrimination may be so unjustifiable as to be violative of due process" (*Bolling* v. *Sharp* 347 (U.S. 497).

Thus, if the discrimination is rationally related to the end sought by the legislation and is not arbitrary, it might be permitted. Similarly, if other constitutional considerations are stronger, the discrimination might be tolerated. In the instant case, it seems clear that with numerous over avenues available, the Congress could have accomplished the laudatory legislative goal of an honest Congress without resorting to the limitation on income which the sponsoring committee admits is discriminatory. This may be the most serious argument against the provision.

Finally, it is important to remember the words of our Founding Fathers in explaining the desire of the Constitutional Convention in setting out the requirements for being elected to the Congress:

No man can be a competent legislator who does not add to an upright intention and a sound judgment a certain degree of knowledge of the subjects on which he is to legis-

late. A part of this knowledge may be acquired by means of information which lie within the compass of men in private as well as public stations. Another part can only be attained, or at least thoroughly attained, by actual experience in the station which requires the use of it. (Madison: Federalist Paper No. 53.)

Our Founding Fathers knew the dangers of having only, say, property owners or individuals of great wealth in the legislature. They knew also the dangers of having "lifetime" Congressmen. It is clear from all readings of the commentaries on the Constitution that it was hoped that the House of Representatives, particularly would be composed of men from all stations of life, who would maintain an active role in those stations, so as to bring to this great representative body the feelings, interests and views they gathered in their day-to-day lives. This provision clearly subverts that intent.

AMENDMENT OFFERED BY MR. WIGGINS

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

The Clerk read as follows:

Amendment offered by Mr. WIGGINS: Page 29, strike out lines 8 through 10 and insert in lieu thereof the following:

(g) Political campaign funds, including campaign receipts and expenditures, shall not be included in any report filed pursuant to this part.

Mr. WIGGINS. Mr. Chairman, this amendment deals with the question of whether political campaign funds are to be reported. We deal with that problem in the following language in title II:

(g) Political campaign funds received by a reporting individual or political campaign funds of such individual shall not be reported under this part.

I want to call the Members' attention to the manner in which we dealt with the identical problem with respect to the legislative branch in title I. That language is found on page 8, lines 20 through 21 of the bill. There, with regard to the legislative branch, we say:

Campaign receipts or expenditures shall not be included in this report.

Accordingly, Mr. Chairman, it is clear that we deal with the same subject matter in different words. In the case of the executive branch, we say:

Campaign funds received shall not be reported.

In the case of the legislative branch, we say:

Campaign receipts or expenditures shall not be reported.

The essential difference is the omission of the words "campaign expenditures" with respect to the executive branch.

Now, those of us who have been troubled with our campaign reports know that there is a lot of information that is required on the expenditure side, as well as on the receipt side. For reasons which I think are largely inadvertent, we failed to make any mention at all of campaign expenditures with respect to employees in the executive branch.

My amendment, Mr. Chairman, intends to bring title I and title II into conformance. I do so by requiring or including campaign expenditures, as well as campaign receipts, as matters which need not be reported.

It is to be understood, of course, that reports will be filed with the FEC concerning all campaign expenditures and receipts.

I would like to believe, Mr. Chairman, that this is in the nature of a technical amendment about which there should be no controversy and I urge adoption of the amendment.

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

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

Mr. DANIELSON. Mr. Chairman, my understanding of what the gentleman is seeking to do by this amendment is the following: The language in section 202(g) of the bill provides that political campaign funds received by a reporting individual or political campaign funds of such individual shall not be reported.

Mr. WIGGINS. Yes.

Mr. DANIELSON. The gentleman's amendment expands that to be "receipts or expenditures."

Mr. WIGGINS. Yes; unless that amendment is made, the reporting of expenditures would be required and it would be a duplication of the reports filed with the FEC.

Mr. DANIELSON. The change that the gentleman's language proposes changes the sentence structure somewhat, but is not intended to change the substantive effect.

Mr. WIGGINS. That is correct.

Mr. DANIELSON. It is not to be included.

Mr. WIGGINS. That is correct.

Mr. DANIELSON. Mr. Chairman, I have no objection to this amendment.

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

The amendment was agreed to.

AMENDMENT OFFERED BY MR. GONZALEZ

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

The Clerk read as follows:

Amendment offered by Mr. GONZALEZ:

Page 44, line 1, strike "$1,000,000" and insert in lieu thereof "$600,000"; and at line 2, strike "$1,000,000" and insert in lieu thereof "$675,000".

Mr. GONZALEZ. Mr. Chairman, I have made some calculations with respect to the cost of operating the office that is supposed to be charged under this bill with administering the act, and using the figures that the committee report includes, I found that the cost per capita of administering title II is nearly twice as great as the per capita cost of administering title III.

My amendment is intended to allow $50 per capita to administer this program. That is, for every person who is required to file I would permit a cost of $50 to administer the ethics program. I have also allowed for an inflationary increase in the future years of the program.

It seems illogical to me that we would have a higher precept of what I call the sanctity or holiness quotient in the executive branch than we do in the other, because apparently the bill will cause us to pay more for the ethics patrolling of the Executive than it will for the other. I fail to see the logic behind that.

My amendment will simply reduce it to a common denominator and recognize that there is a uniform holiness quotient among the Executive as well as the judiciary branch. It provides slightly more, as I repeat, than $50 a person to administer the Office of Ethics, $50 for each person who is required to file. I think that should be enough.

Mr. Chairman, this will give us a chance to save a few hundred thousand dollars. It seems that economy is the mood of the House and the Nation as well, so I for the life of me cannot understand why this amendment would not be acceptable.

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

Mr. Chairman, I do not believe this amendment needs a great deal of discussion. What the amendment does is this: After setting up a very important program with regard to disclosures and ethics and the enforcement thereof, we would now inadequately authorize funds with regard to the conduct of the program. I presume that if we are going to have these requirements and are going to set up a program at this point, the least we can do is to authorize the necessary funds.

I do not think we can take on the function of the Committee on Appropriations at this point. The Committee on Appropriations, of course, must look at the various funding requests and requirements in the future. In my opinion, the cost could be below this figure, but I do not think we serve any purpose by reducing the maximum figure. That is all we are doing by this amendment.

Mr. Chairman, I think it is absolutely essential that the amendment not be adopted, and that we put in an adequate amount of funding to implement and enforce the program that we spent so much time designing.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. GONZALEZ).

The amendment was rejected.

AMENDMENT OFFERED BY MR. WIGGINS

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

The Clerk read as follows:

Amendment offered by Mr. WIGGINS: Page 37, line 9, insert immediately before the semicolon "or State or local governments or political subdivisions thereof".

Mr. WIGGINS. Mr. Chairman, section 209 of the bill is a definition section. Section 209(3) defines a gift. The definition of a gift is in broad language. But it lists four specific exemptions from a gift. One of them is food, lodging, transportation, and entertainment provided by a foreign government within a foreign country or by the U.S. Government. My

amendment adds, after "United States Government," "or State or local government or political subdivision thereof."

Mr. Chairman, my amendment adopts the definition which this House accepted with respect to gifts as applied to Members of Congress.

On page 17 of the bill, in title I, we also define gifts for the legislative branch. We also exempt transportation, lodging, food, or entertainment provided by Federal, State, or local governments or political subdivisions thereof.

Therefore, Mr. Chairman, the purpose of my amendment is to bring the definition of gifts for title II in conformity with that of title I.

I again hope that this would not be subject to great controversy and that it would be regarded as a technical amendment which improves the bill.

Mrs. SCHROEDER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I understand what the gentleman from California (Mr. WIGGINS) is saying about how we have exempted legislators in title I, and I think that his point is important. But I think if we adopt his amendment we must be aware of what we are doing—and my awareness makes me reluctantly oppose the gentleman's amendment.

It seems to me that if we adopt the amendment, then it would allow people from HUD, the grant people, to be entertained by local government or governmental political subdivisions and not have to report it, or the HEW people, or the municipal bond people in the Internal Revenue Service, or Indian tribes, or anyone else who gives or takes money to receive unreported benefits from groups their decisions benefit. And I am sure that is the kind of thing we are trying to stop in the bill. So I think the bill as written in title II in re the executive branch is what we want. I hear what the gentleman is saying in re the legislative branch. He is pointing out the dual standard. But both branches are not the same. People who control these gigantic grants and sums of money should have to report gifts they receive from beneficiaries. Otherwise the potential appearance of wrongdoing is very broad. I think we should stay with the bill the way it is and defeat the amendment.

Mr. WIGGINS. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from California.

Mr. WIGGINS. I thank the gentlewoman for yielding.

Mr. Chairman, I am prepared to go either way, but not both ways. at the same time. I am prepared to accept the logic of the gentlewoman's argument for people in the executive branch but would have to apply the same logic for those of us in the legislative branch. However, we did opt for a narrow definition with respect to ourselves, and my purpose is to be consistently right or wrong.

Mrs. SCHROEDER. I agree with what the gentleman says, and I think I would support the bill's standard for us, also. But we are past that title, unfortunately. And I think the people in the executive branch have a much more direct involvement in allocating grants and other funding than we do. We could make the argument to the legislative branch we are much more generalist as to funding and the executive branch is much more specific.

Mr. Chairman, I would urge rejection of this amendment.

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

The amendment was rejected.

AMENDMENT OFFEED BY MR. ASHBROOK

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

The Clerk read as follows:

Amendment offered by Mr. ASHBROOK: On page 51, after line 19, insert the following new section and renumber accordingly:

"SEC. 243. Except where the employee's Agency or Department shall have more restrictive limitations on outside earned income, all employees covered by this Act who are compensated at a pay grade in the General Schedule of Grade 16 or above shall be limited in outside earned income to not more than fifteen percent of their salary."

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

Mr. ASHBROOK. Mr. Chairman, many of the members of the committee recall when we had the civil service reform bill before us I offered an amendment of this type. There were three major criticisms of that amendment at that time, which I feel have been corrected in this particular amendment.

First, it was said that was not the place to amend it and we should wait until we got to H.R. 1, and this is H.R. 1.

Two, that amendment was at the level of GS–12 and many Members afterward said that was too low at approximately $16,000. This amendment now is at GS–16, which is the level reflected throughout this entire bill.

Third, it was pointed out by my colleague, the gentlewoman from Colorado (Mrs. SCHROEDER), that there were some agencies and some departments that had more restrictive limitations on outside earned income than my amendment at that time envisioned, so that is why the amendment starts out: "Except where the employee's agency or department shall have more restrictive limitations * * *"

I understand in consultation with my colleague, the chairman, the gentleman from North Carolina (Mr. PREYER), that my colleague, the gentleman from Minnesota (Mr. FRENZELL), will offer an amendment to further restrict this amendment of mine, but I think generally if we are willing to extend the ethical thrust, that outside income above a certain point raises questions of conflict of interest, and so forth, that we should make it general. That is why I offer it to title II. That is why I offer this amendment. I hope it will be supported.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from California (Mr. DANIELSON) persist in his point of order?

Mr. DANIELSON. Yes, I do at this point.

The proposed amendment in the first place by its terms applies to employees covered by this act. The act has three titles: Title I which is on the legislative branch; title II, executive branch; and title III, judicial branch. We are here presently dealing only with title II, the executive branch. Therefore the amendment is broader than the subject matter pending before the committee under the rule and would be subject to a point of order.

Second, the other point of order I would like to raise is that this bill by its terms is a financial disclosure act. It is to require certain officers and employees of the United States to answer as to their income and financial holdings and transactions and report as to those. It does not limit income.

A limitation of income is within the rules of the House and by special mention in the rule under which this bill is being heard, an amendment by the gentleman from Tennessee (Mr. QUILLEN) could have been entertained, but that I submit respectfully is not a broad enough exemption to the rule to permit the entire bill to reach earnings limitations in addition to the financial disclosure.

I submit my point of order.

The CHAIRMAN. Does the gentleman from Ohio (Mr. ASHBROOK) desire to be heard on the point of order?

Mr. ASHBROOK. Yes; Mr. Chairman, the gentleman from California is correct. As a matter of fact, that is one of the things I was going to ask unanimous consent to change, and it was my understanding the gentleman from Minnesota (Mr. FRENZEL) would be offering an amendment to accomplish that.

Mr. DANIELSON. Mr. Chairman, if the gentleman would yield, I would certainly consent to the amendment being amended so as to relate to the less broad category. That is not the main purpose of my point of order.

Mr. ASHBROOK. Mr. Chairman, will the gentleman from California withhold his point of order until I ask unanimous consent to change the word "act" to "title"?

MODIFICATION OF AMENDMENT

The CHAIRMAN. Does the gentleman from Ohio (Mr. ASHBROOK) ask to modify his amendment so as to conform it to this title?

Mr. ASHBROOK. That is the intention. I would ask unanimous consent to change the word "act" to "title" in the amendment. That is the intention of the amendment.

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

There was no objection.

Does the gentleman from California insist on his point of order?

Mr. DANIELSON. Yes. As to the other point of order, as to the scope of the bill, the earnings limitation as opposed to the financial disclosure, yes.

The CHAIRMAN. Does the gentleman from Ohio desire to be heard on that point of order?

Mr. ASHBROOK. Yes. I think the entire thrust of the bill does relate, as we have said particularly as to income having a relationship to ethics, and I think on that point my amendment would be germane.

The CHAIRMAN (Mr. BOLAND). The Chair is ready to rule.

Title II approaches the issue of the ethical conduct of executive branch employees in three diverse ways, one, disclosure; two, creation of the Office of Ethics to monitor employee conduct; and, three, imposition of civil penalties for conflicts of interest. The amendment suggests a fourth approach to the issue of ethical conduct of executive branch employees and as modified is germane to title II as a whole.

The Chair overrules the point of order.

AMENDMENT OFFERED BY MR. FRENZEL TO THE AMENDMENT OFFERED BY MR. ASHBROOK, AS MODIFIED

Mr. FRENZEL. Mr. Chairman, I offer an amendment to the amendment, as modified.

The Clerk read as follows:

Amendment offered by Mr. FRENZEL to the amendment offered by Mr. ASHBROOK, as modified:

In the matter proposed to be inserted by the amendment strike out "shall be limited in outside income to not more than fifteen percent of their salary" and insert in lieu thereof "and who occupy positions appointment to which is required to be made by the President, by and with the advice and consent of the Senate, may not have in any calendar year outside earned income attributable to such calendar year which is in excess of 15 percent of their salary".

PARLIAMENTARY INQUIRY

Mr. DANIELSON. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. DANIELSON. Mr. Chairman, my parliamentary inquiry is this: it is my understanding that the Chair sustained the point of order previously made, is that correct?

The CHAIRMAN. No, the Chair overruled the point of order with reference to the amendment as modified.

Mr. DANIELSON. Mr. Chairman, a further point of order. The Chair understands that my point of order was that by reaching an earnings' limitation, that is not germane and exceeded the scope of the legislation that is pending?

Has that point been overruled or sustained?

The CHAIRMAN (Mr. BOLAND). The Chair determined that the amendment was germane to title II and overruled the point of order.

Mr. DANIELSON. I thank the Chairman. I did not so understand.

Mr. FRENZEL. Mr. Chairman, may we have the Clerk read the amendment to the amendment again?

Without objection the Clerk reread the amendment as follows:

Amendment offered by Mr. FRENZEL to the amendment offered by Mr. ASHBROOK: In the matter proposed to be inserted by the amendment, strike out "shall be limited in outside income to not more than fifteen percent of their salary" and insert in lieu thereof "and who occupy positions appointment to which . . .".

Mr. FRENZEL. Mr. Chairman, I ask that the Clerk suspend the reading at that point.

Mr. Chairman, this amendment was entered on page 31770 of the CONGRESSIONAL RECORD. As it was given to the Clerk it leaves a word out between the words "occupy" and "positions," and that word is "full-time" and I would ask unanimous consent that the amendment to be considered be the amendment that was included in the CONGRESSIONAL RECORD and include the word "full-time."

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

There was no objection.

Mr. FRENZEL. Mr. Chairman, I have another unanimous consent request, and that is to insert the words "nonjudicial" in front of the word "full-time." It was my intention to do so. I have discussed the matter with the gentleman from California (Mr. DANIELSON) and the gentleman from Ohio (Mr. ASHBROOK).

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

There was no objection.

The CHAIRMAN. The amendment is so modified.

The gentleman from Minnesota (Mr. FRENZEL) is recognized for 5 minutes.

Mr. FRENZEL. Mr. Chairman, this amendment seeks to modify the Ashbrook amendment in a couple of ways.

I am restructuring his amendment so that it applies only to the employees covered under title II. This makes a correction in his amendment which he really intended to make in the first place. Next, the income limit is restricted to only earned income. And that was the intention of the gentleman from Ohio (Mr. ASHBROOK), too.

But my amendment further limits the number of employees so that those who qualify for this limitation are only those who are appointed by the President who are not in the judiciary and who are full-time employees.

I am told that this restricts coverage of the Ashbrook amendment from about 14,000, as it was originally offered, to about 750 of the key presidentially appointed policymakers.

It is my opinion that the limitation on these individuals is responsible, that it gets at the problem that most of us think might occur in the case of income limitations, and it will be easier to administer than the broader scope of the original Ashbrook amendment.

Mr. GARY A. MYERS. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Pennsylvania.

Mr. GARY A. MYERS. Mr. Chairman, I thank the gentleman for yielding.

With passage of the comprehensive reform of the Civil Service, how is it that you can, in recognizing that we are suggesting that the executive branch shall consist of a certain number of employees, and up to 10 percent of those individuals will be appointees, and 90 percent will have supposedly come up through the Civil Service, under the regular Civil Service, but, as a matter of fact, there would be a mixture and they would be working at 10 percent of the jobs?

Why is it that only 10 percent of those employees are to be restricted to the outside earned income while the others are not?

Mr. FRENZEL. The maker of the amendment was not trying to anticipate the passage of any particular act. I was simply trying to find a convenient classification of employees without including everybody in the world. Therefore, I thought those who were appointed by the President, who were fulltime, and who were not in the judicial branch were the significant group which we wanted to get at, so I included them.

I could have used other designations. I did not, however, know how that civil service conference committee was going to come out at the time this was drafted.

Mr. GARY A. MYERS. If the gentleman will yield further, he does agree, though, that the concept of the Senior Executive Corps is that we really would not be able to distinguished among those who were political appointees and those who were not, and that there should be no difference in their responsibilities within the executive branch? That is what bothers me about selecting only that 10 percent.

Mr. FRENZEL. The difficulty is that we are restricted by placing amendments in the RECORD before we go ahead here. I do not know how the Senior Executive Corps has been worked out, or I do not know if it has been worked out. Consequently, the best I could do was to pick what I thought would be an area of employees whose incomes might be restricted without creating an undue administrative burden or an undue burden on the members of the civil service.

Mr. GARY A. MYERS. Mr. Chairman, I thank the gentleman.

Mr. FRENZEL. Mr. Chairman, we are nearing the moment when the House will vote this bill up or down. There are sections and features of it, I do not favor. Some of these I identified at the beginning of this debate, and some later during the amending process.

Nevertheless, as one of the original sponsors of the House resolution that contained our ethics rules, and as one who helped work out that resolution's final form on the Commission on Administrative Review, I will strongly support the final passage of H.R. 13850 and urge my colleagues to vote for it also.

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

Mr. Chairman, I would like to have a very brief colloquy with the gentleman from Minnesota (Mr. FRENZEL), if he will consent.

To boil it down, it is my understanding that the amendment which the gentleman has offered would impose the 15 percent earnings limitation on full-time executive branch employees who are subject to appointment by the President, on advice and consent of the Senate; is that correct?

Mr. FRENZEL. If the gentleman will yield, Mr. Chairman, yes, that is the limitation which the amendment establishes; no more employees than the gentleman has described.

Mr. DANIELSON. Mr. Chairman, I believe the Members all understand the issue clearly enough and that further debate, on my part at least, is not necessary.

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

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. FRENZEL), as modified, to the amendment offered by the gentleman from Ohio (Mr. ASHBROOK), as modified.

The amendment, as modified, to the amendment, as modified, was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK), as modified, as amended.

The amendment, as modified, as amended, was agreed to.

AMENDMENT OFFERED BY WIGGINS

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

The Clerk read as follows:

Amendment offered by Mr. WIGGINS: Page 44, line 18, strike out "or judicial".

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

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

Mr. DANIELSON. Mr. Chairman, I have examined the amendment. It is very proper, and I urge adoption of the amendment.

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

The amendment was agreed to.

AMENDMENT OFFERED BY MR. WIGGINS

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

The Clerk read as follows:

Amendment offered by Mr. WIGGINS: Page 44, line 24, strike out ", or," and all that follows through "to" on page 45, line 2.

Mr. WIGGINS. Mr. Chairman, this is an amendment to section 207, the so-called conflict-of-interest section.

The committee has seen fit to expand the scope of section 207 significantly.

Present section 207 does not prohibit incidental contacts with agencies by former employees. Rather, it prohibits direct representation of a client in any proceeding in which that individual had personally participated. We have seen fit in this bill to add new language to the code, and it is that new language which I seek to strike out by my amendment. The language which is to be deleted is as follows:

or, with the intent to influence, makes any written or oral communication on behalf of any other person (except the United States).

That language, Mr. Chairman, is intended to prohibit a former employee from writing a letter or making a phone call. Heretofore we have seen fit to prohibit a former employee from participating directly in any proceeding in which he personally participated if he did so in a substantial capacity. But now we have gone far beyond that.

I do not think it is necessary, Mr. Chairman, to prevent the writing of a letter nor to prevent the making of a phone call on the assumption that the person who receives the letter or who receives the phone call will be so overwhelmed by the presence of a former employee that a decision would be made contrary to the national interest. These sections, Mr. Chairman, carry with them criminal penalties. We should be very careful about extending them unnecessarily. To my knowledge, there is no case that has yet been made demonstrating that the occasional phone call by a former employee or a letter written by a former employee on behalf of a client is so overwhelming in its impact that the decisionmaker, that is, the current employee, has been improperly persuaded to do that which is contrary to the national interest.

In summary, Mr. Chairman, I am merely returning in part the law to where it now is and refuse by my amendment to expand it to these incidental contacts which in my view do not prejudice the public interest.

I urge support of my amendment.

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

Mr. Chairman, I oppose this amendment. It is a little bit farther reaching than it would appear on its surface. One must look at line 24 on the bottom of page 44 and realize that the written or oral communications on behalf of another which the bill would prohibit are those made with the intent to influence. These are not simply idle comments, a casual oral conversation, a phone call of no import. These are communications made, as the bill provides and I quote, "with the intent to influence" and "on behalf of any other person." If we were to adopt this amendment, it would be certainly possible for the person in question to do his communicating with members of the agency, members of the board, either oral communication or by telephone or otherwise. It could be written communication, so long as he did not appear in a proceeding. A telephone call which seeks to influence, an oral conversation which seeks to influence, a written communication which seeks to influence but is less than a formal appearance would be exempt from the provisions of the law.

I respectfully submit that this will do harm to the bill. I respectfully submit that the amendment should be rejected.

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

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

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

I do not think we should make too much out of the fact that the communication is made with the intent to influence. I stipulated that. Of course, that is why a former employee representing another would contact a governmental agency.

It is not the advocacy of a point of view that is evil. The evil is that the Government employee may react improperly to it. We are punishing the wrong end of that equation. We ought to punish the Federal employee for yielding to what may be deemed by him to be improper pressure, rather than punish the simple advocacy of ideas.

Mr. DANIELSON. I would like to respond twofold. In the first place, the language of the currently existing section 207 of title 18 in effect has this same provision there. I say, in effect, because it prohibits the knowingly acting as agent or attorney for anyone other than the United States. That is what is prohibited in existing law.

When this bill was drafted, we had described, first of all, formal or informal appearances before agencies. The other language that the gentleman seeks to strike is the other side of the coin, representation by an agent or attorney, namely, making a written or oral communication on behalf of another with the intent to influence.

As to the last comment, that maybe we should punish the Government employee for responding to the influence, but not the one who seeks to exert the influence, I respectfully submit that is about is illogical as saying we should let the briber go, but the bribee is the one to punish.

I would submit that the knife is just as sharp on either edge.

I respectfully urge that the amendment be defeated.

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

The amendment was rejected.

AMENDMENT OFFERED BY MR. WIGGINS

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

The Clerk read as follows:

Amendment offered by Mr. WIGGINS: Page 48, line 8, strike out "or" and all that follows through "both" on line 9.

Mr. WIGGINS. Mr. Chairman, this amendment affects the criminal penalties for violating section 207.

The Members should remember that section 207 is that section which prohibits former employees of the Government from making appearances or now writing letters or making telephone calls to an agent of the Federal Government. It is not that he has done anything wrong, Mr. Chairman. This is not a bribe. This is simply advocacy of a point of view. We have adopted a per se rule that a former employee should not appear, should not call, should not contact a present governmental employee, even for a wholly decent purpose.

To enforce that per se rule, we subject the former employee to a $10,000 fine and 2 years in jail. Mr. Chairman, that is going a bit too far.

My amendment splits it down the middle and says that if we are going to have such a rule and that it needs to be enforced by penalties, a fine is an adequate penalty and we need not submit a former employee who has served us well to a 2-year jail term for simply advocating a point of view.

Mr. Chairman, I urge acceptance of the amendment.

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

I would like to point out that the penalty provision to which the gentleman

addresses the amendment, appearing on page 48 of the substitute bill on lines 8 and 9, is precisely the language which is in the presently existing section 207 of title 18 on page 45, lines 14 and 15, of H.R. 1.

It is precisely the same, and that language has been on the books since October 23, 1962, having been passed in the 87th Congress.

Section 207 of title 18 is a very wholesome provision of our penal code which prohibits conflicts of interest of the grosser varieties. It has been on the books for 16 years, it has served a useful purpose, and all we are doing in this bill is carrying it forward into the existing law. We change certain parts of section 207, but we have not changed this part of section 207.

Mr. Chairman, I urge that the amendment be not agreed to.

The CHAIRMAN pro tempore (Mr. FOWLER). The question is on the amendment offered by the gentleman from California (Mr. WIGGINS).

The amendment was rejected.

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

Mr. Chairman, we conclude our consideration of section 207 with this following subparagraph, which I find strange to say the least. On page 50, we find the following language:

Nothing in this section—

And that is section 207—

shall prevent a former officer or employee from giving testimony under oath or from making statements required to be made under penalty of perjury, or from giving any testimony or makng any statement or communication, of such former officer or employee receives no compensation. . . .

Mr. Chairman, let us bear in mind what we are trying to prevent. We are trying to prevent the overreaching effect of a former employee contacting a present Government employee, but we say it is all right if he does it without compensation.

Whether or not the employee receives compensation is about as relevant to the issue of conflict as what suit he wears that day. It has nothing to do with the problem to which the section is addressed.

I am not going to offer an amendment to strike this section because it does provide some modest "out," but I take this time only to point out how irrational it is to say that former employee cannot contact a present employee if he is paid for doing so but he may do so gratuitously, even though the substance of his advocacy may be identical in each case.

Mr. Chairman, I hope the Members will remember this little statement on my part because it does demonstrate how irrational section 207 is.

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

Mr. Chairman, my purpose in rising is so that the legislative record shall contain some comments on this point in addition to those of the gentleman from California (Mr. WIGGINS).

The subsection to which the gentleman refers—subsection (h) on page 50, line 21 and following lines—was a committee amendment added in the full Committee on the Judiciary, and it was done for the purpose of making clear that none of the provisions in this bill could be construed as preventing a former officer or employee of the Government from testifying for example, in court, before a committee, or any other place where he might be called upon to serve as a witness.

The latter part of the subparagraph even points out that there should be no compensation for such testimony, et cetera, "other than that regularly provided by law or regulation for witnesses."

Mr. Chairman, this is, we might say, simply an overabundance of caution to make it clear that none of the inhibitions of this bill should be construed to prevent a former Government employee from testifying.

AMENDMENT OFFERED BY MR. PANETTA

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

The Clerk read as follows:

Amendment offered by Mr. PANETTA: On page 43, after line 21, add the following new Section:

COMPLAINT PROCEDURES

SEC. 224. (1) Any person who believes a violation of Title II of this Act or any other statute, rule, or regulation designed to prevent conflicts of interest has occurred may file a complaint with the Office of Government Ethics. Such complaint shall be in writing, shall be signed and sworn to by the person filing such complaint, and shall be notarized. Any person filing such a complaint shall be subject to the provisions of section 1001 of Title 18, United States Code. The Commission may not conduct any investigation under this subsection or take any other action under this subsection, solely on the basis of a complaint of a person whose identity is not disclosed to the Commission.

(2) The Office upon receiving any complaint under paragraph (1), shall refer such complaint to the agency in which the officer or employee who is the subject of the complaint works except in the case of complaints involving the President, the Vice President, the head of each agency, a Presidential appointee in the Executive Office of the President who is not subordinate to the head of an agency in that Office, and a full-time member of a committee, board or commission appointed by the President, which shall be investigated by the Office. The agency or office conducting the investigation shall notify the person involved of such alleged violation and shall make an investigation of such alleged violation in accordance with the provisions of this subsection.

(3) Any investigation under paragraph (2) shall be conducted expeditiously and shall include an investigation, conducted in accordance with the provisions of this subsection, of reports and statements filed by any complainant under this title.

(4) The agency or office conducting the investigation shall afford any person who receives notice of an alleged violation under paragraph (2), a reasonable opportunity to demonstrate that no action should be taken against such person by the agency or Office under this Act.

(5) Thirty days after a matter was referred to an agency under paragraph (2), the agency shall report to the Office on what action has been taken on the complaint and the agency shall report to the Office every thirty days thereafter on the status of such complaint until a final resolution with respect to the complaint has been reached by the agency.

(6) Upon the conclusion of an investigation of a complaint filed under this subsection, the complainant and the subject of such a complaint shall be notified of the resolution of such complaint and the reasons therefor.

(7) If the agency or office conducting the investigation determines that a violation has occurred, it may: (A) take appropriate administrative action; and (B) refer the matter to the Department of Justice for civil or criminal enforcement.

(8) In any case in which the agency or Office conducting an investigation refers an apparent violation to the Attorney General, the Attorney General shall respond by report to the Office with respect to any action taken by the Attorney General regarding such apparent violation. Each report shall be transmitted no later than 60 days after the date the Commission refers any apparent violation, and at the close of every 60-day period thereafter until there is final disposition of such apparent violation. The Commission may from time to time prepare and publish reports on the status of such referrals.

Redesignate the existing sections 224 and 225 as 225 and 226, respectively.

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

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

There was no objection.

Mr. PANETTA. Mr. Chairman, the purpose of this amendment is to provide for a complaint procedure similar to that required for the filing of complaints under the Federal election laws and also required for the filing of complaints against Senate or House Members under our ethics code. It is essentially to provide for a sworn and notarized complaint and a procedure for investigating those complaints.

The point is that the bill as it stands now really does not provide for a mechanism that protects both the person who makes the complaint as well as the person who is charged by the complaint for violating conflictive laws. I believe, in regard to the person making the complaint, that he should have the assurance that the complaint will be investigated and pursued by the agency looking into the matter. With regard to the person charged with the conflict, that that person be only subject to a complaint that is sworn to and that is notarized, so that he is not subject to a specious attack.

At the present point, a complaint need not be signed or sworn to or notarized. And, second, there is really no requirement contained in the bill that the investigation into the matter has to be handled expeditiously and conclusively.

My amendment would do several things. One, it would require that the complaint be signed and sworn to, notarized, and presented to the Office of Government Ethics. Second, that the Office of Government Ethics would then refer that matter to the agency for investigation, and that the person who is charged with the possible conflict would also be notified and be given an opportunity to respond. Third, that there would be a time frame for this investigation, requiring 30 days for a report from the agency to be made back to the Office of Government Ethics, with the recommendation that the matter either be dismissed or that administrative action

would be taken or that the matter would be referred to the Department of Justice for civil or criminal enforcement.

The last point I would like to make is that I do not expect that this would require any additional personnel but would simply require a time frame to carry out investigations which I assume would be made under this time, in any event.

What I am trying to provide here is simply an enforcement mechanism that protects both the public and the individual charged with conflict. This is the same administrative procedure that is now required when a person moves against a Member of the Senate or the House under our ethics code or under the Federal election laws. I do not think there should be a separate status for executive or judicial branch officers and employees.

Mr. Chairman, I urge the adoption of my amendment.

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

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

Mr. WIGGINS. I thank the gentleman for yielding.

Mr. Chairman, would the gentleman tell me what the complainant must swear to?

Mr. PANETTA. I think the complainant would be swearing to the facts of the allegation that he would make within the complaint.

Mr. WIGGINS. And I further understand, by reason of the last sentence, that the Commission may not commence an investigation on the basis of a complaint which has not been sworn to or where the identity of the complainant may not be known?

Mr. PANETTA. That is correct.

Mr. WIGGINS. Would it be possible for the Commission to undertake an investigation on its own, without having a sworn complaint filed with it?

Mr. PANETTA. I would assume that information coming to the attention of the office, whether it be by press stories or allegations that might be made through other means, that it would be possible and proper for the office to conduct such an investigation.

Mr. WIGGINS. Even though no complaint has been filed?

Mr. PANETTA. That is right.

Mr. WIGGINS. I think that fact needs to be emphasized here because, in all probability, there will be, in the normal course, press disclosures. There is no certainty at all that the disclosures are true. Certainly it cannot be expected that Jack Anderson, for example, would come forward and sign a sworn complaint with respect to the accuracy of the matters which he reports as true. In that case, however, I do not think it is the gentleman's position, nor certainly is it mine, that the Commission would be impotent to investigate the complaint sua sponte?

Mr. PANETTA. In that instance I think it certainly would be proper that the office should proceed with the investigation.

My concern is specifically with regard to an individual who charges that a person has violated conflicts laws. I think that person ought to make a sworn complaint so that we do not have a number of unfounded complaints flowing into the Commission.

Mr. WIGGINS. I think that our colloquy is somewhat at odds with the language of the amendment, but if it is the gentleman's understanding, and certainly it is my understanding, that the Commission is not limited as to initiating investigations, then I would not argue further.

Mr. PANETTA. That is correct.

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

Mr. Chairman, I urge that this amendment be voted down. I would like to point out that within the four corners of the bill we already have some rather elaborate enforcement procedures. We have proposed to go much further than the Government has ever gone before on the subject relating to ethics. In fact we have gone so far as to cause a great deal of discussion and dissension among the Members themselves.

I would like to point out that any one of the 220 million Americans could file a sworn complaint with the Office of Ethics apparently alleging someone has done something wrong prohibited by this act, and that would immediately trigger an investigation. The office or agency which is going to conduct the investigation must immediately notify the subject, the person complained of, and that agency must report back to the Office of Government Ethics every 30 days on the status of the complaint.

Let us suppose we have an honest to goodness complaint where there is really something corrupt. What havoc would this cause to an ordinary investigation the moment the complaint is filed and the investigating agency has to notify the suspect that "Ah hah, we have caught you with your finger in the cookie jar or very nearly thereto and so now we are going to investigate you." He immediately covers up his tracks, and if there is a good case it is going to be ruined by premature disclosure. That is bad.

But even worse, how many times in the gentleman's career has he found that someone for some reason, good or bad, dislikes him, and what is there to stop that someone from filing a sworn complaint that in his opinion something the gentleman has done is in violation of this law? That means an investigation must be triggered forthwith, the complaint must go to the agency in which the gentleman is employed or, if he is a sufficiently high-level person, it must go to the Office of Government Ethics and the investigation must begin, and if it does continue, if it looks like something may have occurred, it must go to the Attorney General, and while it is at his office the Attorney General must report back every 60 days, and in the meantime the Office of Government Ethics can publish reports on the status of all this referral to the Attorney General.

How many people would be pilloried by the adverse publicity, only to find later, when it is too late, that the complaint is not well-founded, the prosecution was found ill-founded and dismissed?

No, I submit, Mr. Chairman, this goes too far. We have an orderly means in the bill for the resolving of complaints and for the carrying out of investigations, and we certainly should not go so far as to make complainants out of 220 million Americans across the land.

I urge a "no" vote.

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

Mr. DANIELSON. I yield to the gentleman from California (Mr. PANETTA).

Mr. PANETTA. I thank the gentleman for yielding.

Mr. Chairman, I would just repeat, it seems to me when an individual is required to swear to and sign and have the complaint notarized, that that really is a check within the system rather than an opening up of the door. Not to require those elements would really open the door. It seems to me that has been the experience with the complaints brought under the Federal election laws and complaints against the Members. I think this requires a person to think twice before he or she makes that kind of complaint.

Mr. DANIELSON. I appreciate the gentleman's comment. Mine remains unchanged. I do not think we should make this a nation of 200 million Sherlock Holmeses. It is enough to have the Attorney General and the investigating agencies.

Then there is the press. We cannot put them out of work. What are they going to do if they cannot rummage through our disclosure reports and find something amiss? Let us leave it to our friends in the press gallery to find our misdeeds.

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

Mr. Chairman, I am not thinking that this amendment is going to create 200 million Sherlock Holmeses. I would like to ask the gentleman from California (Mr. PANETTA) if any citizen cannot walk in off the streets today to his friendly U.S. attorney and make a compliant if he or she thinks the law has been violated? Is that not correct?

Mr. PANETTA. Mr. Chairman, if the gentleman will yield, that is correct.

Mr. FRENZEL. So, if under the gentleman's amendment that person is allowed to make a complaint with the specific Ethics Commission, then the Commission might be able to engage in conciliatory or mitigation practices. Under that procedure, it seems to me, we would do a lot better to solve some of those problems rather than letting a complaint get turned loose in the Justice Department. Is that not the intent of the gentleman's amendment?

Mr. PANETTA. If the gentleman will yield, that is exactly the intent, to allow that individual to be able to go, other than through the U.S. attorneys, to be able to go through the Office of Government Ethics.

Mr. FRENZEL. I thank the gentleman for his further elaboration.

It seems to me, Mr. Chairman, that the amendment offered by the gentleman from California (Mr. PANETTA) is one that would be very helpful in this particular bill. It would give any citizen who thought there was a violation of law a specific and specialized place to take his or her complaint, and that particular office, I think, would be better prepared to deal with the complaint and to investigate in an informal and then in a formal way and, if necessary, under certain conditions, to pass it on to the Justice Department.

But I would hope that in most cases the cases would not have to be referred to the Justice Department.

In my judgment, the gentleman's amendment, while it seems a little cumbersome in its length, really simplifies the law. I intend to support the amendment.

I yield back the balance of my time.

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

Mrs. SCHROEDER. Mr. Chairman, I rise, reluctantly, in opposition to the amendment offered by the gentleman from California (Mr. PANETTA).

I would briefly like to point out to the gentleman from California (Mr. PANETTA) that I really think his amendment duplicates what we have done in the civil service reform legislation. In that legislation we have created "whistle-blower" protections and all sorts of other protections for the public. So many of the things the gentleman from California is worried about have already been taken care of in civil service reform. I think we would be only duplicating what we have already done and creating another layer of bureaucracy by the acceptance of this amendment. So I urge its rejection.

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

The amendment was rejected.

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

Mr. Chairman, I would like to address a couple of questions to the distinguished chairman of the subcommittee, the gentleman from California (Mr. DANIELSON) concerning section 205(A), the last sentence thereof, which is at the top of page 32.

With the defeat of the Mazzoli amendment, this bill, as I understand it, would still permit the filing of false reports by persons who are employed by the CIA, the DIA and the NSA, or any other individual engaged in intelligence activities in any agency in the United States, if the President finds that such filing is necessary to the national interest.

I do not see any guidelines here indicating, for example, whether the President must make a written certification specifying in what ways it is in the national interest. In fact, the phrase "in the national interest" does not impose any restriction at all, in fact, on the President. Looking back to the days of Watergate, it seems to me that this could have been a case where the President or individuals around the President could so evade the intention of this bill as to make almost meaningless all of the other reports which are required.

How are we going to know whether a report is, in fact, true or false if some people can be allowed to file false reports, and what guidelines are there for the President to follow in making these certifications?

Could the gentleman enlighten me in that regard?

Mr. DANIELSON. Mr. Chairman, if the gentleman will yield, we had rather extensive debate on this point earlier today, this morning, in fact.

At the risk of repeating—and I do not wish to repeat too much of it—first of all, we have to look at all of section 205, which begins on page 29. This is the section which provides that all of the reports shall be public records, and then it contains these exceptions:

> except that this section does not require public availability of the report filed by any individual in the Central Intelligence Agency, the Defense Intelligence Agency, or the National Security Agency, or any individual engaged in intelligence activities in any agency of the United States, if the President finds that, due to the nature of the office or position occupied by such individual, public disclosure of such report would compromise the national interest of the Federal Government.

There are no more guidelines in the bill than those which I have read.

However, I respectfully submit that they are adequate guidelines. We are dealing with an extremely sensitive, an extremely difficult area of our national effort when we are talking about the intelligence agencies and particularly the cutting edge of those intelligence agencies, the persons who have to go out and actually seek the intelligence.

I submit that we have to place some faith somewhere in our Government. I am not adverse to placing my faith in the President. After all, if we are going to repose it somewhere, I would say that that is about as good a place in which to repose it as we can get. He is restricted with respect to the category of people to whom he can grant this exception. There are certain named agencies and persons engaged in intelligence activities.

I respectfully submit that it begs one's credulity to think that an intelligence agent in the forefront of his work can afford to tear away the mask which shields him from public view to the extent that he can carry out his job.

I know that this plan is not perfection, but I respectfully submit that there can be no perfection in the intelligence activity. We have to put our faith somewhere. We have to protect these agents if we are going to have any effective intelligence work. I, for one, am one who believes that we must have foreign intelligence.

Mr. SEIBERLING. Mr. Chairman, may I respond by saying that I agree with what the gentleman has said. Nevertheless, there is this nagging doubt which remains.

I am sure that the gentleman, since he and I served together in the impeachment investigation, remembers the White House "Plumbers" and G. Gordon Liddy. All of those people, whether properly engaged or not, were engaged in intelligence activities. They were wrongful intelligence activities, in many cases; and yet, the President could have authorized them, under this language, to file false reports.

The CHAIRMAN pro tempore (Mr. FOWLER). The time of the gentleman from Ohio (Mr. SEIBERLING) has expired.

(By unanimous consent, Mr. SEIBERLING was allowed to proceed for 3 additional minutes.)

Mr. SEIBERLING. If a President could authorize such people to file false reports, that makes all the reports suspect. Who is going to know which reports are true and which are false under the circumstances permitted by this bill? Moreover, if a President wrongfully authorized it, he would nevertheless not have violated the law because he has complete discretion, as I read this bill.

Mr. DANIELSON. If the gentleman will yield further, Mr. Chairman, the answer, unfortunately, has to be in more than one part.

In the first place, what the gentleman says as to what transpired at 1600 Pennsylvania Avenue a few years ago is entirely true. But the gentleman will also recall we threw the rascals out. That is also entirely true. So I respectfully submit that sometimes the evil does come to the surface and something can be done about it.

Another aspect of the answer that is necessary for the gentleman is the one of who is going to know which report is false and which is true? The answer: hopefully, no one. That is the whole idea of filing the cover report. If you have an intelligence agent whose mission is to try to find out what is going on in Moscow, the whole reason you permit him to file a cover report is so that no one does find out, hopefully, that he is such intelligence agent.

Mr. SEIBERLING. That is my problem.

Mr. DANIELSON. I would like to come to that. The third point is that the gentleman has a feeling of doubt. On that I can only say that he is going to have to trust his President, and if he turns out to be wrong, as has happened very rarely in our national history, we are just going to have a job on our hands to root him out. But the gentleman must put his confidence somewhere.

I submit that if you go to the doctor and he slices you open to remove your appendix, you have some confidence in him when he gives you the gas. At least I would have to have confidence. You go to the hospital and they open your chest and do a heart bypass, do you have confidence in that doctor? If not, you do not belong there.

I have similar confidence in our President, be he Republican or Democrat, or, hopefully, someday a lady. Whoever he or she may be, I have to have confidence in our President; otherwise let us just forget it.

The practical fact is that if we do not have this type of protection, we cannot

have a intelligence operation, and in the day in which we live, if we do not have an effective intelligence operation, we might as well forget all about our security because, even though we have foregone covert actions, and we have foregone dirty tricks, and we have foregone many of the things people complain about, the other nations of the world have not done so.

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

While the gentleman from Ohio (Mr. SEIBERLING) is here, I would like to engage him for just a minute.

It is a truism to say that the gentleman from California (Mr. DANIELSON) is a very hard act to follow because he really is. He is eloquent and he is committed. But let me just put this thing into a little perspective because I worked on this bill pretty carefully both on the Intelligence Committee and the Committee on the Judiciary.

It begs the gentleman from California's credulity, he has said, to suggest that the committee bill will lead to wholesale abuse. It strains the credulity of the gentleman from Kentucky that the matter of false reporting would have come full blown to our committee without hearings, that it would have wound up in the subcommittee print, in the full committee print, here on the floor of the House, probably to become a part of the House-passed version. It comes full blown without committee hearings and without the very kind of serious debate the gentleman from Ohio recommends. That is what really strains the gentleman from Kentucky's credulity, much more so than reposing faith in the President to do the right thing under the law as to false reporting.

I share the gentleman from California's feeling that our Presidents are patriotic people, and we wish them well, and we do invest in them certain fundamental judgmental functions. But there has not just been Watergate. There have been several other incidents in this Nation's history which have suggested that the Congress ought not to be anything less than eternally vigilant about oversight of Executive activities in the area of official secrecy and about examining about preparing and about passing the right kind of law in this area. I suggest to the gentleman that he is on a very important point.

Had the amendment offered by the gentleman from Kentucky to the committee bill been agreed to, the final product would have been less than perfect since my original judgment was to strike the entirety of the false reporting provision. But, it would have been a step forward at least.

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

Mr. MAZZOLI. I yield to the gentleman from Ohio.

Mr. SEIBERLING. I thank the gentleman for yielding.

I certainly share the gentleman's feeling that we ought to be able to do a more careful job of delineating the circumstances under which the President can make these findings. They should be set forth in statutory guidelines so that he will have something to relate to, for his own protection and for the protection of all of the individual as well as the public interests. I am going to vote for this bill, I believe, because I think that perhaps in conference the conferees will have another opportunity to discuss this and perhaps to do a little better job of laying down some standards and guidelines.

Mr. MAZZOLI. Mr. Chairman, it is a very important topic the gentleman brings up, because as I mentioned earlier today in the debate on the Mazzoli amendment, the Senate version of the bill does not permit any kind of false filing. It merely says all Federal employees should file. There can be an exemption from publication, but every Federal employee must file an accurate financial report.

The House version is to the other side of the spectrum, so as the gentleman suggests, there is room in the bill for compromise when it goes to conference with the Senate version.

Mr. SEIBERLING. Mr. Chairman, if the gentleman will yield further, everyone under the bill will have to file a true report, but then the President can authorize a false public report.

Mr. MAZZOLI. That is right.

Mr. SEIBERLING. If I am a reporter or a Congressman or a committee making an investigation, how in the world am I ever going to find out whether the reports I am reading are true or false?

Mr. MAZZOLI. You cannot under the committee bill. You would under the amendment of the gentleman from Kentucky, because the head of the Office of Government Ethics would have a chance to review these filings.

If the gentleman will permit one last observation, the gentleman from Ohio (Mr. SEIBERLING) will be a very valuable Member of the 96th Congress and I hope the gentleman brings to the Commitee on Intelligence and our own Committee on the Judiciary, when we take up next year the charters for the CIA and the FBI, the matters we talked about today. They will be a very legitimate part of our inquiry, and I think the gentleman will make a very vital contribution to disclosure requirements with respect to the final state of this law.

The CHAIRMAN pro tempore. Are there any other amendments to title II?

AMENDMENT OFFERED BY MR. GONZALEZ

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

The Clerk read as follows:

Amendment offered by Mr. GONZALEZ: Page 48, line 8, strike all after "$10,000 and all of line 9; and page 50, line 19, strike the comma after "$5,000" and insert a period; and strike all of line 20.

Mr. GONZALEZ. Mr. Chairman, this amendment simply strikes out the criminal sanctions contained in this bill. If it is not a criminal offense to file incorrect information, and if it is not a criminal offense to misuse this information, there is no reason to exact prison sentences for other ethical related acts, like coming in contact with a Government agency too soon after leaving Government employment. Actions of this kind can take place on a simple mistake.

Not long ago a former GSA employee was accused of wrongdoing because he went to work for a company that sells furniture to GSA. He says he had no contact with the Agency, but only advised his employer, and in his opinion had done nothing improper. He resigned his public job with the Agency, anyway, to save his employer embarrassment.

Now, would this have been a criminal act under this bill as written? It could be interpreted as such, I believe, because we are dealing here with judgmental questions. There is no need for us to set up a higher standard for one type of activity than another. Criminal sanctions, I am convinced, have no place in this bill.

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

Mr. Chairman, I would like to point out that this amendment is substantially the same as that offered by the gentleman from California (Mr. WIGGINS) just a short while ago. It differs only in that it not only strikes the possibility of imprisonment, but also reduces by cutting in half the amount of the fine to be applied.

My argument that that time is exactly the argument that I have now. This provision of the bill is already a part of our existing section 207 of title 18. There is nothing new being added in this bill. We are simply repeating the language of existing law.

We are talking about a criminal offense here. It has been on the books for some 16 years.

Mr. Chairman, I urge that the amendment be defeated.

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

Mr. Chairman, the statement just made by my friend, the gentleman from California (Mr. DANIELSON), is only partially correct. It is true that the fine of $10,000 and the imprisonment for not more than 2 years has been on the books for a long time, but what has been changed is the manner in which one can violate that criminal section.

We have expanded the section greatly to include these incidental contacts such as writing letters or making telephone calls. That is not presently in the law.

There is another change which was pointed up, I believe, by our friend, the gentleman from Texas (Mr. GONZALEZ), who cited the case of a former GSA employee who went to work for a furniture manufacturer. In the case cited, the former employee would not have been in violation of the present law and would not have been subjected to criminal penalties; but in the new law, the one we have before us today, we cover the fact of aiding and assisting another. It is not necessary that one act directly with the Federal agency, but if one aids or assists another who may do so, he is vulnerable to criminal penalties. That is an expansion of the law.

Mr. Chairman, in view of this rather significant expansion and all the hazards carried with it, I think this question of reducing the criminal penalties

by eliminating the risk of jail time and reducing the amount of the fine is entirely in order, and I hope the committee will accept the amendment.

Mrs. SCHROEDER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, in the interest of brevity, I will simply rise in opposition to the amendment and say that in essence we are just expanding on what is already in the law. There are already penalties provided. I think we should stay with the bill as it is.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Texas (Mr. GONZALEZ).

The question was taken; and the Chairman pro tempore being in doubt, the Committee divided, and there were—ayes 8, noes 13.

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

The CHAIRMAN pro tempore. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

The CHAIRMAN pro tempore. A quorum of the Committee of the Whole has not appeared.

The Chair announces that a regular quorum will now commence.

Members who have not already responded under the noticed quorum call will have a minimum of 15 minutes to record their presence. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 843]

Ambro	Evans, Ga.	Pressler
Ammerman	Florio	Pursell
Anderson, Ill.	Flowers	Reuss
Andrews, N.C.	Forsythe	Risenhoover
Armstrong	Garcia	Roncalio
Ashbrook	Hansen	Rosenthal
Ashley	Harrington	Rousselot
AuCoin	Harsha	Roybal
Beard, R.I.	Krueger	Runnels
Beard, Tenn.	Leggett	Ruppe
Blanchard	Lehman	Sarasin
Brademas	Lloyd, Calif.	Scheuer
Brown, Mich.	Lundine	Seiberling
Brown, Ohio	McCloskey	Shipley
Burke, Calif.	McDonald	Shuster
Burleson, Tex.	McEwen	Slack
Burton, John	McKay	St Germain
Burton, Phillip	McKinney	Steed
Caputo	Marlenee	Teague
Clay	Mathis	Thone
Cohen	Mikva	Thornton
Conyers	Milford	Tucker
Cornwell	Miller, Calif.	Udall
Davis	Moorhead, Pa.	Waxman
Dent	Moss	Wilson, C. H.
Diggs	Murphy, N.Y.	Wright
Dingell	Nolan	Wylie
Drinan	Pepper	Young, Alaska
Duncan, Oreg.	Pettis	Young, Tex.
Emery	Pike	

Accordingly the Committee rose; and the Speaker pro tempore (Mr. SISK) having assumed the chair, Mr. FOWLER, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 1, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 343 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its business.

RECORDED VOTE

The CHAIRMAN pro tempore. The pending business is the demand of the gentleman from Texas (Mr. GONZALEZ) for a recorded vote.

Does the gentleman insist upon his demand?

Mr. GONZALEZ. I do, Mr. Chairman.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 129, noes 269, not voting 34, as follows:

[Roll No. 844]

AYES—129

Addabbo	Gonzalez	Nichols
Alexander	Goodling	Nix
Annunzio	Gradison	O'Brien
Badham	Guyer	Patten
Barnard	Hagedorn	Pettis
Bauman	Hall	Pickle
Beard, Tenn.	Hammer-schmidt	Poage
Bevill	Harsha	Pritchard
Boggs	Heckler	Pursell
Bowen	Hightower	Quillen
Breaux	Holt	Rhodes
Brooks	Horton	Roberts
Broomfield	Huckaby	Robinson
Brown, Mich.	Hyde	Roncalio
Broyhill	Ireland	Rousselot
Burke, Mass.	Jenkins	Runnels
Butler	Jones, Okla.	Ryan
Carter	Jones, Tenn.	Satterfield
Chappell	Jordan	Schulze
Clawson, Del	Kazen	Sebelius
Cleveland	LaFalce	Shuster
Collins, Tex.	Lagomarsino	Sikes
Conable	Livingston	Sisk
Crane	Lloyd, Tenn.	Smith, Nebr.
Daniel, Dan	Long, La.	Snyder
Daniel, R. W.	Lott	Stanton
de la Garza	Lujan	Steed
Dent	McClory	Steiger
Derwinski	McDonald	Stockman
Dickinson	McEwen	Stump
Dingell	McKay	Symms
Dornan	Mahon	Treen
Duncan, Oreg.	Mann	Ullman
Erlenborn	Marks	Vander Jagt
Evans, Colo.	Marriott	Waggonner
Evans, Del.	Martin	Wampler
Fary	Mattox	Whitehurst
Fish	Metcalfe	Whitten
Flippo	Montgomery	Wiggins
Flowers	Moore	Wilson, Bob
Flynt	Moorhead, Calif.	Winn
Forsythe	Murtha	Wright
Gibbons		Zeferetti
Goldwater		

NOES—269

Abdnor	Breckinridge	Danielson
Akaka	Brinkley	Davis
Ambro	Brodhead	Delaney
Anderson, Calif.	Brown, Calif.	Dellums
Andrews, N.C.	Buchanan	Derrick
Andrews, N. Dak.	Burgener	Devine
Applegate	Burke, Fla.	Dicks
Archer	Burlison, Mo.	Dodd
Ashley	Burton, John	Downey
Aspin	Byron	Drinan
AuCoin	Carney	Duncan, Tenn.
Bafalis	Carr	Early
Baldus	Cavanaugh	Eckhardt
Baucus	Cederberg	Edgar
Beard, R.I.	Chisholm	Edwards, Ala.
Bedell	Clausen, Don H.	Edwards, Calif.
Bellenson	Cochran	Edwards, Okla.
Benjamin	Coleman	Eilberg
Bennett	Collins, Ill.	Emery
Biaggi	Conte	English
Bingham	Conyers	Ertel
Blanchard	Corcoran	Evans, Ga.
Blouin	Corman	Evans, Ind.
Boland	Cornell	Fascell
Bolling	Cornwell	Fenwick
Bonior	Cotter	Findley
Bonker	Coughlin	Fisher
Brademas	Cunningham	Fithian
	D'Amours	Flood
		Florio
Foley	Long, Md.	Roe
Ford, Mich.	Luken	Rogers
Ford, Tenn.	Lundine	Rooney
Fountain	McCloskey	Rose
Fowler	McCormack	Rosenthal
Fraser	McDade	Rostenkowski
Frenzel	McFall	Rudd
Frey	McHugh	Ruppe
Fuqua	Madigan	Russo
Gammage	Maguire	Santini
Garcia	Markey	Sawyer
Gaydos	Mathis	Scheuer
Gephardt	Mazzoli	Schroeder
Giaimo	Meeds	Seiberling
Gilman	Meyner	Sharp
Ginn	Michel	Simon
Glickman	Mikulski	Skelton
Gore	Mikva	Smith, Iowa
Grassley	Miller, Ohio	Solarz
Green	Mineta	Spellman
Gudger	Minish	Spence
Hamilton	Mitchell, Md.	St Germain
Hanley	Mitchell, N.Y.	Staggers
Hannaford	Moakley	Stangeland
Harkin	Moffett	Stark
Harrington	Mollohan	Steers
Harris	Moorhead, Pa.	Stokes
Hawkins	Moss	Stratton
Hefner	Motti	Studds
Heftel	Murphy, Ill.	Taylor
Hillis	Murphy, Pa.	Thompson
Holland	Myers, Gary	Traxler
Hollenbeck	Myers, John	Trible
Holtzman	Myers, Michael	Tsongas
Howard	Natcher	Tucker
Hubbard	Neal	Udall
Hughes	Nedzi	Van Deerlin
Ichord	Nolan	Vanik
Jacobs	Nowak	Vento
Jeffords	Oakar	Volkmer
Jenrette	Oberstar	Walgren
Johnson, Calif.	Obey	Walker
Johnson, Colo.	Ottinger	Walsh
Jones, N.C.	Panetta	Watkins
Kastenmeier	Patterson	Waxman
Kelly	Pattison	Weaver
Kemp	Pease	Weiss
Keys	Perkins	Whalen
Kildee	Pressler	White
Kindness	Preyer	Whitley
Kostmayer	Price	Wilson, Tex.
Krebs	Quayle	Wirth
Latta	Quie	Wolff
Le Fante	Rahall	Wydler
Leach	Railsback	Wylie
Lederer	Rangel	Yates
Leggett	Regula	Yatron
Lehman	Reuss	Young, Fla.
Lent	Richmond	Young, Mo.
Levitas	Rinaldo	Zablocki
Lloyd, Calif.	Rodino	

NOT VOTING—34

Ammerman	Hansen	Sarasin
Anderson, Ill.	Kasten	Shipley
Armstrong	Krueger	Skubitz
Ashbrook	McKinney	Slack
Brown, Ohio	Marlenee	Teague
Burke, Calif.	Milford	Thone
Burleson, Tex.	Miller, Calif.	Thornton
Burton, Phillip	Murphy, N.Y.	Wilson, C. H.
Caputo	Pepper	Young, Alaska
Clay	Pike	Young, Tex.
Cohen	Risenhoover	
Diggs	Roybal	

The Clerk announced the following pairs:

On this vote:

Mr. Burleson of Texas for, with Mrs. Burke of California against.

Mr. Teague for, with Mr. Pepper against.

Mrs. LLOYD of Tennessee and Mr. JONES of Tennessee changed their vote from "no" to "aye."

Mr. ICHORD changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore. Are there further amendments to title II?

If not, the Clerk will read.

The Clerk read as follows:

TITLE III—JUDICIAL PERSONNEL FINANCIAL DISCLOSURE REQUIREMENTS

PERSONS REQUIRED TO FILE

SEC. 301. (a) Upon assuming the position of a judicial employee, an individual shall file a report as required by section 302(b).

(b) Upon the transmittal by the President to the Senate of the nomination of an individual to be a judicial officer, such individual shall file a report as required by section 302(b).

(c) Any individual who is a judicial officer or employee during any calendar year and performs the duties of his position or office for a period in excess of sixty days in that calendar year shall file on or before May 15 of the succeeding year a report as required by section 302(a).

(d) Any individual who occupies a position as a judicial officer or employee shall on or before the thirtieth day after termination of employment in such position, file a report as required by section 302(a), unless such individual has accepted employment in another position as a judicial officer or employee.

(e) For purposes of this title, the term—

(1) "judicial officer" means the Chief Justice of the United States, the Associate Justices of the Supreme Court, and the judges of the courts of appeals; district courts, including the district courts in the Canal Zone, Guam, and the Virgin Islands; Court of Claims; Court of Customs and Patent Appeals; Customs Court; and any court created by Act of Congress, the judges of which are entitled to hold office during good behavior; and

(2) "judicial employee" means any employee of the judicial branch of the Government, not described in paragraph (1), who is authorized to perform adjudicatory functions with respect to proceedings in the judicial branch, or who receives compensation at a rate at or in excess of the minimum rate prescribed for grade 16 of the General Schedule under section 5332 of title 5, United States Code.

(f) Reasonable extensions of time for filing any report may be granted under procedures prescribed by the Judicial Ethics Committee established by section 303(a) of this title (hereinafter in this title referred to as the "Committee"), but the total of such extensions shall not exceed ninety days.

CONTENTS OF REPORT

SEC. 302. (a) Each report filed under subsections (c) and (d) of section 301 shall include a full and complete statement, in such manner and form as the Committee with the approval of the Judicial Conference of the United States may prescribe, with respect to the following:

(1) The source, type, and amount of income from any one source (other than from current employment by the United States Government), including honoraria, received during the preceding calendar year aggregating $100 or more in value.

(2)(A) The identity of the source and a brief description of any gifts of transportation, lodging, food, or entertainment aggregating $250 or more in value received from any one source other than a relative of the reporting individual during the preceding calendar year, except that any food, lodging, or entertainment received as personal hospitality of any individual need not be reported, and any gift with a fair market value of $35 or less need not be aggregated for purposes of this subparagraph.

(B) The identity of the source, a brief description, and the estimated value of all gifts other than transportation, lodging, food, or entertainment aggregating $100 or more in value received from any one source other than a relative of the reporting individual during the preceding calendar year, except that any gift with a fair market value of $35 or less need not be aggregated for purposes of this subparagraph.

(C) The identity of the source and a brief description of reimbursements received from a single source aggregating $250 or more in value and received during the preceding calendar year.

(3) The identity and category of value of any interest in property held in a trade or business, or for investment or the production of income, which has a fair market value which exceeds $1,000 as of the close of the preceding calendar year, excluding any personal liability owned to the reporting individual by a relative.

(4) The identity and category of value of the total liabilities owed to any creditor other than a relative which exceeds $5,000 as of the close of the preceding calendar year, excluding—

(A) any mortgage secured by real property which is a personal residence of the reporting individual or his spouse; and

(B) any loan secured by a personal motor vehicle or household furniture or appliances.

(5) Except as provided in this paragraph, a brief description, the date, and category of value of any purchase, sale or exchange during the preceding calendar year which exceeds $1,000—

(i) in real property, other than a personal residence of the reporting individual or his spouse, or

(ii) in stocks, bonds, commodities future, and other forms of securities.

Reporting is not required under this paragraph of any transaction solely by and between the reporting individual, his spouse, or dependent children.

(6) The identity of all positons held on or before the date of filing during the current calendar year (and, for the initial report, during the two-year period preceding such calendar year) as an officer, director, trustee, partner, proprietor, representative, employee, or consultant of any corporation, company, firm, partnership or other business enterprise, any nonprofit organization, any labor organization, and any educational or other institution. This paragraph shall not require the reporting of positions held in any religious social, fraternal, charitable, or political entity.

(7) A description of the date, parties, to terms of any agreement or arrangement with respect to (A) future employment; (B) a leave of absence during the period of the reporting individual's Government service; (C) continuation of payments by a former employer other than the United States Government; and (D) continuing participation in an employee welfare or benefit plan maintained by a former employer.

(b) Each report filed under subsections (a) and (b) of section 301 shall include a full and complete statement, in such manner and form as the Committee with the approval of the Judicial Conference of the United States may prescribe, with respect to information required by paragraphs (3), (4), (6), and (7) of subsection (a), as of a date, specified in such report, which shall be not more than thirty-one days prior to the date of filing, and the sources and amounts of earned income and other payments for the year of filing and the preceding calendar year.

(c) In the case of any individual described in section 301(d) of this Act, any reference to the preceding calendar year shall be considered to include that part of the current calendar year up to the date of the termination of employment.

(d) The categories for reporting the amount or value of the items covered in paragraphs (3), (4) and (5) of subsection (a) or in subsection (e) are as follows:

(1) up to $5,000;

(2) from $5,000 to $15,000;

(3) from $15,000 to $50,000;

(4) from $50,000 to $100,000; and

(5) greater than $100,000.

(e)(1) Each report shall also contain information listed in paragraphs (1) through (5) of subsection (a) respecting the spouse of the reporting individual as follows:

(A) The source of items of earned income from any person which exceed $1,000.

(B) In the case of any gift which is not received totally independent of the spouse's relationship to the reporting individual, the identity of the source and a brief description or the estimated value of the gift.

(C) In the case of any reimbursement which is not received totally independent of the spouse's relationship to the reporting individual, the identity of the source and a brief description of the reimbursement.

(D) In the case of items described in paragraphs (3) through (5), all information required to be reported other than items (i) which the reporting individual certifies represents the spouse's role financial interest or responsibility, (ii) which are not in any way, past or present, derived from the income, assets or activities of the reporting individual, and (iii) from which the reporting individual neither derives, nor expects to derive, any financial or economic benefit.

(2) Each report shall also contain all information listed in paragraphs (3) through (5) of subsection (a) respecting any dependent child of the reporting individual other than items (A) which the reporting individual certifies represent the dependent child's sole financial interest or responsibility, (B) which are not in any way, past or present, derived from the income, assets, or activities of the reporting individual, and (C) from which the reporting individual neither derives, nor expects to derive, any financial or economic benefit.

(3) No report shall be required with respect to a spouse living separate and apart from the reporting individual with the intention of terminating the marriage or providing for permanent separation; or with respect to any income or obligations of an individual arising from the dissolution of his marriage or the permanent separation from his spouse.

(f) The holdings of and the income from a trust or other financial arrangement from which the reporting individual, spouse, or dependent child receives income or in which such person has a beneficial or equity interest must be reported according to the provisions of this section; except that in the case of a reporting individual other than a judicial officer or a judicial employee who is authorized to perform adjudicatory functions with respect to proceedings in the judicial branch, if the trust or financial arrangement is a blind trust approved under regulations prescribed by the Committee, with the concurrence of the Attorney General, as necessary to avoid potential or apparent conflicts of interest under section 208 of title 18, United States Code, and other applicable laws and regulations, the report shall so indicate and need only include (in addition to a statement of the income from the blind trust in accordance with section 302) a copy of the instrument or agreement establishing such blind trust and, to the extent known or readily ascertainable, the identity and category of value of assets contained in the trust or arrangement at the time it became a blind trust, and the identity and category of value of assets subsequently added to the blind trust.

(g) Political campaign funds received by a reporting individual or political campaign funds of such individual shall not be reported under this title.

FILING OF REPORTS

SEC. 303. (a) The Judicial Conference of the United States shall establish a Judicial Ethics Committee which shall be responsible for receiving and making available, in accordance with the provisions of this title, the reports described in section 302.

(b) Each judicial officer and judicial employee shall file the report required by this title with the Committee.

(c) In the performance of its functions

under this title, the Committee with the approval of the Judicial Conference of the United States shall—

(1) promulgate such rules and regulations as may be necessary;

(2) monitor and investigate compliance with the requirements of this title;

(3) provide for the availability of reports as required by section 305;

(4) conduct, or cause to be conducted, the reviews required by section 306;

(5) cooperate with the Attorney General in enforcing the requirements of this title;

(6) submit to the Congress and the President recommendations for legislative revision of this title;

(7) perform such other functions as may be assigned by the Judicial Conference of the United States.

(d) The Committee shall, within one hundred and twenty days after the date of enactment of this Act, develop and, with the approval of the Judicial Conference of the United States, promulgate a regulation establishing a method or methods for readily determining, without the necessity for expert appraisal, the fair market value of assets required to be disclosed by this title.

FAILURE TO FILE OR FALSIFYING REPORTS

SEC. 304. (a) The Attorney General may bring a civil action in any appropriate United States District Court against any individual who knowingly and willfully falsifies or who knowingly or willfully fails to file or report any information that such individual is required to report under section 101. The court in which such action is brought may assess against such individual a civil penalty in any amount not to exceed $5,000.

(b) The Committee shall refer to the Attorney General the name of any individual the Committee has reasonable cause to believe has willfully failed to file a report or has willfully falsified or failed to file information required to be reported.

CUSTODY OF AND PUBLIC ACCESS TO REPORTS

SEC. 305. (a) The Committee shall make each report filed with it under this title available to the public in accordance with subsection (b) of this section.

(b)(1) The Committee shall require each person requesting inspection or a copy of a report under subsection (a) of this section to execute an application stating—

(A) his name, occupation, address, and telephone number;

(B) the name, address, and telephone number of the person or organization, if any, on whose behalf he is making the request; and

(C) that the information obtained by such inspection or from such copy shall not be used for any purpose prohibited by subsection (c) of this section.

(2) Upon receipt of an application required by paragraph (1) of this subsection, the Committee shall promptly forward a copy of such application to the reporting individual. The Committee shall permit inspection by or furnish a copy of the report to the requesting person within fifteen days after the report is received by the Committee. The Committee may require the requesting person to pay a reasonable fee in an amount which the Committee finds necessary to cover the costs of reproduction and mailing of such report.

(3) Once the requesting person has inspected or received a copy of a report, his name and address and the name and address of the person or organization, if any, on whose behalf the inspection or copy was requested, shall be made available to the public.

(c)(1) It shall be unlawful for any person to obtain or use a report—

(A) for any unlawful purpose;

(B) for any commercial purpose, other than by news and communications media for dissemination to the general public;

(C) for determining or establishing the credit rating of any individual; or

(D) for use, directly or indirectly, in the solicitation of money for any political, charitable, or other purpose.

(2) The Attorney General may bring a civil action against any person who obtains or uses a report for any purpose prohibited in paragraph (1). The court in which such action is brought may assess against such person a penalty in any amount not to exceed $5,000.

(d) Any report received by the Committee shall be held in its custody and be made available to the public for a period of five years after receipt of the report. After such five-year period the report shall be destroyed, except that in the case of an individual who filed the report pursuant to section 301(b) and was not subsequently confirmed by the Senate, such reports shall be destroyed one year after the individual is no longer under consideration by the Senate.

COMPLIANCE PROCEDURES

SEC. 306. (a) The Committee shall establish procedures for the review of reports sent to it under section 303 to determine whether the reports are filed in a timely manner, are complete, and are in proper form. In the event a determination is made that a report is not so filed, the appropriate committee shall so inform the reporting individual and direct him to take all necessary corrective action.

(b) Such procedures shall include provisions for conducting a review each year of financial statements filed in that year by judicial officers and employees to determine whether such statements reveal possible violations of applicable conflict of interest laws or regulations and recommending appropriate action to correct any conflict of interest or ethical problems revealed by such review.

ADDITIONAL REQUIREMENTS

SEC. 307. (a) Nothing in this title shall be construed to prevent the Committee, with the approval of the Judicial Conference of the United States, from requiring officers or employees of the judicial branch not covered by this title to submit confidential financial statements.

(b) The Committee may require the reporting and disclosure of information pertaining to reporting individuals and their spouses and dependent children in addition to that required by this title for the purpose of furthering compliance with laws, regulations, and codes governing the conduct of officers and employees of the judicial branch or insuring the confidence of the public in the integrity of the Government.

(c) Nothing in this Act requiring reporting of information shall be deemed to authorize the receipt of income, gifts, or reimbursements; the holding of assets, liabilities, or positions; or the participation in transactions that are prohibited by law or regulation.

(d) The provisions of this title requiring the reporting of information shall not supersede the requirements of section 7342 of title 5, United States Code.

EFFECTIVE DATE

SEC. 308. This title shall take effect on January 1, 1979, and the reports filed under section 301(a) on May 15, 1979, shall include information for calendar year 1978.

DEFINITIONS

SEC. 309. For the purposes of this title, the terms "income", "relative", "gift", "honoraria", "estimated value", "personal hospitality of any individual", "blind trust", "dependent child", and "reimbursement" have the meanings set forth in section 209 of this Act.

Mr. DANIELSON (during the reading). Mr. Chairman, I ask unanimous consent that further reading of title III be dispensed with, and that it be printed in the RECORD and open to amendment at any point.

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

There was no objection.

AMENDMENTS OFFERED BY MR. DANIELSON

Mr. DANIELSON. Mr. Chairman, I offer a series of amendments to title III.

The Clerk read as follows:

Amendments offered by Mr. DANIELSON: Page 57, line 22, strike out "Each" and insert "Except as provided in the last sentence of this paragraph, each".

Page 58, after line 19, insert "Each report referred to in subsection (b) of this section shall, with respect to the spouse of the reporting individual, contain information listed in paragraphs (1), (3), and (4) of subsection (a) only.".

Page 58, line 20, strike out "Each" and insert "Except as provided in the last sentence of this paragraph, each".

Page 59, line 4, after "benefit." insert "Each report referred to in subsection (b)' of this section shall, with respect to any dependent child, contain information listed in paragraphs (3) and (4) of subsection (a) only.".

Page 62, line 2: Strike "101" and insert "302".

Page 64, lines 17 and 18: Strike "appropriate committee" and insert "Committee".

Page 65, lines 9 through 16, strike: "(b) The Committee may require the reporting and disclosure of information pertaining to reporting individuals and their spouses and dependent children in addition to that required by this title for the purpose of furthering compliance with laws, regulations, and codes governing the conduct of officers and employees of the judicial branch or insuring the confidence of the public in the integrity of the Government."

Page 65, line 17 strike "(c)" and insert "(b)".

Page 65, line 22, strike "(d)" and insert "(c)".

Page 66, line 3: Strike "(a)" and insert "(c)".

Mr. DANIELSON (during the reading). Mr. Chairman, I ask unanimous consent that these amendments, all of which are technical amendments, and copies of which have been provided to the minority, and which amendments refer to pages 57, 58, 59, 62, 64, 65, and 66 be considered en bloc, be considered as read and printed in the RECORD.

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

There was no objection.

Mr. MOORHEAD of California. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. I am happy to yield to the gentleman from California.

Mr. MOORHEAD. Mr. Chairman, we have no objection to the amendments.

Mr. DANIELSON. I thank the gentleman.

Mr. Chairman, as I stated before, these are all technical amendments and amendments which conform title III to the provisions of titles II and I, as they apply to the different branches of the Government.

The CHAIRMAN pro tempore. The question is on the amendments offered by the gentleman from California (Mr. DANIELSON).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. WIGGINS

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

The Clerk read as follows:

Amendment offered by Mr. WIGGINS: Page 52, strike out line 1 and all that follows through page 66, line 10.

Mr. WIGGINS. Mr. Chairman, I am happy that we have more Members in the Chamber to consider the amendment which I have just offered.

I feel as strongly about this amendment as any other that could be made or has been offered this afternoon. The amendment is simplicity in itself. It strikes title III. In other words, it removes from the coverage of this bill judges, and designated officers and officials in the judicial branch of the Government.

Mr. Chairman, so far as I know, there has not been, nor has there ever been in the history of this Republic, persistent scandals of any magnitude with regard to the conduct of our judges. No ugly questions have been raised as to whether or not they have been guilty of impropriety by reason of conflicts of interest or whether their holdings may have improperly influenced their decisions.

Now there have been exceptions, and I admit them, but, on the whole, I hope that the Members here will accept that we have a fine Federal judiciary, which is held in the highest respect and esteem by the people of this country.

In short, Mr. Chairman, with respect to judges, we do not have a problem which needs fixing.

The second point which needs to be made is that for some years the Judicial Conference of the United States has had in place and operating a code of ethics for judges. Under that code, judges have been requested to make financial disclosures and, obviously, are precluded from participating in any case in which they have even the slightest potential for conflict of interest. In my experience, Federal judges have been most sensitive to this code, and have bent over backward to excuse themselves from any matter which involved, or which might give the appearance of involvement in a conflict of interest.

In summary, then, with respect to point two, the existing system has been working.

Most fundamentally of all, Mr. Chairman, if law in this country is going to exist, people have to respect it. People have to respect and obey the decisions made by our Federal judiciary, or our magnificent system of justice is going to collapse.

We do a great deal to give our judges the appearance of wisdom and majesty. We make them the high priests of justice. We invest them with robes. They sit on high benches in impressive courtrooms. And they dispense justice. Respect for the Court, and adherence to its judgments, is enhanced by the special status we accord judges. If such respect is to continue, we cannot expose them to exacting personal scrutiny, unless compelled to do so by an overriding public purpose. In the case of judges, that need has not been demonstrated.

If, for one moment, the people begin to doubt the integrity, the wisdom, and the objectivity of judges, this whole system of law which in a democracy is based upon popular consent is threatened.

Under this bill, Mr. Chairman, I fear that we will give to the people a basis upon which their confidence and their faith in justice and judges is apt to be questioned and hence eroded.

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

Mr. WIGGINS. I yield to the gentleman from Wyoming.

Mr. RONCALIO. Mr. Chairman, I am inclined to agree with the distinguished gentleman from California (Mr. WIGGINS). It is a fine, idealistic, and altogether appropriate approach for an attorney. I belong to that honorable profession, as does the gentleman in the well.

Mr. Chairman, may I ask the gentleman this question: If it is so true that title III of the bill should be stricken, why should there be any bill at all? Why should we be subject to this ourselves when the people themselves check on us every 2 years as lawmakers? Are we not at the same level and are we not deserving of the same consideration and respect which judges and members of the judiciary receive, since we are the ones who write the laws of this land?

Mr. Chairman, I ask the gentleman to respond to that particular observation.

Mr. WIGGINS. Mr. Chairman, I agree with the gentleman. I am going to vote "no" on the bill. Perhaps the gentleman's question should be directed to someone else.

Mr. Chairman, let me proceed for a moment by saying that it is absolutely essential that the public view of our judges not be eroded.

It has been said, I think of liver sausage, that if one wants to maintain a taste for it, he cannot look too closely at the manner in which it is made. One cannot look at anyone minutely and continue to have the same perfect respect for him or her that one might otherwise have.

Mr. Chairman, if every Federal judge in the United States is going to have to disclose the assets he owns, the liabilities that he may have incurred, the income which he has received, the transactions in which he engages, and the gifts that he receives, every disappointed litigant in the country is going to examine that financial statement to see whether he or she can develop a theory of conflict of interest which does not, in fact, exist.

The CHAIRMAN pro tempore. The time of the gentleman from California (Mr. WIGGINS) has expired.

(By unanimous consent, Mr. WIGGINS was allowed to proceed for 2 additional minutes.)

Mr. WIGGINS. The Members know that this kind of scrutiny of Federal judges will not enhance the reputation and the public perception of our Federal judiciary. I do not know how to convey my thoughts more clearly than I have done so already. I feel so strongly about this, I beg the Members not to do this to our Federal judges. For God's sake, think about what you are doing to yourselves. If you are willing to assume the questions and cynicism which will follow, it is your fault. If you are willing to impose this burden upon the executive branch, and I hope you will not, perhaps we can tolerate that decision. But the notion that we should impose such a burden on the Federal judiciary is unacceptable. The entire system of justice will suffer. I strongly urge the Members to vote for my amendment, striking the Federal judiciary from this bill.

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

Mr. Chairman, I oppose the amendment offered by my good friend and most distinguished member of the Committee on the Judiciary, the gentleman from California (Mr. WIGGINS). I would like to point out that I share with him fully his respect for our judiciary. I will not play a second role to anyone in my admiration for our system of administrative justice and for those who have the key role, our judges. But I want to point out that we have come to a crossroads in our society, in our Government, in our mores, in our concept, our perception of what government officials should be, and the people of America today demand something in addition to what they have had in the past. They want some type of a way to examine into, to look at, to analyze, to evaluate the financial transactions of people in the key roles of Government, and I submit that that includes judicial personnel.

This bill is not the first venture of our Government to provide some access to the financial records of our judiciary. The judicial branch itself has provided, and I show the Members the pamphlet which they themselves put out which relates to the Judicial Conference Committee's concern with ethical standards in the Federal judiciary. They themselves have requirements on reporting within the judicial branch. They also have a form which is part of their report that each member of the judicial branch is asked to execute, submit, and file of record with the judicial branch. So we are not breaking ice; we are simply putting into the law something which the judicial branch already has in its regulations, and we are doing it in a manner in which, I respectfully submit, we have watched out for and protected the interests of the judicial branch as far as it is possible to do in general legislation.

We recognize that they are a separate branch of Government. The legislative branch will not be governing them. The executive branch will not be controlling their disclosures. We have authorized, in fact we have mandated, that the judicial branch itself should set up a Judicial Ethics Committee. It will be set up by the Judicial Conference of the United States. The Judicial Conference through its Judicial Ethics Committee will run its own show. They will prescribe their own regulations. They will handle the filing and the review of reports. We have left enforcement of this entirely within the judicial branch, out of full respect for the separation of powers. We have not had any serious complaints from the

judiciary in connection with the working up and presentation of this legislation. We have had a few informal gripes, as we have had from the legislative branch and occasionally from the executive branch. But the judicial branch has not been very outspoken in opposing this legislation. We have left enforcement with them. We have left the custody of the reports with them. We have tried to make the basic parameters of disclosure conform to those which we have demanded of the executive and legislative branches.

I think this is a wholesome provision in the law, and although I join with my good friend, the gentleman from California (Mr. WIGGINS) in regretting the fact that we have come to this stage in our national existence as applies to the legislative and the executive, and the judicial branches, I submit that this is a proper title in the bill, and I respectfully urge that there be a no vote on the amendment.

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

Mr. DANIELSON. I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. Mr. Chairman, I would like to join the gentleman in opposing this amendment. As chairman of the Subcommittee on Courts, Civil Liberties, and the Administration of Justice, of the Committee of the Judiciary, we are aware that the judges presently file the form to which the gentleman referred. Some do not file because, of course, there is no penalty and because they insist, among other things, that the Justices of the Supreme Court need not file and, as a result, there is a very uneven administration of that in-house judicial requirement.

It seems only fair while we are treating all three branches of the Federal Government that the judicial branch not be neglected in terms of this reassertion of public confidence.

Mr. Chairman, I join the gentleman in suggesting and agreeing that not many judges have been held up to criticism, but we have seen questions raised even involving the Supreme Court itself in the past 10 years or so in which at least matters have been alluded to which this bill certainly would go a long way in answering.

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

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

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

Mr. DANIELSON. I yield to the gentleman from South Carolina.

Mr. HOLLAND. Mr. Chairman, I would only ask two questions about this. Quite frankly I have some reservations. I know that the judiciary has not come to your committee with its concerns. If you look at their code of ethics, they are pretty well precluded from influencing your committee and this Congress. I do not know how long it has been since most of the Members of this body have been in a courtroom, but there is something about the judicial system in America that should be pointed out that makes it different from our function or the executive function. They are engaged across this land in trying to administer justice and bringing to trial the most unsavory elements in our national structure—people who are unscrupulous, who would do anything to get their hands on this type of information and in some way intimidate the judges and pervert our system of justice.

There is a growing number of cases where the courts have to bring the press itself before the bench of justice. The press itself would have an opportunity to use these documents if they felt threatened and lay them in front of the public to thwart true justice where its own members are involved.

I think the judiciary has been set up by us to be above this petty type of inspection.

Mr. Chairman, I urge passage of the amendment.

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

Mr. Chairman, I rise in support of the Wiggins amendment and take this opportunity to emphasize the highly inconsistent, I would say almost chaotic approach that has been taken by proponents. Awhile ago I offered an amendment to decriminalize selective areas that for some judgmental decisions the committee saw fit to include, where they denied to other areas of infractions in this same bill.

Now, here I wholeheartedly agree that the gentleman from California, if he did not say so, certainly insinuated that we are encroaching, and I think improperly, if not in the actual letter of the law, certainly in the spirit of the violation of the law, in the separation and independence and coequality of these three branches of Government.

All this ado about victimizing the third branch is because we have flagellated ourselves and are now about to go to the executive branch and, therefore, we ask how in the world can we justify leaving out the judiciary?

I think the real issue here is in this language by which for the first time we are going to expose the judiciary by commandeering from the legislative branch the type of reporting that is susceptible of great misuse. We provide in it for the publication of information derived from a most private and confidential source. Then to compound the confusion we provide this: We say, "Oh, maybe the possibility of misuse is there," so we enumerate the possibilities of misuse of this information and say, "But this information shall not be used for such things as checking on or establishing the credit rating of a judge," et cetera.

But what is done to enforce that? Next to nothing. The only penalties here are civil penalties. How come the committee did not impose criminal sanctions on some of the misbehavior that might result and which the committee anticipates could reasonably result?

What we are doing now, I think, is showing again that the House is acting under pressure of a political nature. It is trying to indulge in baths of purity, which will not satisfy the demands that are being made by those who, as I said earlier, are professional haters of the Congress. Nothing is going to appease them.

I can refer the Members to editorials that appeared in the U.S. News & World Report just a week or two ago. After all the reform that the Congress has bragged about so much for 2 or 3 years, the best that these editorials could give us credit for is that we are just scrounging around seeking reelection, and they say that we are still in need of further reform.

We are now compounding the problem by getting the hapless judiciary involved in these legislative machinations. I think the least we could do would be to delete this section and find alternatives to stimulating the judiciary to enhance what we think they need as far as their procedures along these lines are concerned.

Mr. Chairman, we should certainly not ask the judiciary to accept the kind of mandate this bill provides for in this title III.

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

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 75, noes 316, not voting 41, as follows:

[Roll No. 845]

AYES—75

Annunzio	Gonzalez	O'Brien
Boland	Goodling	Quillen
Breaux	Guyer	Robinson
Breckinridge	Hammer-schmidt	Roncalio
Brooks	Harsha	Rostenkowski
Broomfield	Hillis	Roybal
Burgener	Holland	Ryan
Burton, Phillip	Hollenbeck	Sebelius
Butler	Howard	Shuster
Clawson, Del	Hughes	Sisk
Collins, Tex.	Jeffords	Skelton
Conable	Jenkins	Snyder
Corman	Jenrette	Stanton
Crane	Lagomarsino	Steed
Daniel, Dan	McClory	Steiger
Daniel, R. W.	McCloskey	Symms
Dent	McDonald	Taylor
Duncan, Oreg.	McKay	Treen
Eckhardt	Mann	Waggonner
Evans, Colo.	Michel	Wampler
Fary	Minish	Whitehurst
Forsythe	Moorhead, Calif.	Wiggins
Fraser	Murtha	Winn
Gaydos	Nix	Yatron
Gibbons		Zablocki
Goldwater		

NOES—316

Abdnor	Bauman	Brodhead
Addabbo	Beard, R.I.	Brown, Calif.
Akaka	Beard, Tenn.	Brown, Mich.
Ambro	Bedell	Broyhill
Anderson, Calif.	Beilenson	Buchanan
Andrews, N.C.	Benjamin	Burke, Mass.
Andrews, N. Dak.	Bennett	Burlison, Mo.
Applegate	Bevill	Byron
Archer	Biaggi	Carr
Ashley	Bingham	Carter
Aspin	Blanchard	Cavanaugh
AuCoin	Blouin	Cederberg
Badham	Boggs	Chappell
Bafalis	Bolling	Chisholm
Baldus	Bonior	Clausen, Don H.
Barnard	Bonker	Cleveland
Baucus	Bowen	Cochran
	Brademas	Coleman
	Brinkley	

Collins, Ill.
Conte
Corcoran
Cornell
Cornwell
Cotter
Coughlin
Cunningham
D'Amours
Danielson
Davis
de la Garza
Delaney
Dellums
Derrick
Derwinski
Devine
Dickinson
Dicks
Dingell
Dodd
Dornan
Downey
Drinan
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Eilberg
Emery
English
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frenzel
Frey
Fuqua
Gammage
Gephardt
Giaimo
Gilman
Ginn
Glickman
Gore
Gradison
Grassley
Green
Gudger
Hagedorn
Hall
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Holt
Holtzman
Horton
Hubbard
Huckaby
Hyde
Ichord
Ireland
Jacobs
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Kelly
Kemp
Keys
Kildee
Kindness
Kostmayer
Krebs
LaFalce
Latta
Leach
Lederer
Leggett
Lehman
Lent
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Luken
Lundine
McCormack
McDade
McFall
McHugh
Madigan
Maguire
Mahon
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Mattox
Mazzoli
Meeds
Metcalfe
Mikulski
Mikva
Milford
Miller, Ohio
Mineta
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, Pa.
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pease
Perkins
Pettis
Pickle
Poage
Pressler
Preyer
Price
Pritchard
Pursell
Quayle
Quie
Rahall
Railsback
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Rodino
Roe
Rogers
Rooney
Rose
Rosenthal
Rousselot
Rudd
Runnels
Ruppe
Russo
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Seiberling
Sharp
Sikes
Simon
Smith, Iowa
Smith, Nebr.
Solarz
Spellman
Spence
St Germain
Staggers
Stangeland
Stark
Steers
Stockman
Stokes
Stratton
Studds
Stump
Thompson
Thornton
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Walsh
Watkins
Waxman
Weaver
Weiss
Whalen
White
Whitley
Whitten
Wilson, Bob
Wilson, Tex.
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Young, Fla.
Young, Mo.
Zeferetti

NOT VOTING—41

Alexander
Ammerman
Anderson, Ill.
Armstrong
Ashbrook
Brown, Ohio
Burke, Calif.
Burke, Fla.
Burleson, Tex.
Burton, John
Caputo
Carney
Clay
Cohen
Conyers
Diggs
Garcia
Hansen
Kasten
Krueger
Le Fante
McEwen
McKinney
Meyner
Miller, Calif.
Moss
Murphy, N.Y.
Pepper
Pike
Santini
Sarasin
Shipley
Skubitz
Slack
Teague
Thone
Tsongas
Tucker
Wilson, C. H.
Young, Alaska
Young, Tex.

Mr. HYDE and Mr. MADIGAN changed their vote from "aye" to "no."

Mr. ECKHARDT changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENTS OFFERED BY MRS. SCHROEDER

Mrs. SCHROEDER. Mr. Chairman, I offer amendments, and I ask unanimous consent that my amendments number 8, 9, and 10 to title III be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mrs. SCHROEDER: Page 63, line 3, strike the period and insert in lieu thereof ", if the reporting individual is an officer or employee in the Judicial branch at the time the application is received."

Page 64, after line 3, insert the following: "Such remedy shall be in addition to any other remedy available under statutory or common law."

Page 66, line 10, strike out "209" and insert in lieu thereof "210".

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

The CHAIRMAN. Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

Mrs. SCHROEDER. Mr. Chairman, these three amendments are strictly technical and are intended to conform title III to title II.

I think we adopted the same ones in title II, and I would ask that they be adopted.

Mr. DANIELSON. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from California.

Mr. DANIELSON. Mr. Chairman, I have looked over the amendments. I am aware of them. I believe the minority side is aware of them also.

Mr. Chairman, I agree to accept the amendments.

Mr. MOORHEAD of California. If the gentlewoman will yield, Mr. Chairman, we will be happy to accept the amendments.

Mr. CHAIRMAN. The question is on the amendments offered by the gentlewoman from Colorado (Mrs. SCHROEDER).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. GONZALEZ

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

The Clerk read as follows:

Amendment offered by Mr. GONZALEZ: Page 65, line 4: strike all of line 4 through line 8.

Mr. GONZALEZ. Mr. Chairman, my amendment deletes section 307 on page 65 for substantially the same reasons as I offered the amendment to delete section 207, except with additional strings, I believe, in this case, because this provision is, I think, overkill.

It demands information of a confidential nature even with respect to the lowliest of employees working for the courts or the judicial system, including spouses.

Subsection (b) reads as follows, for example:

The Committee may require the reporting and disclosure of information pertaining to reporting individuals and their spouses and dependent children in addition to that required by this title for the purpose of furthering compliance with laws, regulations, and codes governing the conduct of officers and employees of the judicial branch or insuring the confidence of the public in the integrity of the Government.

Mr. Chairman, that section is certainly vain, to say the least; and certainly, even under the strictest of interpretations, the requirement is susceptible to great abuse.

We are not only now going after the poor old judges, we are now going to go get their wives, kids, and everybody else and make them very much susceptible to the malice that oftentimes arises in public life.

In hearing the debate on this type of legislation, and hearing the previous discussion by some of the members of the committee defending it, one would think that we are writing legislation for angels to carry out, and we well know through experience that in formulating laws we have got to assume that the laws that we are shaping can be used by the worst depraved men and are not necessarily going to be carried out by angels. I hope that in our zeal to get this high moral quality of ethical behavior all over the place that we will not succumb to this overcharged type of legislation, and I urge the adoption of this amendment that will strike section 307 that the bill can live very comfortably without.

Mr. DANIELSON. Mr. Chairman, I rise to oppose the amendment. A comparable amendment was offered in title II to reach a similar provision as related to title II. We went through it at some length at that time. This is to permit the Judicial Conference to require the officers and employees of the judicial branch to submit confidential financial statements. They are to be done in harmony with the other provisions of the bill, and it simply gives the Judicial Conference this right within its own branch. I urge a "no" vote.

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

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

Mr. WIGGINS. I thank the gentleman for yielding.

The gentleman's remarks are directed primarily to section 307(a). The gentleman from Texas spoke primarily to the evils of section 307(b). I understand that 307(b) is not in the bill, having been taken out earlier by a technical amendment by the gentleman from California. Would the gentleman tell me if that is true or not?

Mr. DANIELSON. Yes: in the technical amendments which we adopted just a little bit ago—the minority committee counsel who is seated beside the gentleman is aware of them—subsection (b) was stricken.

Mr. WIGGINS. I thank the gentleman. I know it will be a matter of interest to the gentleman from Texas. The gentleman is clearly right that section 307 (b) must be out of the bill in order to be worthy of any support at all.

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

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

Mr. GONZALEZ. I thank the gentleman for yielding.

I think the gentleman from California as always has shown his competence. The fact that the amendments are technical amendments and were offered en bloc and were not discussed did not give me an opportunity to reason or know that deletion of subsection (b) was included. So I thank the gentleman. This is exactly what I was seeking, so I am glad to hear that.

Mr. Chairman, I ask unanimous consent to withdraw my amendment.

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

There was no objection.

● Mr. WOLFF. Mr. Chairman, I rise today in strong support of the bill H.R. 1, Ethics in Government Act. The thrust of this important legislation is to codify the disclosure requirements adopted by the House in 1977 and to extend these requirements to high ranking persons in the executive branch and to the Federal judiciary. In addition, this bill includes some new conflict-of-interest restrictions for the executive branch and extends the disclosure requirements to candidates for Congress.

Mr. Chairman, the American people deserve no less.

The time has come for financial disclosure to become a statutory requirement for high level officials in all three branches. I strongly supported the actions by this House in adopting last year the strong code of conduct and I urge the passage of this legislation in adopting statutory governmentwide financial disclosure. Enactment of this legislation is an important step in fulfilling our commitment to integrity and efficiency in the conduct of government.

In March of 1977, by a vote of 402 to 22, the House, with my support, passed House Resolution 287 which amended House rules to strengthen financial disclosure requirements, prohibit unofficial office accounts and lameduck travel, and increase restrictions on the franking privilege and outside earned income by Members of Congress. These new provisions are now part of the Rules of the House of Representatives, but have not yet been enacted into law.

The bill before us now takes the necessary steps of making the rules part of the law by putting "teeth" into them and by providing for civil and criminal sanctions for violations of the act. Previously, the House beat back, with my support, an attempt to weaken the code of conduct by removing those key provisions relating to limits on outside earned income for Members of Congress.

I favor an earnings limit because I believe congressional office is now a full time job for which a full time salary is paid. It is not unreasonable to expect Congressmen to be full time legislators. Just take a look at the crowded congressional calendars and the magnitude of the problems with which we are confronted, if you have any doubts about this.

I also support the extension of financial disclosure requirements to candidates for Federal office—incumbent and nonincumbent alike. I firmly believe that disclosure by all candidates is necessary for voters to fully evaluate a candidate. Lack of full disclosure by some candidates has caused problems in the past, something that I hope will be corrected. In the final analysis, candidates for office voluntarily place themselves in the same public position as elected officials and should be held to the same high standards.

This bill strikes the necessary and appropriate balance between the need for public disclosure and the privacy interests of those required to report. The light of public disclosure is an effective deterrent to improper or unethical behavior on the part of Government officials. Moreover, it will help to dispel the suspicion of impropriety, even in cases where there is no impropriety in fact.

This bill deserves the support of the American people. I urge its adoption.●

The CHAIRMAN. If there are no further amendments to title III, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. BOLAND, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 1) to require candidates for Federal office, Members of the Congress, and officers and employees of the United States to file statements with the Comptroller General with respect to their income and financial transactions, pursuant to House Resolution 1323, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. WIGGINS

Mr. WIGGINS. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. WIGGINS. I am opposed to the bill, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit. The Clerk read as follows:

Mr. WIGGINS moves to recommit the bill, H.R. 1, to the Committee on the Judiciary.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

Mr. WIGGINS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 368, nays 30, answered "present" 1, not voting 33, as follows:

[Roll No. 846]

YEAS—368

Abdnor	Cornwell	Hall
Addabbo	Cotter	Hamilton
Akaka	Coughlin	Hammer-
Ambro	Cunningham	schmidt
Anderson,	D'Amours	Hanley
Calif.	Daniel, R. W.	Hannaford
Andrews, N.C.	Danielson	Harkin
Andrews,	Davis	Harrington
N. Dak.	de la Garza	Harris
Applegate	Dellums	Harsha
Archer	Dent	Hawkins
Ashley	Derrick	Heckler
Aspin	Derwinski	Hefner
AuCoin	Devine	Heftel
Bafalis	Dickinson	Hightower
Baldus	Dicks	Hillis
Barnard	Dingell	Hollenbeck
Baucus	Dodd	Holt
Bauman	Dornan	Holtzman
Beard, R.I.	Downey	Horton
Beard, Tenn.	Drinan	Howard
Bedell	Duncan, Tenn.	Hubbard
Beilenson	Early	Huckaby
Benjamin	Eckhardt	Hughes
Bennett	Edgar	Hyde
Bevill	Edwards, Ala.	Ichord
Biaggi	Edwards, Calif.	Ireland
Bingham	Edwards, Okla.	Jacobs
Blanchard	Eilberg	Jeffords
Blouin	Emery	Jenkins
Boggs	English	Jenrette
Boland	Ertel	Johnson, Calif.
Bolling	Evans, Del.	Johnson, Colo.
Bonior	Evans, Ga.	Jones, Okla.
Bonker	Evans, Ind.	Jones, Tenn.
Bowen	Fary	Jordan
Brademas	Fascell	Kastenmeier
Breaux	Fenwick	Kazen
Breckinridge	Findley	Kelly
Brinkley	Fish	Kemp
Brodhead	Fisher	Keys
Broomfield	Fithian	Kildee
Brown, Calif.	Flippo	Kindness
Brown, Mich.	Flood	Kostmayer
Broyhill	Florio	Krebs
Buchanan	Flowers	LaFalce
Burgener	Flynt	Lagomarsino
Burke, Fla.	Foley	Latta
Burke, Mass.	Ford, Tenn.	Le Fante
Burlison, Mo.	Fountain	Leach
Burton, John	Fowler	Lederer
Burton, Phillip	Fraser	Leggett
Byron	Frenzel	Lehman
Carney	Frey	Lent
Carr	Fuqua	Levitas
Carter	Gammage	Livingston
Cavanaugh	Gaydos	Lloyd, Calif.
Cederberg	Gephardt	Lloyd, Tenn.
Chisholm	Giaimo	Long, La.
Clausen,	Gibbons	Long, Md.
Don H.	Gilman	Lott
Clay	Ginn	Lujan
Cleveland	Glickman	Luken
Cochran	Goldwater	Lundine
Coleman	Goodling	McClory
Collins, Ill.	Gore	McCloskey
Conable	Gradison	McCormack
Conte	Grassley	McDade
Conyers	Green	McEwen
Corcoran	Gudger	McFall
Corman	Guyer	McHugh
Cornell	Hagedorn	McKay

Madigan	Pease	Staggers
Maguire	Perkins	Stangeland
Mahon	Pettis	Stanton
Mann	Pickle	Stark
Markey	Poage	Steed
Marks	Pressler	Steers
Marlenee	Preyer	Stockman
Marriott	Price	Stokes
Martin	Pritchard	Stratton
Mathis	Pursell	Studds
Mattox	Quayle	Stump
Mazzoli	Quie	Taylor
Meeds	Quillen	Thompson
Metcalfe	Rahall	Thornton
Meyner	Railsback	Traxler
Michel	Rangel	Trible
Mikulski	Regula	Tucker
Mikva	Reuss	Udall
Milford	Rhodes	Ullman
Miller, Ohio	Richmond	Van Deerlin
Mineta	Rinaldo	Vander Jagt
Minish	Risenhoover	Vanik
Mitchell, Md.	Roberts	Vento
Mitchell, N.Y.	Robinson	Volkmer
Moakley	Rodino	Walgren
Moffett	Roe	Walker
Mollohan	Rogers	Walsh
Montgomery	Rooney	Wampler
Moore	Rose	Watkins
Moorhead, Calif.	Rosenthal	Waxman
Moorhead, Pa.	Rudd	Weaver
Mottl	Runnels	Weiss
Murphy, Ill.	Ruppe	Whalen
Murphy, Pa.	Russo	White
Myers, Gary	Santini	Whitehurst
Myers, John	Satterfield	Whitley
Myers, Michael	Sawyer	Whitten
Natcher	Scheuer	Wilson, Bob
Neal	Schroeder	Winn
Nedzi	Schulze	Wirth
Nichols	Sebelius	Wolff
Nix	Seiberling	Wright
Nolan	Sharp	Wydler
Nowak	Shuster	Wylie
Oakar	Simon	Yates
Oberstar	Skelton	Yatron
Obey	Smith, Iowa	Young, Fla.
Ottinger	Smith, Nebr.	Young, Mo.
Panetta	Snyder	Young, Tex.
Patten	Solarz	Zablocki
Patterson	Spellman	Zeferetti
Pattison	Spence	
	St Germain	

NAYS—30

Annunzio	Duncan, Oreg.	Rousselot
Badham	Erlenborn	Ryan
Brooks	Evans, Colo.	Sikes
Butler	Forsythe	Sisk
Chappell	Gonzalez	Steiger
Clawson, Del	McDonald	Symms
Collins, Tex.	Murtha	Treen
Crane	O'Brien	Waggonner
Daniel, Dan	Roncalio	Wiggins
Delaney	Rostenkowski	Wilson, C. H.

ANSWERED "PRESENT"—1

Holland

NOT VOTING—33

Alexander	Ford, Mich.	Pike
Ammerman	Garcia	Roybal
Anderson, Ill.	Hansen	Sarasin
Armstrong	Jones, N.C.	Shipley
Ashbrook	Kasten	Skubitz
Brown, Ohio	Krueger	Slack
Burke, Calif.	McKinney	Teague
Burleson, Tex.	Miller, Calif.	Thone
Caputo	Moss	Tsongas
Cohen	Murphy, N.Y.	Wilson, Tex.
Diggs	Pepper	Young, Alaska

The Clerk announced the following pairs:

Mr. Burleson of Texas with Mr. Anderson of Illinois.

Mr. Teague with Mr. Caputo.

Mr. Ammerman with Mr. Sarasin.

Mr. Krueger with Mr. Thone.

Mr. Shipley with Mr. Ashbrook.

Mr. Charles Wilson of Texas with Mr. Skubitz.

Mr. Murphy of New York with Mr. Young of Alaska.

Mr. Pepper with Mr. Cohen.

Mr. Miller of California with Mr. Brown of Ohio.

Mr. Garcia with Mr. Hansen.

Mr. Diggs with Mr. McKinney.

Mr. Roybal with Mr. Pike.

Mr. Slack with Mr. Tsongas.

Mrs. Burke of California with Mr. Alexander.

Mr. Moss with Mr. Jones of North Carolina.

Mr. Ford of Michigan with Mr. Kasten.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. DANIELSON. Mr Speaker, pursuant to the resolution (H. Res. 1323), I call up from the Speaker's table the Senate bill (S. 555) to establish certain Federal agencies, effect certain reorganizations of the Federal Government, to implement certain reforms in the operation of the Federal Government and to preserve and promote the integrity of public officials and institutions, and for other purposes.

The Clerk read the title of the Senate bill.

Mr. DANIELSON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. DANIELSON moves to strike out all after the enacting clause of S. 555 and insert in lieu thereof the provisions of H.R. 1, as passed, as follows:

SHORT TITLE

SECTION 1. This Act may be cited as the "Ethics in Government Act of 1978".

TITLE I—LEGISLATIVE PERONNEL FINANCIAL DISCLOSURE REQUIREMENTS

COVERAGE

SEC. 101. Each Member, officer, principal assistant to a Member or officer, employee of a Member, officer, or committee who is compensated at a rate equal to or in excess of the annual rate of basic pay in effect for grade GS-16 of the General Schedule, and any individual who becomes a candidate in any election for the office of Member shall file annual reports as prescribed by section 102. Each Member who does not have an employee compensated at a rate equal to or in excess of the annual rate of basic pay in effect for grade GS-16 of the General Schedule shall designate at least one principal assistant on his personal staff for purposes of this section.

FILING OF REPORTS; DUTIES OF CLERK AND SECRETARY

SEC. 102. (a)(1) Except as provided in paragraph (2), each individual required to file a report under section 101, other than an individual who becomes a candidate in any election for the office of Member, shall not later than May 15, 1979, and by May 15 of each year thereafter, file a report on a form developed and made available by the Clerk or Secretary, disclosing certain financial information as provided in section 103 in the following manner:

(A) Each individual whose compensation is disbursed by the Clerk or the Sergeant at Arms shall file the report with the Clerk.

(B) Each individual whose compensation is disbursed by the Secretary shall file the report with the Secretary.

(2)(A) Any individual who becomes a candidate in any election for the office of Member need not include in the report any information referred to in paragraph (2) or (3) of section 103(a).

(B) Any individual who holds a position or office referred to in section 101 need not include in any report any items referred to in paragraph (2) or (3) of section 103(a) and received while such individual does not hold any such office or position.

(b) Each individual who becomes a candidate in any election for the office of Member shall, not later than November 1, 1978, or within fifteen calander days after becoming such a candidate, whichever occurs later, file a report disclosing certain financial information as provided in section 103 in the following manner:

(1) Each individual who becomes a candidate in any election for the office of Senator shall file the report with the Secretary.

(2) Each individual who becomes a candidate in any election for the office of Representative in the Congress or Delegate or Resident Commissioner to the Congress shall file the report with the Clerk.

(c)(1) A copy of each report filed by a Member or an individual who is a candidate for the office of Member shall be sent by the Clerk or Secretary, as the case may be, to the appropriate State officer as designated in accordance with section 316(a) of the Federal Election Campaign Act of 1971, as amended (2 U.S.C. 439(a)) of the State represented by the Member or in which the individual is a candidate, as the case may be, within the seven-day period beginning the day that the report is filed with the Clerk or Secretary.

(2)(A) Before June 15, 1979, and by June 15 of each year thereafter, the Clerk shall compile all reports filed with him by Members within the period beginning on January 1 and ending on May 15 of such calendar year and have them printed as a House document, which document shall be made available to the public.

(B) Before June 15, 1979, and by June 15 of each year thereafter, the Secretary shall compile all reports filed with him by Senators within the period beginning on January 1 and ending on May 15, of such calendar year and have them printed as a Senate document, which document shall be made available to the public.

(d)(1) A copy of each report filed under this title with the Clerk shall be sent by the Clerk to the Committee on Standards of Official Conduct of the House of Representatives within the seven-day period beginning the day that the report is filed.

(2) A copy of each report filed with the Secretary shall be sent by the Secretary to the Select Committee on Ethics of the Senate within the seven-day period beginning the day that the report is filed.

(e) In carrying out their responsibilities under this title, the Clerk of the House and the Secretary of the Senate shall avail themselves of the assistance of the Federal Election Commission. The Commission shall make available to the Clerk and the Secretary on a regular basis, a complete list of names and addresses of all candidates registered with the Commission, and shall cooperate and coordinate its candidate information and notification program with the Clerk and the Secretary to the greatest extent possible.

(f) In order to carry out his responsibilities under this title,

(1) the Clerk may, after consultation with the Committee on Standards of Official Conduct of the House of Representatives, and

(2) the Secretary may, after consultation with the Select Committee on Ethics of the Senate,

promulgate rules and regulations.

CONTENTS OF REPORTS

SEC. 103. (a) Each report required to be filed under this title in a calendar year shall contain the following:

(1) The source, type and amount of income from any one source (other than from current employment by the United States Government), including honoraria, received during the preceding calendar year aggregating $100 or more in value.

(2)(A) The identity of the source and a brief description of any gifts of transportation, lodging, food, or entertainment aggregating $250 or more in value received from any one source other than a relative of the

reporting individual during the preceding calendar year, except that any food, lodging, or entertainment received as personal hospitality of any individual need not be reported.

(B) The identity of the source, a brief description, and the estimated value of all gifts other than transportation, lodging, food, or entertainment aggregating $100 or more in value received from any one source other than a relative of the reporting individual during the preceding calendar year.

(C) Any gift with a fair market value of $35 or less need not be aggregated for the purposes of this paragraph.

(3) The identity of the source and a brief description of reimbursements received from a single source aggregating $250 or more in value and received during the preceding calendar year.

(4) The identity and category of value of any interest in property held in a trade or business, or for investment or the production of income, which has a fair market value which exceeds $1,000 as of the close of the preceding calendar year, excluding any personal liability owed to the reporting individual by a relative or any deposit of $5,000 or less in a personal savings account which bears interest.

(5) The identity and category of value of the total liabilities owed to any creditor other than a relative which exceeds $5,000 as of the close of the preceding calendar year, excluding—

(A) any mortgage secured by real property which is a personal residence of the reporting individual or his spouse; or

(B) any loan secured by a personal motor vehicle or household furniture or appliances.

(6) Except as provided in this paragraph, a brief description, the date, and category of value of any purchase, sale or exchange during the preceding calendar year which exceeds $1,000—

(i) in real property, other than a personal residence of the reporting individual or his spouse, or

(ii) in stocks, bonds, commodities futures, and other forms of securities.

Reporting is not required under this paragraph of any transaction solely by and between the reporting individual, his spouse, or dependent children.

(7) A description of the date, parties to, and terms of any agreement or arrangement with respect to: (A) future employment; (B) a leave of absence during the period of the reporting individual's Government service; (C) continuation of payments by a former employer other than the United States Government; and (D) continuing participation in an employee welfare or benefit plan maintained by a former employee.

(b) For purposes of paragraphs (4), (5), and (6) of subsection (a) or subsection (d) the person reporting need not specify the actual amount or value of each item required to be reported under such paragraphs, but such person shall indicate which of the following categories such amount or value is within:

(1) not more than $5,000,

(2) greater than $5,000, but not more than $15,000,

(3) greater than $15,000, but not more than $50,000,

(4) greater than $50,000, but not more than $100,000,

(5) greater than $100,000.

(c) Campaign receipts or expenditures shall not be included in this report.

(d)(1) Each report shall also contain information listed in paragraphs (1) through (6) of subsection (a) respecting the spouse of the reporting individual as follows:

(A) The source of items of earned income from any person in excess of $1,000.

(B) in the case of any gift which is not received totally independent of the spouse's relationship to the reporting individual, the identity of the source and a brief description or the estimated value of the gift.

(C) In the case of any reimbursement which is not received totally independent of the spouse's relationship to the reporting individual, the identity of the source and a brief description of the reimbursement.

(D) In the case of items described in paragraps (4), (5), and (6), all information required to be reported other than items which the reporting individual certifies represent the spouse's sole financial interest or responsibility and which are not in any way, past or present, derived from the income, assets, or activities of the reporting individual; and from which the reporting individual neither derives, nor expects to derive, any financial or economic benefit.

(2) Each report shall also contain all information listed in paragraphs (4), (5), and (6) of subsection (a) respecting any dependent child of the reporting individual other than respecting items which the reporting individual certifies represent the dependent child's sole financial interest or responsibility and which are not in any way, past or present, derived from the income, assets, or activities of the reporting individual; and from which the reporting individual neither derives, nor expects to derive, any financial or economic benefit.

(3) No report shall be required with respect to the interests of a spouse living separate and apart from the reporting individual with the intention of terminating the marriage or providing for permanent separation; or with respect to any income or obligations of an individual arising from the dissolution of his marriage or the permanent separation from his spouse.

(e) Except as provided in this paragraph, each report shall also contain information respecting the holdings of and income from a trust or other financial arrangement from which the reporting individual or the spouse or dependent children of such individual receives income or in which such person has a beneficial or equity interest. The identity of the holdings and the sources of a trust's income need not be disclosed if the reporting individual, his spouse, and dependent children have no knowledge of the contents or sources of income of the trust. However, where the identity of the holdings and the sources of income of a trust need not be disclosed, the reporting individual must list the category of value of his interest in the total trust holdings under paragraph (4) and must list the amount of income from the trust under paragraph (1).

ACCESSIBILITY OF REPORTS

SEC. 104. (a) Within fifteen calendar days after a report is filed with the Clerk under this title, the Clerk shall make such report available for public inspection at reasonable hours. A copy of any such report shall be provided by the Clerk to any person upon written request.

(b) Within fifteen days after a report is filed with the Secretary under this title, the Secretary shall make such report available for public inspection at reasonable hours. A copy of any such report shall be provided by the Secretary to any person upon written request.

(c) Any person requesting a copy of a report may be required to pay a reasonable fee to cover the cost of reproduction or mailing of such report, excluding any salary of any employee involved in such reproduction or mailing. A copy of such report may be furnished without charge or at a reduced charge if it is determined by the Clerk or Secretary that waiver or reduction of the fee is in the public interest because furnishing the information may be considered as primarily benefiting the public.

(d) Any report filed under this title with the Clerk or Secretary shall be available to the public for a period of five years after receipt of the report. After such five-year period the report shall be destroyed, except that in the case of an individual who filed the report pursuant to section (102)b and was not subsequently elected, such reports shall be destroyed one year after the individual is no longer a candidate for election to the office of Member.

(e)(1) It shall be unlawful for any person to obtain or use a report—

(A) for any unlawful purpose;

(B) for any commercial purpose other than by news and communications media for dissemination to the general public;

(C) for determining or establishing the credit rating of any individual; or

(D) for use, directly or indirectly, in the solicitation of money for any political, charitable, or other purpose.

(2) The Attorney General may bring a civil action against any person who obtains or uses a report for any purpose prohibited in paragraph (1). The court in which such action is brought may assess against such person a penalty in any amount not to exceed $5,000.

REVIEW AND COMPLIANCE PROCEDURES

SEC. 105. (a) The Committee on Standards of Official Conduct of the House of Representatives and the Select Committee on Ethics of the Senate shall establish procedures for the review of reports sent to them under section 102(d)(1) and section 102(d)(2) to determine whether the reports are filed in a timely manner, are complete, and are in proper form. In the event a determination is made that a report is not so filed, the appropriate committee shall so inform the reporting individual and direct him to take all necessary corrective action.

(b) In order to carry out their responsibilities under this Act the Committee on Standards of Official Conduct of the House of Representatives and the Select Committee on Ethics of the Senate, have power, within their respective jurisdictions, to render any advisory opinion, in writing, to persons covered by this title. Notwithstanding any other provisions of law, the individual to whom an advisory opinion is rendered in accordance with this paragraph, and any other individual covered by this title who is involved in a fact situation which is indistinguishable in all material aspects, and who acts in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of such act, be subject to any sanction provided in this Act.

GENERAL ACCOUNTING OFFICE STUDY

SEC. 106. (a) Before November 30, 1980, and regularly thereafter, the Comptroller General of the United States shall conduct a study to determine whether this title is being carried out effectively and whether timely and accurate reports are being filed by individuals subject to this title.

(b) Within thirty days after completion of the study, the Comptroller General shall transmit a report to each House of Congress containing a detailed statement of his findings and conclusions, together with his recommendations for such legislative and administrative actions as he deems appropriate. The first such study shall include the Comptroller General's findings and recommendations on the feasibility and potential need for a requirement that systematic random audits be conducted of financial disclosure reports filed under this title, including a thorough discussion of the type and nature of audits that might be conducted; the personnel and other costs of audits; the value of an audit to Members, the appropriate House and Senate committees, and the public; and, if conducted, whether a governmental or nongovernmental unit should perform the audits, and under whose supervision.

FAILURE TO FILE OR FALSIFYING REPORTS

SEC. 107. The Attorney General may bring a civil action in any appropriate United States district court against any individual who knowingly and willfully falsifies or who knowingly and willfully fails to file or report any information that such individual is required to report under section 103. The court in which such action is brought may assess against such individual a civil penalty in any amount not to exceed $5,000.

DEFINITIONS

SEC. 108. For purposes of this title, the term—

(1) "candidate" means an individual, other than a Member, who seeks nomination for election, or election, whether or not such individual is elected, and for purposes of this paragraph, an individual shall be deemed to seek nomination for election, or election, (A) if he has taken the action necessary under the law of a State to qualify himself for nomination for election, or election, or (B) if he or his principal campaign committee has taken action to register or file campaign reports required by section 304(a) of the Federal Election Campaign Act of 1971, as amended (2 U.S.C. 434(a));

(2) "Clerk" means the Clerk of the House of Representatives;

(3) "committee" means any committee of the Senate or House of Representatives or any subcommittee of any such committee or any joint committee of Congress or any subcommittee of any such joint committee;

(4) "dependent child" means, when used with respect to any reporting individual, any individual who is a son, daughter, stepson, or stepdaughter, and who—

(A) is unmarried and under age 21 and is living in the household of such reporting individual; or

(B) is a dependent of such reporting individual within the meaning of section 152 of the Internal Revenue Code of 1954;

(5) "election" means (A) a general, special, primary, or runoff election, or (B) a convention or caucus of a political party which has authority to nominate a candidate;

(6) "employee" means any individual, other than an officer or Member, whose compensation is disbursed by the Clerk or Secretary;

(7) "estimated value" means a good faith estimate of the dollar value if the exact value is neither known nor easily obtainable by the reporting individual;

(8) "officer" means an elected officer of the Senate or House of Representatives who is not a Member;

(9) "relative" means as individual who is related to the reporting individual as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, or who is the grandfather or grandmother of the spouse of the reporting individual, and shall be deemed to include the fiance of fiancee of the reporting individual;

(10) "Secretary" means the Secretary of the Senate;

(11) "Member" means a United States Senator, a Representative in Congress, a Delegate to Congress, or the Resident Commissioner from Puerto Rico;

(12) "gift" means a payment, advance, forebearance, rendering, or deposit of money, or anything of value, unless consideration of equal or greater value is received, but does not include—

(A) inheritances;

(B) political contributions;

(C) transportation, lodging, food, and entertainment provided (i) by Federal, State, and local governments, or political subdivisions thereof, or (ii) by a foreign government within a foreign country;

(D) communications to the offices of a Member, including subscriptions to newspapers and periodicals;

(E) suitable mementos of a function held in honor of the Member, officer, or employee;

(F) consumable products provided by home-State businesses to a Member's office for distribution; and

(G) food and beverages consumed at banquets, receptions, or similar events;

(13) "reimbursement" means any payment or other thing of value received by a reporting individual, other than gifts, to cover travel-related expenses of such individual other than those which are—

(A) provided by the United States Government, the District of Columbia, or any State or political subdivision thereof;

(B) required to be reported by the reporting individual under section 7342 of title 5 of the United States Code; or

(C) required to be reported under section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434);

(14) "honoraria" means payments of money or any thing of value for an appearance, speech, or article, except that there shall not be taken into account for reporting purposes any actual and necessary travel expenses incurred by such person to the extent that such expenses are paid or reimbursed by any other person, and the amount otherwise determined shall be reduced by the amount of any such expenses to the extent that they are not paid or reimbursed; and

(15) "income" means all income from whatever source derived, including but not limited to the following items: net compensation for services, including fees, commissions, and similar items; net income derived from business; gains derived from dealings in property; interest; rents; royalties; dividends; annuities; income from life insurance and endowment contracts; pensions; income from discharge of indebtedness; distributive share of partnership income; and income from an interest in an estate or trust;

SEC. 109. The provisions added by this title, and the regulations issued thereunder, shall supersede and preempt any State or local law with respect to financial disclosure by reason of candidacy for Federal office or employment by the United States Government.

TITLE II—EXECUTIVE PERSONNEL FINANCIAL DISCLOSURE REQUIREMENTS

PART A—FILING REQUIREMENTS

PERSONS REQUIRED TO FILE

SEC. 201. (a) Upon assuming the position of an officer or employee designated in subsection (f), an individual shall file a report as required by section 202(b).

(b) Upon the transmittal by the President to the Senate of the nomination of an individual (other than an individual nominated for appointment to a grade or rank in the uniformed services for which the pay grade or rank in the uniformed services for which the pay grade prescribed by section 201 of title 37, United States Code, is O-6 below) to a position, appointment to which requires the advice and consent of the Senate, such individual shall file a report as required by section 202(b).

(c) Upon becoming a candidate for nomination or election to the office of President or Vice President, as determined by the Federal Election Commission, an individual shall file a report as required by section 202(b).

(d) Any individual who is an officer or employee designated in subsection (f) during any calendar year and performs the duties of his position or office for a period in excess of sixty days in that calendar year shall file on or before May 15 of the succeeding year a report as required by section 202(a).

(e) Any individual who occupies a position designated in subsection (f), shall on or before the thirtieth day after termination of employment in such position, file a report as required by section 202(a), unless such individual has accepted employment in another position designated in subsection (f).

(f) The officers and employees referred to in subsections (a), (d), and (e) are—

(1) the President;

(2) the Vice President;

(3) each officer or employee in the executive branch, including a special Government employee as defined in section 202 of title 18, United States Code, whose position is classified at GS-16 or above of the General Schedule prescribed by section 5332 of title 5, United States Code, or the rate of basic pay for which is fixed (other than under the General Schedule) at a rate equal to or greater than the minimum rate of basic pay fixed for GS-16; each member of a uniformed service whose pay grade is at or in excess of O-7 under section 201 of title 37, United States Code; and each officer or employee in any other position determined to be of equal clasification;

(4) each officer or employee appointed pursuant to section 3105 of title 5, United States Code;

(5) any employee not described in paragraph (3) who is in a position in the executive branch which is excepted from the competitive service by reason of being of a confidential or policymaking character, except that the Director of the Office of Government Ethics may, by regulation, exclude from the application of this paragraph any individual, or group of individuals, who are in such positions, but only in cases in which the Director determines such exclusion would not affect adversely the integrity of the Government or the public's confidence in the integrity of the Government;

(6) the Postmaster General, the Deputy Postmaster General, each Governor of the Board of Governors of the United States Postal Service and each officer or employee of the United States Postal Service whose basic rate of pay is equal to or greater than the minimum rate of basic pay fixed for GS-16; and

(7) the Director of the Office of Government Ethics and each designated agency official.

(g) Reasonable extensions of time for filing any report may be granted under procedures prescribed by the Director of the Office of Government Ethics established by part B of this title, but the total of such extensions shall not exceed ninety days.

CONTENTS OF REPORTS

SEC. 202. (a) Each report filed under subsections (d) and (e) of section 201 shall include a full and complete statement, in such manner and form as the Director of the Office of Government Ethics may prescribe, with respect to the following:

(1) The source, type, and amount of income from any one source (other than from current employment by the United States Government), including honoraria, received during the preceding calendar year aggregating $100 or more in value.

(2)(A) The identity of the source and a brief description of any gifts of transportation, lodging, food, or entertainment aggregating $250 or more in value received from any one source other than a relative of the reporting individual during the preceding calendar year, except that any food, lodging, or entertainment received as personal hospitality of any individual need not be reported, and any gift with a fair market value of $35 or less need not be aggregated for purposes of this subparagraph.

(B) The identity of the source, a brief description, and the estimated value of all gifts other than transportation, lodging, food, or

entertainment aggregating $100 or more in value received from any one source other than a relative of the reporting individual during the preceding calendar year, except that any gift with a fair market value of $35 or less need not be aggregated for purposes of this subparagraph.

(C) The identity of the source and a brief description of reimbursements received from a single source aggregating $250 or more in value and received during the preceding calendar year.

(3) The identity and category of value of any interest in property held in a trade or business, or for investment or the production of income, which has a fair market value which exceeds $1,000 as of the close of the preceding calendar year, excluding any personal liability owed to the reporting individual by a relative.

(4) The identity and category of value of the total liabilities owed to any creditor other than a relative which exceeds $5,000 as of the close of the preceding calendar year, excluding—

(A) any mortgage secured by real property which is a personal residence of the reporting individual or his spouse; and

(B) any loan secured by a personal motor vehicle or household furniture or appliances.

(5) Except as provided in this paragraph, a brief description, the date, and category of value of any purchase, sale or exchange during the preceding calendar year which exceeds $1,000—

(i) in real property, other than a personal residence of the reporting individual or his spouse; or

(ii) in stocks, bonds, commodities futures, and other forms of securities.

Reporting is not required under this paragraph of any transaction solely by and between the reporting individual, his spouse, or dependent children.

(6) The identity of all positions held on or before the date of filing during the current calendar year (and, for the initial report, during the two-year period preceding such calendar year) as an officer, director, trustee, partner, proprietor, representative, employee, or consultant of any corporation, company, firm, partnership, or other business enterprise, any nonprofit organization, any labor organization, and any educational or other institution. This paragraph shall not require the reporting of positions held in any religious, social, fraternal, charitable, or political entity.

(7) A description of the date, parties to, and terms of any agreement or arrangement with respect to: (A) future employment; (B) a leave of absence during the period of the reporting individual's Government service; (C) continuation of payments by a former employer other than the United States Government; and (D) continuing participation in an employee welfare or benefit plan maintained by a former employer.

(b) Each report filed under subsections (a), (b), and (c) of section 201 shall include a full and complete statement in such manner and form as the Director of the Office of Government Ethics may prescribe, with respect to information required by paragraphs (3), (4), (6), and (7) of subsection (a), as of a date, specified in such report, which shall be not more than thirty-one days prior to the date of filing, and the sources and amounts of income for the year of filing and the preceding calendar year.

(c) In the case of any individual described in section 201(e) of this Act, any reference to the preceding calendar year shall be considered to include that part of the current year up to the date of the termination of employment.

(d) The categories for reporting the amount or value of the items covered in paragraphs (3), (4) and (5) of subsection (a) or in subsection (e) are as follows:

(1) up to $5,000;

(2) from $5,000 to $15,000;

(3) from $15,000 to $50,000;

(4) from $50,000 to $100,000; and

(5) greater than $100,000.

(e)(1) Except as provided in the last sentence of this paragraph, each report shall also contain information listed in paragraphs (1) through (5) of subsection (a) respecting the spouse of the reporting individual as follows:

(A) The source of items of earned income from any person which exceed $1,000.

(B) In the case of any gift which is not received totally independent of the spouse's relationship to the reporting individual, the identity of the source and a brief description or the estimated value of the gift.

(C) In the case of any reimbursement which is not received totally independent of the spouse's relationship to the reporting individual, the identity of the source and a brief description of the reimbursement.

(D) In the case of items described in paragraphs (3) through (5), all information required to be reported other than items (i) which the reporting individual certifies represent the spouse's sole financial interest or responsibility, (ii) which are in any way, past or present, derived from the income, assets, or activities of the reporting individual, and (iii) from which the reporting individual neither derives, nor expects to derive, any financial or economic benefit.

Each report referred to in subsection (b) of this section shall, with respect to the spouse of the reporting individual contain information listed in paragraphs (1), (3), and (4) of subsection (a) only.".

(2) Except as provided in the last sentence of this paragraph, each report shall also contain all information listed in paragraphs (3) through (5) of subsection (a) respecting any dependent child of the reporting individual other than items (A) which the reporting individual certifies represent the dependent child's sole financial interest or responsibility, (B) which are not in any way, past or present, derived from the income, assets, or activities of the reporting individual, and (C) from which the reporting individual neither derives, nor expects to derive, any financial or economic benefit. Each report referred to in subsection (b) of this section shall, with respect to any dependent child, contain information listed in paragraphs (3) and (4) of subsection (a) only.

(3) No report shall be required with respect to a spouse living separate and apart from the reporting individual with the intention of terminating the marriage or providing for permanent separation; or with respect to any income or obligations of an individual arising from the dissolution of his marriage or the permanent separation from his spouse.

(f) The holdings of and the income from a trust or other financial arrangement from which the reporting individual, spouse, or dependent child receives income or in which such person has a beneficial or equity interest must be reported according to the provisions of this section; except that if the trust or financial arrangement is a blind trust approved under regulations promulgated by the Civil Service Commission, with the concurrence of the Attorney General, as necessary to avoid potential or apparent conflicts of interest under section 208 of title 18, United States Code, and other applicable law and regulations, the report shall so indicate and need only include (in addition to a statement of the income from the blind trust in accordance with section 202 of this Act) a copy of the instrument or agreement establishing such blind trust and, to the extent known or readily ascertainable, the identity and category of value of assets contained in the trust or arrangement at the time it became a blind trust, and the identity and category of value of assets subsequently added to the blind trust.

(g) Political campaign funds, including campaign receipts and expenditures, shall not be included in any report filed pursuant to this part.

FILING OF REPORTS

SEC. 203. (a) Except as otherwise provided in this subsection, the reports required under this part shall be filed by the reporting individual with the designated agency official at the agency by which he is employed or in which he will serve. The date any report is received (and the date of receipt of any supplemental report) shall be noted on such report by such official.

(b) The President and the Vice President shall file reports required under this part with the Director of the Office of Government Ethics only.

(c) Copies of the reports required to be filed by candidates for the office of President or Vice President, and Postmaster General, the Deputy Postmaster General, the Governors of the Board of Governors of the United States Postal service, designated agency officials, and officers and employees in (and nominees to) offices or positions which require confirmation by the Senate or by both Houses of Congress shall be transmitted to the Director of the Office of Government Ethics.

(d) Reports required to be filed by the Director shall be filed in the Office of Government Ethics and, immediately after being filed, shall be made available to the public in accordance with this part.

(e) Each individual identified in section 201(c) shall file the report required by this part with the Federal Elections Commission.

(f) Reports required of members of the uniformed services shall be filed with the Secretary concerned.

FAILURE TO FILE OR FALSIFYING REPORTS

SEC. 204. (a) The Attorney General may bring a civil action in any appropriate United States District Court against any indivdual who knowingly and willfully falsifies or who knowingly or willfully fails to file or report any information that such individual is required to report under section 202. The court in which such action in brought may assess against such individual a civil penalty in any amount not to exceed $5,000.

(b) The head of each agency, each Secretary concerned, and the Director of the Office of Government Ethics shall refer to the Attorney General the name of any individual they have reasonable cause to believe has willfully failed to file a report or has willfully falsified or willfully failed to file information required to be reported.

(c) The President, the Vice President, the Secretary concerned, and the head of each agency, or the Civil Service Commission, may take any appropriate personnel or other action in accordance with applicable law or regulation against any individual failing to file a report or falsifying or failing to report information required to be reported.

CUSTODY OF AND PUBLIC ACCESS TO REPORTS

SEC. 205. (a) Each agency shall make each report filed with it under this title available to the public in accordance with the provisions of subsection (b) of this section, together with a copy of the official position description of the Government office or position held by the reporting individual involved (if available) which shall be added to such report by such individual's designated agency official or Secretary concerned, except that this section does not require public availability of the report filed by any individual in the Central Intelligence Agency, the Defense Intelligence Agency, or the National Security Agency, or any individual engaged in intelligence activities in any agency of the United States, if the President finds that, due to the nature of the office or position occupied by such individual, public disclosure of such report would compromise the national inter-

est of the United States. In addition, such individuals may be authorized, notwithstanding section 204(a), to file such additional reports as are necessary to protect their identity from public disclosure if the President first finds that such filing is necessary in the national interest.

(b)(1) The agency shall require each person requesting inspection or a copy of a report under subsection (a) of this section to execute an application stating—

(A) his name, occupation, address, and telephone number;

(B) the name, address, and telephone number of the person or organization, if any, on whose behalf he is making the request; and

(C) that the information obtained by such inspection or from such copy shall not be used for any purpose prohibited by subsection (c) of this section.

(2) Upon receipt of an application required by paragraph (1) of this subsection, the agency shall promptly forward a copy of such application to the reporting individual, if the reporting individual is an officer or employee of the agency at the time the application is received. The agency shall permit inspection by or furnish a copy of the report to any requesting person within fifteen days after the report is received by the agency. The agency shall require such requesting person to pay a reasonable fee in an amount which the agency finds necessary to cover the costs of reproduction and mailing of such report.

(3) Once the requesting person has inspected or received a copy of a report, his name and address and the name and address of the person or organization, if any, on whose behalf the inspection or copy was requested, shall be made available to the public.

(c)(1) It shall be unlawful for any person to obtain or use a report—

(A) for any unlawful purpose;

(B) for any commercial purpose, other than by news and communications media for dissemination to the general public;

(C) for determining or establishing the credit rating of any individual; or

(D) for use, directly or indirectly, in the solicitation of money for any political, charitable, or other purpose.

(2) The Attorney General may bring a civil action against any person who obtains or uses a report for any purpose prohibited in paragraph (1) of this subsection. The court in which such action is brought may assess against such person a penalty in any amount not to exceed $5,000. Such remedy shall be in addition to any other remedy available under statutory or common law.

(d) Any report filed with an agency, or transmitted to the Director of the Office of Government Ethics, pursuant to this part shall be retained by such agency or the Office of Government Ethics, or both, as the case may be. Such report shall be made available to the public for a period of five years after receipt of the report. After such five-year period the report shall be destroyed, except that in the case of an individual who filed the report pursuant to section 201(b) and was not subsequently confirmed by the Senate, or who filed the report pursuant to section 201(c) and was not subsequently elected, such reports shall be destroyed one year after the individual either is no longer under consideration by the Senate or is no longer a candidate for nomination or election to the Office of President or Vice President.

REVIEW OF REPORTS

SEC. 206. (a) Each designated agency official or Secretary concerned shall make provisions to ensure that each report filed with him under this part shall be reviewed within 60 days after the date of such filing, except that the Director of the Office of Government Ethics only shall review those reports transmitted to him under this part within 60 days after the date of transmittal.

(b)(1) If after reviewing any report under subsection (a), the Director of the Office of Government Ethics, Secretary concerned, or designated agency official, as the case may be, is of the opinion that on the basis of information contained in such report the individual submitting such report is in compliance with applicable laws and regulations, he shall state such option on the report, and shall sign such report.

(2) If the Director of the Office of Government Ethics, Secretary concerned, or designated agency official, after reviewing any report under subsection (a)—

(A) believes additional information is required to be submitted, he shall notify the individual submitting such report what additional information is required and the time by which it must be submitted, or

(B) is of the opinion, on the basis of information submitted, that the individual is not in compliance with applicable laws and regulations, he shall notify the individual, afford him a reasonable opportunity for a written or oral response, and after consideration of such response, reach an opinion as to whether or not, on the basis of information submitted, the individual is in compliance.

(3) If the Director of the Office of Government Ethics, Secretary concerned, or designated agency official reaches an opinion under paragraph (2)(B) that an individual is not in compliance with applicable laws and regulations, he shall notify the individual of that opinion and, after an opportunity for personal consultation (if practicable), determine and notify the individual of which steps, if any, would in his opinion be appropriate for assuring compliance with such laws and regulations and the date by which such steps should be taken. Such steps may include, as appropriate—

(A) divestiture,

(B) restitution,

(C) the establishment of a blind trust,

(D) request for an exemption under section 208(b) of title 18, United States Code, or

(E) voluntary request for transfer, reassignment, limitation of duties, or resignation.

The use of any such steps shall be in accordance with such regulations as the Director of the Office of Government Ethics or a Secretary concerned, as the case may be, may prescribe.

(4) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under paragraph (3) by an individual in a position (other than in the uniformed services), appointment to which requires the advice and consent of the Senate, the matter shall be referred to the President for appropriate future action.

(5) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under paragraph (3) by a member of the uniformed services, the Secretary concerned shall take appropriate future action.

(6) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under pargaraph (3) by any other officer or employee the matter shall be referred to the head of the appropriate agency for further appropriate action; except that in the case of the Postmaster General or Deputy Postmaster General, the Director of the Office of Government Ethics shall recommend to the Governors of the Board of Governors of the United States Postal Service the further action to be taken.

(7) For purposes of assisting employees in avoiding situations in which they would not be in compliance with applicable laws and regulations, each Secretary concerned and designated agency official (including the President in the case of the individuals employed in the Executive Office of the President) shall maintain a list of those circumstances or situations which have or may result in noncompliance with such laws or regulations. Such list shall be periodically published, and shall be furnished to those individuals employed within the agency who are required to file reports under this part. The absence of any situation or circumstance from such a list shall not be construed as an indication that an individual in such circumstances or situations would be in compliance with such laws or regulations.

(8) The preceding provisions of this subsection shall not apply in the case of the President or Vice President, or a candidate or nominee for such office.

ADDITIONAL REPORTING REQUIREMENTS

SEC. 207. (a) The President may require officers and employees in the executive branch (including the United States Postal Service and members of the uniformed services) not covered by this part to submit confidential reports in such form as is required by this part. Section 205 (a), (b), and (d) shall not apply with respect to any such report.

(b) The provisions of this title requiring the reporting of information shall supersede any general requirement under any other provision of law or regulation with respect to the reporting of information required for purposes of preventing conflicts of interest or apparent conflicts of interest. Such provisions of this title shall not supersede the requirements of section 7342 of title 5, United States Code.

(c) Nothing in this Act requiring reporting of information shall be deemed to authorize the receipt of income, gifts, or reimbursements; the holding of assets, liabilities, or positions; or the participation in transactions that are prohibited by law, Executive order, or regulation.

AUTHORITY OF COMPTROLLER GENERAL

SEC. 208. The Comptroller General shall have access to financial disclosure reports filed under this part for the purposes of carrying out his statutory responsibilities.

EFFECTIVE DATE

SEC. 209. The provisions made by this part shall take effect on January 1, 1979, and the reports filed under section 201(d) on May 15, 1979, shall include information for calendar year 1978.

DEFINITIONS

SEC. 210. For the purposes of this part, the term—

(1) "income" means all income from whatever source derived, including but not limited to the following items: net compensation for services, including fees, commissions, and similar items; net income derived from business; gains derived from dealings in property; interest; rents; royalties; dividends; annuities; income from life insurance and endowment contracts; pensions; income from discharge of indebtedness; distributive share of partnership income; and income from an interest in an estate or trust;

(2) "relative" means an individual who is related to the reporting individual as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, or who is the grandfather or grandmother of the spouse of the reporting individual, and shall be deemed to include the fiance or fiancee of the reporting individual.

(3) "gift" means a payment, advance, forbearance, rendering, or deposit of money, or any thing of value, unless consideration of equal or greater value is received by the donor, but does not include—

(A) bequest and other forms of inheritance;

(B) suitable mementos of a function honoring the reporting individual;

(C) food, lodging, transportation, and entertainment provided by a foreign government within a foreign country; or by the United States Government; or

(D) food and beverages consumed at banquets, receptions, or similar events.

(4) "honoraria" means payments of money or any thing of value for an appearance, speech, or article, except that there shall not be taken into account for reporting purposes any actual and necessary travel expenses incurred by such person to the extent that such expenses are paid or reimbursed by any other person, and the amount otherwise determined shall be reduced by the amount of any such expenses to the extent that they are not paid or reimbursed;

(5) "estimated value" means a good faith estimate of the dollar value if the exact value is neither known nor easily obtainable by the reporting individual;

(6) "personal hospitality of any individual" means hospitality extended for a nonbusiness purpose by an individual, not a corporation or organization, at the personal residence of that individual or his family or on property or facilities owned by that individual or his family;

(7) "blind trust" means a trust of other financial arrangement administered by a trustee independent from and unassociated with the reporting individual and such individual's spouse and dependent children and administered in a manner which insulates the reporting individual, such spouse, and dependent children from the knowledge of the holdings and sources of income of the trust;

(8) "dependent child" means, when used with respect to any reporting individual, any individual who is a son, daughter, stepson or stepdaughter and who—

(A) is unmarried and under age 21 and is living in the household of such reporting individual; or

(B) is a dependent of such reporting individual within the meaning of section 152 of the Internal Revenue Code of 1954;

(9) "reinbursement" means any payment or other thing of value reecived by the reporting individual, other than gifts, to cover travel-related expenses of such individual other than those which are—

(A) provided by the United States Government;

(B) required to be reported by the reporting individual under section 7342 of title 5, United States Code; or

(C) required to be reported under section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434);

(10) "Secretary concerned" has the meaning set forth in section 101(8) of title 10, United States Code, and, in addition, means—

(A) the Secretary of Commerce, with respect to matters concerning the National Oceanic and Atmospheric Administration; and

(B) the Secretary of Health, Education, and Welfare, with respect to matters concerning the Public Health Service; and

(11) "designated agency official" means an officer or employee who is designated to administer the provisions of this part within an agency.

PART B—OFFICE OF GOVERNMENT ETHICS

OFFICE OF GOVERNMENT ETHICS

SEC. 221. (a) There is established in the Civil Service Commission (hereinafter referred to as the "Commission") an office to be known as the Office of Government Ethics.

(b) There shall be at the head of the Office of Government Ethics a Director (hereinafter referred to as the "Director"), who shall be appointed by the President, by and with the advice and consent of the Senate.

AUTHORITY AND FUNCTIONS

SEC. 222. (a) The Director shall provide, under the general supervision of the Commission, overall direction of executive branch policies related to preventing conflicts of interest on the part of officers and employees of any executive agency, as defined in section 105 of title 5, United States Code.

(b) The responsibilities of the Director shall include—

(1) developing and recommending to the Commission, in consultation with the Attorney General, rules and regulations to be promulgated by the President or the Commission pertaining to conflicts of interest and ethics in the executive branch, including rules and regulations establishing procedures for the filing, review, and public availability of financial statements filed by officers and employees in the executive branch as required by part A of this title;

(2) developing and recommending to the Commission, in consultation with the Attorney General, rules and regulations to be promulgated by the President or the Commission pertaining to the identification and resolution of conflicts of interest;

(3) monitoring and investigating compliance with the public financial disclosure requirements of part A of this title by officers and employees of the executive branch and executive agency officials responsible for receiving, reviewing, and making available such statements;

(4) conducting a review of financial statements to determine whether such statements reveal possible violations of applicable conflict of interest laws or regulations and recommending appropriate action to correct any conflict of interest or ethical problems revealed by such review;

(5) monitoring and investigating individual and agency compliance with any additional financial reporting and internal review requirements established by law for the executive branch;

(6) interpreting rules and regulations issued by the President or the Commission governing conflict of interest and ethical problems and the filing of financial statements;

(7) consulting, when requested, with agency ethics counselors and other responsible officials regarding the resolution of conflict of interest problems in individual cases;

(8) ordering corrective action on the part of agencies and employees which the Director deems necessary;

(9) requiring such reports from executive agencies as the Director deems necessary;

(10) assisting the Atttorney General in evaluating the effectiveness of the conflict of interest laws and in recommending appropriate amendments;

(11) evaluating, with the assistance of the Attorney General, the need for changes in rules and regulations issued by the Commission and the agencies regarding conflict of interest and ethical problems, with a view toward making such rules and regulations consistent with and an effective supplement to the conflict of interest laws;

(12) cooperating with the Atttorney General in developing an effective system for reporting allegations of violations of the conflict of interest laws to the Attorney General, as required by section 535 of title 28, United States Code; and

(13) providing information on and promoting understanding of ethical standards in executive agencies.

(c) In the development of policies, rules, regulations, procedures, and forms to be recommended, authorized, or prescribed by him, the Director shall consult when appropriate with the executive agencies affected, and the Attorney General.

(d) Pursuant to the Director's responsibilities under subsection (b)(1), the Director shall, within one hundred and twenty days after the date of enactment of this Act, develop and recommend to the Commission, and the Commission shall promulgate, a regulation establishing a method or methods for readily determining, without the necessity for expert appraisal, the fair market value of assets required to be disclosed by this Act.

ADMINISTRATIVE PROVISIONS

SEC. 223. Upon the request of the Director, each executive agency is directed to—

(1) make its services, personnel, and facilities available to the Director to the greatest practicable extent for the performance of functions under this Act; and

(2) except when prohibited by law, furnish to the Director all information and records in its possession which the Director may determine to be necessary for the performance of his duties.

SEC. 224. In promulgating rules and regulations pertaining to financial disclosure, conflict of interest and ethics in the Executive Branch, the Commission shall issue rules and regulations in accordance with chapter 5 of title 5, U.S. Code. Any person may seek judicial review of any such rule or regulation.

AUTHORIZATION OF APPROPRIATIONS

SEC. 225. There are authorized to be appropriated to carry out the provisions of this title, and for no other purpose—

(1) not to exceed $1,000,000 for the fiscal year ending September 30, 1979;

(2) not to exceed $1,000,000 for each of the four fiscal years thereafter.

ANNUAL PAY

SEC. 226. Paragraph (122) of section 5316 of title 5, United States Code, is amended to read as follows:

"(122) Director of the Office of Government Ethics.".

PART C—CONFLICT OF INTEREST

AMENDMENT TO TITLE 18, SECTION 207

SEC. 241. (a) Section 207 of title 18, United States Code, is amended to read as follows:

§ 207. Disqualification of former officers and employees: disqualification of partners of current officers and employees

"(a) Whoever, having been an officer or employee of the executive branch of the United States Government, of any independent agency of the United States, or of the District of Columbia, including a special Government employee, after his employment has ceased, knowingly acts as agent or attorney for, or otherwise represents, any other person (except the United States) in any formal or informal appearance before, or, with the intent to influence, makes any written or oral communication on behalf of any other person (except the United States) to—

"(1) any department, agency, court, court-martial, or any civil, military, or naval commission of the United States or the District of Columbia, or any officer or employee thereof, and

"(2) in connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge accusation, arrest, or other particular matter involving a specific party or parties in which the United States or the District of Columbia is a party or has a direct and substantial interest, and

"(3) in which he participated personally and substantially as an officer or employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise, while so employed; or

"(b) Whoever, (1) having been so employed, within two years after his employment

has ceased, knowingly acts as agent or attorney for, or otherwise represents, any other person (except the United States), in any formal or informal appearance before, or, with the intent to influence, makes any oral or written communication on behalf of any other person (except the United States) to, or (ii) having been so employed in a position designated pursuant to subsection (c) of this section, within two years after his employment has ceased, knowingly aid or assists in representing any other person (except the United States) in any formal or informal appearance before—

"(1) any department, agency, court, court-martial, or any civil, military or naval commission of the United States or the District of Columbia, or any officer or employee thereof, and

"(2) in connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge accusation, arrest, or other particular matter involving a specific party or parties in which the United States or the District of Columbia is a party or has a direct and substantial interest, and

"(3) which was actually pending under his official responsibility as an officer or employee within a period of one year prior to the termination of such responsibility or in which he participated personally and substantially as an officer or employee; or

"(c) Whoever, having been so employed—

"(i) at a rate of pay specified in subchapter II of chapter 53 of title 5, United States Code, or a comparable or greater rate of pay under other authority; or

"(ii) at a rate of pay equal to or in excess of the minimum established for positions classified at GS–16 of the General Schedule prescribed by section 5332 of title 5, United States Code, and in a position excepted from the competitive service by reason of being of a confidential or policymaking character; or

"(iii) on active duty as a commissioned officer of a uniformed service assigned to a pay grade of 0–7 or above as described in section 201 of title 37, United States Code; or

"(iv) in a position designated by the Director of the Office of Government Ethics pursuant to subsection (d) of this section—

within one year after his employment under these circumstances has ceased, knowingly acts as agent or attorney for or otherwise represents any other person (except the United States) in any formal or informal appearance before, or, with the intent to influence, make any oral or written communication on behalf of any other person (except the United States) to—

"(1) the department or agency in which he served as an officer or employee, or any officer or employee thereof, and

"(2) in connection with any judicial, rulemaking, or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter, and

"(3) which is pending before such department or agency or in which such department or agency has a direct and substantial interest—

Shall be fined not more than $10,000 or imprisoned for not more than two years, or both.

"(d) Within six months of the effective date of this Act, the head of each department or agency shall recommend to the Director of the Office of Government Ethics which positions in the department or agency in addition to those designated pursuant to clauses (i), (ii), and (iii) of subsection (c) are occupied by an officer or employee who has a role in the formulation of agency policy that is substantially similar to that exercised by persons designated pursuant to clauses (i), (ii), and (iii) of subsection (c) of this section. After reviewing such remommendations and consulting further with the heads of the departments and agencies, the Director shall, within one year of the effective date of this Act, publish regulations designating the additional positions referred to in paragraph (iv) of subsection (c). The Director, upon the recommendation of or in consultation with the head of the department or agency concerned, may thereafter publish such amendments to the list of positions designated pursuant to this subsection as are necessary to satisfy the purposes of this subsection.

"(e) For the purposes of subsection (c), whenever the Director of the Office of Government Ethics determines that a separate statutory agency or bureau within a department or agency exercises functions which are distinct and separate from the remaining functions of the department or agency, the Director shall by rule designate such agency or bureau as a separate 'department or agency': *Provided,* That this designation shall not apply to former heads of designated bureaus or agencies or former officers and employees of the department or agency whose official responsibilities included supervision of said agency or bureau.

"(f) The prohibitions of subsections (a), (b), and (c) shall not apply with respect to the making of communications solely for the purpose of furnishing scientific or technological information under procedures acceptable to the department or agency concerned or if the head of the department or agency concerned with the particular matter, in consultation with the Director of the Office of Government Ethics, makes a certification, published in the Federal Register, that the former officer or employee has outstanding qualifications in a scientific, technological, or other specialized discipline and is acting with respect to a particular matter which requires such qualifications, and that the national interest would be served by the participation of the former officer or employee.

"(g) The prohibitions contained in subsection (c) of this section shall not apply with respect to any formal or informal appearance before or communication to a department or agency by a person who is a member in good standing before, and is licensed or certified to practice in a profession by, any Federal or State licensing or certifying authority for such profession, if the following conditions are met:

"(1) Such person is subject to discipline, including suspension or revocation of such person's license or certification to practice, by the licensing or certifying authority on account of—

"(A) a failure to possess the requisite qualifications to represent others,

"(B) a lack of character or integrity, or

"(C) engaging in unethical or improper professional conduct.

"(2) Such department or agency has in effect standards of ethical conduct—

"(A) for its officers and employees which, at a minimum, prescribe and subject such officers and employees to disciplinary action, including suspension or dismissal, for—

"(i) using public office for private gain,

"(ii) giving preferential treatment to any person,

"(iii) impeding Government efficiency or economy,

"(iv) compromising independence or

"(v) making a Government decision outside official channels, or

"(vi) affecting adversely the confidence of the public in the integrity of government; and

"(B) for its former officers and employees which, at a minimum, provide for disciplinary action, including the suspension or revocation of the privilege of appearing or practicing before it, upon a finding (after notice and an opportunity for hearing) or—

"(i) failure to possess the requisite qualification for representing others,

"(ii) lack of character or integrity; or

"(iii) engaging in unethical or improper professional conduct.

"(3) Such appearance before, or communication to such department or agency is of a category exempted from the prohibitions contained in subsection (c), for purposes of this subsection, by general rule or regulation promulgated by the department or agency, in consultation with the Director of the Office of Government Ethics, and published in the Federal Register.

"(4) (A) A file containing—

"(i) any such written communication (and responses thereto),

"(ii) memoranda stating the substance of any such oral communication (and responses thereto), and

"(iii) all written communications (and responses thereto) and memoranda stating the substance of all oral communications (and responses thereto) in connection with any such appearance,

is made available for public inspection and copying immediately upon request, notwithstanding any provision of section 552(a)(6) of title 5, United States Code.

"(5) Such appearance is not before, or communication is not with, any person under the direct supervision and control of such former officer or employee, while employed with such department or agency.

"(6) Such former officer or employee files a written declaration with the department or agency that he or she is currently qualified to appear in a representative capacity before the department or agency, and that the appearance or communication is not intended to have, and cannot reasonably be expected to have, any effect described in paragraph (2)(A) (i) through (vi) of this subsection.

For purposes of this subsection, the term "State" includes the District of Columbia and any territory or possession of the United States.

"(h) Whoever, being a partner of an officer or employee of the executive branch of the United States Government, or any independent agency of the United States, or of the District of Columbia, including a special Government employee, acts as agent or attorney for any other person (except the United States) before any department, agency, court, court-martial, or any civil, military, or naval commission of the United States or the District of Columbia, or any officer or employee thereof, in connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter in which the United States or the District of Columbia is a party or has a direct and substantial interest and in which such officer or employee of the Government or special Government employee participates or has participated personally and substantially as a Government employee through decision approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, or which is the subject of his official responsibility, shall be fined not more than $5,000, or imprisoned not more than one year, or both.

"(i) Nothing in this section shall prevent a former officer or employee from giving testimony under oath or from making statements required to be made under penalty of perjury, or from giving any testimony or making any statement or communication, if such former officer or employee receives no compensation for such testimony, statement, or communication, other than that regularly provided by law or regulation for witnesses.".

(b) The item relating to section 207 in the table of sections at the beginning of chapter 11 of title 18, United States Code, is amended to read as follows:

"207. Disqualification of former officers and employees; disqualification of partners of current officers and employees.".

APPLICABILITY

SEC. 242. The amendments made by section 241 shall not apply to those individuals who left Government service prior to the effective date of such amendments or, in the case of individuals who occupied positions designated pursuant to paragraph (iv) of subsection (c) of section 207, title 18, United States Code, prior to the effective date of such designation: *Provided*, That any such individual who returns to Government service on or after the effective date of such amendments or designation shall be thereafter covered by such amendments or designation.

SEC. 243. Except where the employee's Agency or Department shall have more restrictive limitations on outside earned income, all employees covered by this title who are compensated at a pay grade in the General Schedule of Grade 16 or above and who occupy non-judicial full-time positions appointment to which is required to be made by the President, by and with the advice and consent of the Senate, may not have in any calendar year outside earned income attributable to such calendar year which is in excess of 15 percent of their salary.

EFFECTIVE DATE

SEC. 244. The amendments made by section 241 shall be effective on July 1, 1979.

TITLE III—JUDICIAL PERSONNEL FINANCIAL DISCLOSURE REQUIREMENTS

PERSONS REQUIRED TO FILE

SEC. 301. (a) Upon assuming the position of a judicial employee, an individual shall file a report as required by section 302(b).

(b) Upon the transmittal by the President to the Senate of the nomination of an individual to be a judicial officer, such individual shall file a report as required by section 302(b).

(c) Any individual who is a judicial officer or employee during any calendar year and performs the duties of his position or office for a period in excess of sixty days in that calendar year shall file on or before May 15 of the succeeding year a report as required by section 302(a).

(d) Any individual who occupies a position as a judicial officer or employee shall on or before the thirtieth day after termination of employment in such position, file a report as required by section 302(a), unless such individual has accepted employment in another position as a judicial officer or employee.

(e) For purposes of this title, the term—

(1) "judicial officer" means the Chief Justice of the United States, the Associate Justices of the Supreme Court, and the judges of the courts of appeals; district courts, including the district courts in the Canal Zone, Guam, and the Virgin Islands; Court of Claims; Court of Customs and Patent Appeals; Customs Court; and any court created by Act of Congress, the judges of which are entitled to hold office during good behavior; and

(2) "judicial employee" means any employee of the judicial branch of the Government, not described in paragraph (1), who is authorized to perform adjudicatory functions with respect to proceedings in the judicial branch, or who receives compensation at a rate at or in excess of the minimum rate prescribed for grade 16 of the General Schedule under section 5332 of title 5, United States Code.

(f) Reasonable extensions of time for filing any report may be granted under procedures prescribed by the Judicial Ethics Committee established by section 303(a) of this title (hereinafter in this title referred to as the "Committee"), but the total of such extensions shall not exceed ninety days.

CONTENTS OF REPORT

SEC. 302. (a) Each report filed under subsections (c) and (d) of section 301 shall include a full and complete statement, in such manner and form as the Committee with the approval of the Judicial Conference of the United States may prescribe, with respect to the following:

(1) The source, type, and amount of income from any one source (other than from current employment by the United States Government), including honoraria, received during the preceding calendar year aggregating $100 or more in value.

(2)(A) The identity of the source and a brief description of any gifts of transportation, lodging, food, or entertainment aggregating $250 or more in value received from any one source other than a relative of the reporting individual during the preceding calendar year, except that any food, lodging, or entertainment received as personal hospitality of any individual need not be reported, and any gift with a fair market value of $35 or less need not be aggregated for purposes of this subparagraph.

(B) The identity of the source, a brief description, and the estimated value of all gifts other than transportation, lodging, food, or entertainment aggregating $100 or more in value received from any one source other than a relative of the reporting individual during the preceding calendar year, except that any gift with a fair market value of $35 or less need not be aggregated for purposes of this subparagraph.

(C) The identity of the source and a brief description of reimbursements received from a single source aggregating $250 or more in value and received during the preceding calendar year.

(3) The identity and category of value of any interest in property held in a trade or business, or for investment or the production of income, which has a fair market value which exceeds $1,000 as of the close of the preceding calendar year, excluding any personal liability owed to the reporting individual by a relative.

(4) The identity and category of value of the total liabilities owed to any creditor other than a relative which exceeds $5,000 as of the close of the preceding calendar year, excluding—

(A) any mortgage secured by real property which is a personal residence of the reporting individual or his spouse; and

(B) any loan secured by a personal motor vehicle or household furniture or appliances.

(5) Except as provided in this paragraph, a brief description, the date, and category of value of any purchase, sale or exchange during the preceding calendar year which exceeds $1,000—

(i) in real property, other than a personal residence of the reporting individual or his spouse, or

(ii) in stocks, bonds, commodities futures, and other forms of securities.

Reporting is not required under this paragraph of any transaction solely by and between the reporting individual, his spouse, or dependent children.

(6) The identity of all positions held on or before the date of filing during the current calendar year (and, for the initial report, during the two-year period preceding such calendar year) as an officer, director, trustee, partner, proprietor, representative, employee, or consultant of any corporation, company, firm, partnership or other business enterprise, any nonprofit organization, any labor organization, and any educational or other institution. This paragraph shall not require the reporting of positions held in any religious, social, fraternal, charitable, or political entity.

(7) A description of the date, parties to, and terms of any agreement or arrangement with respect to (A) future employment; (B) a leave of absence during the period of the reporting individual's Government service; (C) continuation of payments by a former employer other than the United States Government; and (D) continuing participation in an employee welfare or benefit plan maintained by a former employer.

(b) Each report filed under subsections (a) and (b) of section 301 shall include a full and complete statement, in such manner and form as the Committee with the approval of the Judicial Conference of the United States may prescribe, with respect to information required by paragraphs (3), (4), (6), and (7) of subsection (a), as of a date, specified in such report, which shall be not more than thirty-one days prior to the date of filing, and the sources and amounts of earned income and other payments for the year of filing and the preceding calendar year.

(c) In the case of any individual described in section 301(d) of this Act, any reference to the preceding calendar year shall be considered to include that part of the current calendar year up to the date of the termination of employment.

(d) The categories for reporting the amount or value of the items covered in paragraphs (3), (4) and (5) of subsection (a) or in subsection (e) are as follows:

(1) up to $5,000;

(2) from $5,000 to $15,000;

(3) from $15,000 to $50,000;

(4) from $50,000 to $100,000; and

(5) greater than $100,000.

(e)(1) Except as provided in the last sentence of this paragraph, each report shall also contain information listed in paragraphs (1) through (5) of subsection (a) respecting the spouse of the reporting individual as follows:

(A) The source of items of earned income from any person which exceed $1,000.

(B) In the case of any gift which is not received totally independent of the spouse's relationship to the reporting individual, the identity of the source and a brief description or the estimated value of the gift.

(C) In the case of any reimbursement which is not received totally independent of the spouse's relationship to the reporting individual, the identity of the sources and a brief description of the reimbursement.

(D) In the case of items described in paragraphs (3) through (5), all information required to be reported other than items (i) which the reporting individual certifies represent the spouse's sole financial interest or responsibility, (ii) which are not in any way, past or present, derived from the income, assets or activities of the reporting individual, and (iii) from which the reporting individual neither derives, nor expects to derive, any financial or economic benefit.

Each report referred to in subsection (b) of this section shall, with respect to the spouse of the reporting individual, contain information listed in paragraphs (1), (3), and (4) of subsection (a) only.

(2) Except as provided in the last sentence of this paragraph, each report shall also contain all information listed in paragraphs (3) through (5) of subsection (a) respecting any dependent child of the reporting individual other than items (A) which the reporting individual certifies represent the dependent child's sole financial interest or responsibility, (B) which are not in any way, past or present, derived from the income, assets, or activities of the reporting individual, and (C) from which the reporting individual neither derives, nor expects to derive, any financial or economic benefit. Each report referred to in

subsection (b) of this section shall, with respect to any dependent child, contain information listed in paragraphs (3) and (4) of subsection (a) only.

(3) No report shall be required with respect to a spouse living separate and apart from the reporting individual with the intention of terminating the marriage or providing for permanent separation; or with respect to any income or obligations of an individual arising from the dissolution of his marriage or the permanent separation from his spouse.

(f) The holdings of and the income from a trust or other finanical arrangement from which the reporting individual, spouse, or dependent child receives income or in which such person has a beneficial or equity interest must be reported according to the provisions of this section; except that in the case of a reporting individual other than a judicial officer or a judicial employee who is authorized to perform adjudicatory functions with respect to proceedings in the judicial branch, if the trust or financial arrangement is a blind trust approved under regulations prescribed by the Committee, with the concurrence of the Attorney General, as necessary to avoid potential or apparent conflicts of interest under section 208 of title 18, United States Code, and other applicable laws and regulations, the report shall so indicate and need only include (in addition to a statement of the income from the blind trust in accordance with section 302) a copy of the instrument or agreement establishing such blind trust and, to the extent known or readily ascertainable, the identity and category of value of assets contained in the trust or arrangement at the time it became a blind trust, and the identity and category of value of assets subsequently added to the blind trust.

(g) Political campaign funds received by a reporting individual or political campaign funds of such individual shall not be reported under this title.

FILING OF REPORTS

SEC. 303. (a) The Judicial Conference of the United States shall establish a Judicial Ethics Committee which shall be responsible for receiving and making available, in accordance with the provisions of this title, the reports described in section 302.

(b) Each judicial officer and judicial employee shall file the report required by this title with the Committee.

(c) In the performance of its functions under this title, the Committee with the approval of the Judicial Conference of the United States shall—

(1) promulgate such rules and regulations as may be necessary;

(2) monitor and investigate compliance with the requirements of this title;

(3) provide for the availability of reports as required by section 305;

(4) conduct, or cause to be conducted, the reviews required by section 306;

(5) cooperate with the Attorney General in enforcing the requirements of this title;

(6) submit to the Congress and the President recommendations for legislative revision of this title;

(7) perform such other functions as may be assigned by the Judicial Conference of the United States.

(d) The Committee shall, within one hundred and twenty days after the date of enactment of this Act, develop and, with the approval of the Judicial Conference of the United States, promulgate a regulation establishing a method or methods for readily determining, without the necessity for expert appraisal, the fair market value of assets required to be disclosed by this title.

FAILURE TO FILE OR FALSIFYING REPORTS

SEC. 304. (a) The Attorney General may bring a civil action in any appropriate United States District Court against any individual who knowingly and willfully falsifies or who knowingly or willfully fails to file or report any information that such individual is required to report under section 302. The court in which such action is brought may assess against such individual a civil penalty in any amount not to exceed $5,000.

(b) The Committee shall refer to the Attorney General the name of any individual the Committee has reasonable cause to believe has willfully failed to file a report or has willfully falsified or failed to file information required to be reported.

CUSTODY OF AND PUBLIC ACCESS TO REPORTS

SEC. 305. (a) The Committee shall make each report filed with it under this title available to the public in accordance with subsection (b) of this section.

(b)(1) The Committee shall require each person requesting inspection or a copy of a report under subsection (a) of this section to execute an application stating—

(A) his name, occupation, address, and telephone number;

(B) the name, address, and telephone number of the person or organization, if any, on whose behalf he is making the request; and

(C) that the information obtained by such inspection or from such copy shall not be used for any purpose prohibited by subsection (c) of this section.

(2) Upon receipt of an application required by paragraph (1) of this subsection, the Committee shall promptly forward a copy of such application to the reporting individual, if the reporting individual is an officer or employee in the Judicial branch at the time the application is received. The Committee shall permit inspection by or furnish a copy of the report to the requesting person within fifteen days after the report is received by the Committee. The Committee may require the requesting person to pay a reasonable fee in an amount which the Committee finds necessary to cover the costs of reproduction and mailing of such report.

(3) Once the requesting person has inspected or received a copy of a report, his name and address and the name and address of the person or organization, if any, on whose behalf the inspection or copy was requested, shall be made available to the public.

(c)(1) It shall be unlawful for any person to obtain or use a report—

(A) for any unlawful purpose;

(B) for any commercial purpose, other than by news and communications media for dissemination to the general public;

(C) for determining or establishing the credit rating of any individual; or

(D) for use, directly or indirectly, in the solicitation of money for any political, charitable, or other purpose.

(2) The Attorney General may bring a civil action against any person who obtains or uses a report for any purpose prohibited in paragraph (1). The court in which such action is brought may assess against such person a penalty in any amount not to exceed $5,000. Such remedy shall be in addition to any other remedy available under statutory or common law.

(d) Any report received by the Committee shall be held in its custody and be made available to the public for a period of five years after receipt of the report. After such five-year period the report shall be destroyed, except that in the case of an individual who filed the report pursuant to section 301(b) and was not subsequently confirmed by the Senate, such reports shall be destroyed one year after the individual is no longer under consideration by the Senate.

COMPLIANCE PROCEDURES

SEC. 306. (a) The Committee shall establish procedures for the review of reports sent to it under section 303 to determine whether the reports are filed in a timely manner, are complete, and are in proper form. In the event a determination is made that a report is not so filed, the Committee shall so inform the reporting individual and direct him to take all necessary corrective action.

(b) Such procedures shall include provisions for conducting a review each year of financial statements filed in that year by judicial officers and employees to determine whether such statements reveal possible violations of applicable conflict of interest laws or regulations and recommending appropriate action to correct any conflict of interest or ethical problems revealed by such review.

ADDITIONAL REQUIREMENTS

SEC. 307. (a) Nothing in this title shall be construed to prevent the Committee, with the approval of the Judicial Conference of the United States, from requiring officers or employees of the judicial branch not covered by this title to submit confidential financial statements.

(b) Nothing in this Act requiring reporting of information shall be deemed to authorize the receipt of income, gifts, or reimbursements; the holding of assets, liabilities, or positions; or the participation in transactions that are prohibited by law or regulation.

(c) The provisions of this title requiring the reporting of information shall not supersede the requirements of section 7342 of title 5, United States Code.

EFFECTIVE DATE

SEC. 308. This title shall take effect on January 1, 1979, and the reports filed under section 301(c) on May 15, 1979, shall include information for calendar year 1978.

DEFINITIONS

SEC. 309. For the purposes of this title, the terms "income", "relative", "gift", "honoraria", "estimated value", "personal hospitality of any individual", "blind trust", "dependent child", and "reimbursement" have the meanings set forth in section 210 of this Act.

Amend the title so as to read: "An Act to require certain officers and employees of the United States, and candidates for Federal office, to file reports as to their income and financial holdings and transactions, and for other purposes.".

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

A motion to reconsider was laid on the table.

A similar House bill (H.R. 1) was laid on the table.

REQUEST FOR CONFERENCE WITH SENATE

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent that the House insist on its amendment to the Senate bill (S. 555) to require candidates for Federal office, Members of the Congress, and officers and employees of the United States to file statements with the Comptroller General with respect to their income and financial transactions, and request a conference with the Senate thereon.

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

There was no objection.

GENERAL LEAVE

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill H.R. 1, just passed.

The SPEAKER. Is there objection to

the request of the gentleman from California?

There was no objection.

APPOINTMENT OF CONFEREES ON S. 2493, AIR TRANSPORTATION REGULATORY REFORM ACT OF 1978

Mr. JOHNSON of California. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2493) to amend the Federal Aviation Act of 1958, as amended, to encourage, develop, and attain an air transportation system which relies on competitive market forces to determine the quality, variety, and price of air services, and for other purposes with House amendments thereto, insist on the House amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California? The Chair hears none, and, without objection, appoints the following conferees: Messrs. JOHNSON of California, ROBERTS, ANDERSON of California, RONCALIO, LEVITAS, HARSHA, and SNYDER.

There was no objection.

INSPECTOR GENERAL ACT OF 1978

Mr. BROOKS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 8588), an act to reorganize the executive branch of the Government and increase its economy and efficiency by establishing Offices of Inspector General within the Departments of Agriculture, Commerce, Housing and Urban Development, the Interior, Labor, and Transportation, and within the Community Services Administration, the Environmental Protection Agency, the General Services Administration, the National Aeronautics and Space Administration, the Small Business Administration, and the Veterans' Administration, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert: That this Act be cited as the "Inspector General Act of 1978".

PURPOSE; ESTABLISHMENT

SEC. 2. In order to create independent and objective units—

(1) to conduct and supervise audits and investigations relating to programs and operations of the Department of Agriculture, the Department of Commerce, the Department of Housing and Urban Development, the Department of the Interior, the Department of Labor, the Department of Transportation, the Community Services Administration, the Environmental Protection Agency, the General Services Administration, the National Aeronautics and Space Administration, the Small Business Administration, and the Veterans Administration;

(2) to provide leadership and coordination and recommend policies for activities designed (A) to promote economy, efficiency, and effectiveness in the administration of, and (B) to prevent and detect fraud and abuse in, such programs and operations; and

(3) to provide a means for keeping the head of the establishment and the Congress fully and currently informed about problems and deficiencies relating to the administration of such programs and operations and the necessity for and progress of corrective action;

there is hereby established in each of such establishments an Office of Inspector General.

APPOINTMENT AND REMOVAL OF OFFICERS

SEC. 3. (a) There shall be at the head of each Office an Inspector General who shall be appointed by the President, by and with the advice and consent of the Senate, without regard to political affiliation and solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations. Each Inspector General shall report to and be under the general supervision of the head of the establishment involved or, to the extent such authority is delegated, the officer next in rank below such head, but shall not report to, or be subject to supervision by, any other officer of such establishment. Neither the head of the establishment nor the officer next in rank below such head shall prevent or prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation, or from issuing any subpena during the course of any audit or investigation.

(b) An Inspector General may be removed from office by the President. The President shall communicate the reasons for any such removal to both Houses of Congress.

(c) For the purposes of section 7324 of title 5, United States Code, no Inspector General shall be considered to be an employee who determines policies to be pursued by the United States in the nationwide administration of Federal laws.

(d) Each Inspector General shall, in accordance with applicable laws and regulations governing the civil service—

(1) appoint an Assistant Inspector General for Auditing who shall have the responsibility for supervising the performance of auditing activities, relating to programs and operations of the establishment, and

(2) appoint an Assistant Inspector General for Investigations who shall have the responsibility for supervising the performance of investigative activities relating to such programs and operations.

DUTIES AND RESPONSIBILITIES

SEC. 4. (a) It shall be the duty and responsibility of each Inspector General, with respect to the establishment within which his Office is established—

(1) to provide policy direction for and to conduct, supervise, and coordinate audits and investigations relating to the programs and operations of such establishment;

(2) to review existing and proposed legislation and regulations relating to programs and operations of such establishment and to make recommendations in the semiannual reports required by section 5(a) concerning the impact of such legislation or regulations on the economy and efficiency in the administration of programs and operations administered or financed by such establishment or the prevention and detection of fraud and abuse in such programs and operations;

(3) to recommend policies for, and to conduct, supervise, or coordinate other activities carried out or financed by such establishment for the purpose of promoting economy and efficiency in the administration of, or preventing and detecting fraud and abuse in, its programs and operations;

(4) to recommend policies for, and to conduct, supervise, or coordinate relationships between such establishment and other Federal agencies, State and local governmental agencies, and nongovernmental entities with respect to (A) all matters relating to the promotion of economy and efficiency in the administration of, or the prevention and detection of fraud and abuse in, programs and operations administered or financed by such establishment, or (B) the identification and prosecution of participants in such fraud or abuse; and

(5) to keep the head of such establishment and the Congress fully and currently informed, by means of the reports required by section 5 and otherwise, concerning fraud and other serious problems, abuses, and deficiencies relating to the administration of programs and operations administered or financed by such establishment, to recommend corrective action concerning such problems, abuses, and deficiencies, and to report on the programs made in implementing such corrective action.

(b) In carrying out the responsibilities specified in subsection (a)(1), each Inspector General shall—

(1) comply with standards established by the Comptroller General of the United States for audits of Federal establishments, organizations, programs, activities, and functions;

(2) establish guidelines for determining when it shall be appropriate to use non-Federal auditors; and

(3) take appropriate steps to assure that any work performed by non-Federal auditors complies with the standards established by the Comptroller General as described in paragraph (1).

(c) In carrying out the duties and responsibilities established under this Act, each Inspector General shall give particular regard to the activities of the Comptroller General of the United States with a view toward avoiding duplication and insuring effective coordination and cooperation.

(d) In carrying out the duties and responsibilities established under this Act, each Inspector General shall report expeditiously to the Attorney General whenever the Inspector General has reasonable grounds to believe there has been a violation of Federal criminal law.

REPORTS

SEC. 5. (a) Each Inspector General shall, not later than April 30 and October 31 of each year, prepare semiannual reports summarizing the activities of the Office during the immediately preceding six-month periods ending March 31 and September 30. Such reports shall include, but need not be limited to—

(1) a description of significant problems, abuses, and deficiencies relating to the administration of programs and operations of such establishment disclosed by such activities during the reporting period;

(2) a description of the recommendations for corrective action made by the Office during the reporting period with respect to significant problems, abuses, or deficiencies identified pursuant to paragraph (1);

(3) an identification of each significant recommendation described in previous semiannual reports on which corrective action has not been completed;

(4) a summary of matters referred to prosecutive authorities and the prosecutions and convictions which have resulted;

(5) a summary of each report made to the head of the establishment under section 6(b)(2) during the reporting period; and

(6) a listing of each audit report completed by the Office during the reporting period.

(b) Semiannual reports of each Inspector General shall be furnished to the head of the establishment involved not later than April 30 and October 31 of each year and shall be transmitted by such head to the appropriate committees or subcommittees of the Congress within thirty days after receipt of the report, together with a report by the head of the establishment containing any comments such head deems appropriate.

(c) Within sixty days of the transmission of the semiannual reports of each Inspector

General to the Congress, the head of each establishment shall make copies of such report available to the public upon request and at a reasonable cost.

(d) Each Inspector General shall report immediately to the head of the establishment involved whenever the Inspector General becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of programs and operations of such establishment. The head of the establishment shall transmit any such report to the appropriate committees or subcommittees of Congress within seven calendar days, together with a report by the head of the establishment containing any comments such head deems appropriate.

AUTHORITY; ADMINISTRATION PROVISIONS

SEC. 6. (a) In addition to the authority otherwise provided by this Act, each Inspector General, in carrying out the provisions of this Act, is authorized—

(1) to have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material available to the applicable establishment which relate to programs and operations with respect to which that Inspector General has responsibilities under this Act;

(2) to make such investigations and reports relating to the administration of the programs and operations of the applicable establishment as are, in the judgment of the Inspector General, necessary or desirable;

(3) to request such information or assistance as may be necessary for carrying out the duties and responsibilities provided by this Act from any Federal, State, or local governmental agency or unit thereof;

(4) to require by subpena the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary in the performance of the functions assigned by this Act, which subpena, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court: *Provided*, That procedures other than subpenas shall be used by the Inspector General to obtain documents and information from Federal agencies;

(5) to have direct and prompt access to the head of the establishment involved when necessary for any purpose pertaining to the performance of functions and responsibilities under this Act;

(6) to select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers, and duties of the Office subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

(7) to obtain services as authorized by section 3109 of title 5, United States Code, at daily rates not to exceed the equivalent rate prescribed for grade GS-18 of the General Schedule by section 5332 of title 5, United States Code; and

(8) to the extent and in such amounts as may be provided in advance by appropriations Acts, to enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons, and to make such payments as may be necessary to carry out the provisions of this Act.

(b) (1) Upon request of an Inspector General for information or assistance under subsection (a) (3), the head of any Federal agency involved shall, insofar as is practicable and not in contravention of any existing statutory restriction or regulation of the Federal agency from which the information is requested, furnish to such Inspector General, or to an authorized designee, such information or assistance.

(2) Whenever information or assistance requested under subsection (a) (1) or (a) (3) is, in the judgment of an Inspector General, unreasonably refused or not provided, the Inspector General shall report the circumstances to the head of the establishment involved without delay.

(c) Each head of an establishment shall provide the Office within such establishment with appropriate and adequate office space at central and field office locations of such establishment, together with such equipment, office supplies, and communications facilities and services as may be necessary for the operation of such offices, and shall provide necessary maintenance services for such offices and the equipment and facilities located therein.

EMPLOYEE COMPLAINTS

SEC. 7. (a) The Inspector General may receive and investigate complaints or information from an employee of the establishment concerning the possible existence of an activity constituting a violation of law, rules, or regulations, or mismanagement, gross waste of funds, abuse of authority or a substantial and specific danger to the public health and safety.

(b) The Inspector General shall not, after receipt of a complaint or information from an employee, disclose the identity of the employee without the consent of the employee, unless the Inspector General determines such disclosure is unavoidable during the course of the investigation.

(c) Any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, take or threaten to take any action against any employee as a reprisal for making a complaint or disclosing information to an Inspector General, unless the complaint was made or the information disclosed with the knowledge that it was false or with willful disegard for its truth or falsity.

SEMIANNUAL REPORTS

SEC. 8. (a) (1) The Secretary of Defense shall submit to the Congress semiannual reports during the period ending October 1, 1982, summarizing the activities of the audit, investigative and inspection units of the Department of Defense. Such reports shall be submitted within sixty days of the close of the reporting periods ending March 31 and September 30 and shall include, but not be limited to—

(A) a description of significant instances or patterns of fraud, waste, or abuse disclosed by the audit, investigative, and inspection activities during the reporting period and a description of recommendations for corrective action made with respect to such instances or patterns;

(B) a summary of matters referred for prosecution and of the results of such prosecutions; and

(C) a statistical summary, by categories of subject matter, of audit and inspection reports completed during the reporting period.

(2) Within sixty days of the transmission of the semiannual reports, the Secretary shall make copies of such reports available to the public upon request and at a reasonable cost.

(3) If the Secretary concludes that compliance with the reporting requirements in pargaraphs (1) and (2) of this subsection would require inclusion of material that may constitute a threat to the national security or disclose an intelligence function or activity, the Secretary may exclude such material from the report. If material is excluded from a report under this subsection, the Secretary shall provide the chairmen and ranking minority members of the appropriate committees or subcommittees with a general description of the nature of the material excluded.

(4) The Secretary may delegate his responsibilities under paragraphs (1) through (3), provided that the delegation be to an official within the Office of the Secretary of Defense who is a Presidential appointee confirmed by the Senate. In preparing the reports, the designee of the Secretary shall have the same access to information held by the audit, investigative or inspection units as the Secretary would.

(5) In order to effectuate the purposes of this Act with respect to the Department of Defense, the Secretary of Defense shall submit, not later than March 31, 1981, proposed legislation to establish appropriate reporting procedures, for the period after October 1, 1982, concerning the audit, investigative and inspection activities of the Department of Defense.

(b) (1) The Secretary of Defense shall establish a task force to study the operation of the audit, investigative, and inspection components in the Department of Defense which engage in the prevention and detection of fraud, waste, and abuse. The Secretary shall appoint the Director and other members of the task force, provided that the Director shall be a person who is not an employee of the Department of Defense. The Director shall have the authority to hire such additional staff as is necessary to complete the study.

(2) The Director and members of the task force and, upon the request of a member or the Director, the staff of the task force shall have access to all information relevant to the study and held by the audit, investigative, and inspection components in the Department of Defense including reports prepared by such components, provided that—

(A) such information or reports may be withheld if a component head determines that disclosure would compromise an active investigation of wrongdoing;

(B) the Inspectors General of the Military Departments may delete the names of individuals in a report prepared by them if the Inspector General determines that the inclusion of the names would affect the ability of the Inspector General to obtain information in future investigations and inspections; and

(C) no classified information shall be released to the task force unless the members and staff who will have access to the classified information have the appropriate clearances.

Upon the request of the Director, the Secretary of Defense and the Secretaries of the Military Departments shall assure that the task force has access to information as provided in this subsection.

(3) The task force shall prepare a comprehensive report that shall include, but not be limited to—

(A) a description of the functions of the audit, investigative and inspection components in the Department of Defense and the extent to which such components cooperate in their efforts to detect and prevent fraud, waste and abuse;

(B) an evaluation of whether such components are sufficiently independent to carry out their responsibilities;

(C) the relationship between such components and the Criminal Division of the Department of Justice; and

(D) recommendations for change in organization or functions that may be necessary to improve the effectiveness of such components.

(4) The task force shall submit its final report to the Secretary of Defense and the Director of the Office of Management and Budget. The Secretary and the Director of the Office of Management and Budget may, in the form of addenda to the report, provide any additional information that they deem necessary. The Secretary shall submit the report and the addenda to the Congress not later than April 1, 1980. The task force

shall be disestablished sixty days following such submission.

(5) Any matter concerning the intelligence or counterintelligence activities of the Department of Defense and assigned by regulation to the Inspector General for Defense Intelligence shall be excluded from the study of the task force.

TRANSFER OF FUNCTIONS

SEC. 9. (a) There shall be transferred—

(1) to the Office of Inspector General—

(A) of the Department of Agriculture, the offices of that department referred to as the "Office of Investigation" and the "Office of Audit";

(B) of the Department of Commerce, the offices of that department referred to as the "Office of Audits" and the "Investigations and Inspections Staff" and that portion of the office referred to as the "Office of Investigations and Security" which has responsibility for investigation of alleged criminal violations and program abuse;

(C) of the Department of Housing and Urban Development, the office of that department referred to as the "Office of Inspector General";

(D) of the Department of the Interior, the office of that department referred to as the "Office of Audit and Investigation";

(E) of the Department of Labor, the office of that department referred to as the "Office of Special Investigations";

(F) of the Department of Transportation, the offices of that department referred to as the "Office of Investigations and Security" and the "Office of Audit" of the Department, the "Offices of Investigations and Security, Federal Aviation Administration", and "External Audit Divisions, Federal Aviation Administration", the "Investigations Division and the External Audit Division of the Office of Program Review and Investigation, Federal Highway Administration", and the "Office of Program Audits, Urban Mass Transportation Administration";

(G) of the Community Services Administration, the offices of that agency referred to as the "Inspections Division", the "External Audit Division", and the "Internal Audit Division";

(H) of the Environmental Protection Agency, the offices of that agency referred to as the "Office of Audit" and the "Security and Inspection Division";

(I) of the General Services Administration, the offices of that agency referred to as the "Office of Audits" and the "Office of Investigations";

(J) of the National Aeronautics and Space Administration, the offices of that agency referred to as the "Management Audit Office" and the "Office of Inspections and Security";

(K) of the Small Business Administration, the office of that agency referred to as the "Office of Audits and Investigations"; and

(L) of the Veterans' Administration, the offices of that agency referred to as the "Office of Audits" and the "Office of Investigations"; and (2) such other offices or agencies, or functions, powers, or duties thereof, as the head of the establishment involved may determine are properly related to the functions of the Office and would, if so transferred, further the purposes of this Act,

except that there shall not be transferred to an Inspector General under paragraph (2) program operating responsibilities.

(b) The personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available, of any office or agency the functions, powers, and duties of which are transferred under subsection (a) are hereby transferred to the applicable Office of Inspector General.

(c) Personnel transferred pursuant to subsection (b) shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions except that the classification and compensation of such personnel shall not be reduced for one year after such transfer.

(d) In any case where all the functions, powers, and duties of any office or agency are transferred pursuant to this subsection, such office or agency shall lapse. Any person who, on the effective date of this Act, held a position compensated in accordance with the General Schedule, and who, without break in service, is appointed in an Office of Inspector General to a position having duties comparable to those performed immediately preceding such appointment shall continue to be compensated in the new position at not less than the rate provided for the previous position, for the duration of service in the new position.

CONFORMING AND TECHNICAL AMENDMENTS

SEC. 10. (a) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraphs:

"(122) Inspector General, Department of Health, Education, and Welfare.

"(123) Inspector General, Department of Agriculture.

"(124) Inspector General, Department of Housing and Urban Development.

"(125) Inspector General, Department of Labor.

"(126) Inspector General, Department of Transportation.

"(127) Inspector General, Veterans' Administration).".

(b) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new paragraphs:

"(144) Deputy Inspector General, Department of Health, Education, and Welfare.

"(145) Inspector General, Department of Commerce.

"(146) Inspector General, Department of the Interior.

"(147) Inspector General, Community Services Administration.

"(148) Inspector General, Environmental Protection Agency.

"(149) Inspector General, General Services Administration.

"(150) Inspector General, National Aeronautics and Space Administration.

"(151) Inspector General, Small Business Administration.".

(c) Section 202(e) of the Act of October 15, 1976 (Public Law 94-505, 42 U.S.C. 3522), is amended by striking out "section 6(a)(1)" and "section 6(a)(2)" and inserting in lieu thereof "section 206(a)(1)" and "section 206 (a)(2)", respectively.

DEFINITIONS

SEC. 11. As used in this Act—

(1) the term "head of the establishment" means the Secretary of Agriculture, Commerce, Housing and Urban Development, the Interior, Labor, or Transportation or the Administrator of Community Services, Environmental Protection, General Services, National Aeronautics and Space, Small Business, or Veterans' Affairs, as the case may be;

(2) the term "establishment" means the Department of Agriculture, Commerce, Housing and Urban Development, the Interior, Labor, or Transportation or the Community Services Administration, the Environmental Protection Agency, the General Services Administration, the National Aeronautics and Space Administration, the Small Business Administration, or the Veterans' Administration, as the case may be;

(3) the term "Inspector General" means the Inspector General of an establishment;

(4) the term "Office" means the Office of Inspector General of an establishment; and

(5) the term "Federal agency" means an agency as defined in section 552(e) of title 5 (including an establishment as defined in paragraph (2)), United States Code, but shall not be construed to include the General Accounting Office.

EFFECTIVE DATE

SEC. 12. The provisions of this Act and the amendments made by this Act shall take effect October 1, 1978.

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

Mr. WYDLER. Reserving the right to object, Mr. Speaker, and I probably will not object, depending on the colloquy that I am about to have with the chairman of the committee, the gentleman from Texas (Mr. BROOKS).

I think the House should be aware of exactly what has transpired and what we are doing by agreeing to this unanimous-consent request.

The bill places inspector generals in many of the departments in the Federal Government.

Mr. Speaker, it took us much more than a year to pass this legislation. The administration opposed the bill for unknown reasons for a great deal of time, many months, in fact, and finally agreed to allow it to come forth on the floor of the House after a great deal of discussion and debate. Frankly, I would compliment the chairman of the committee, the gentleman from Texas (Mr. BROOKS) for pressing for action on the bill, but apparently the administration did not want this bill even though it is a very good bill whose purpose is to try to work out fraud and corruption in the Federal Government and in the executive agencies.

In any event, we finally acted on the bill here in the House some time ago and it was sent over to the Senate. I have the feeling the administration worked in that body, and they sent their version of the bill which we, in effect, now, are accepting. In general it is a good version but some of the things that this bill does are incomprehensible to me.

One of the Senate amendments says that Congress will not get a report—and I repeat—Congress will not get a report on completed investigations that take place within an agency.

Why they eliminate completed reports is unexplainable or unknown to me. They justify it because they say they do not want to let people know on the outside what they are investigating.

But if an investigation has been completed, certainly the fact of reporting that to the House and Senate would not reveal it to anyone concerned.

I understand the legislative problems we face here today and in the closing days of the session, and I do not want to obstruct the passage of this bill, because it is a very important one, and it would do a lot of good when passed. But I would like to hear from the chairman of the committee, the gentleman from Texas (Mr. BROOKS) how he is going to continue the fight to get this legislation straightened out and straightened around and make holy, as it should be, in either this or the next Congress.

I yield to the gentleman from Texas for that purpose.

Mr. BROOKS. Mr. Speaker, I want to say to my distinguished friend, the gentleman from New York (Mr. WYDLER)

that I appreciate his support and his longtime understanding of the need for inspector generals in these Government agencies.

I want to say that the Senate did a good job on this legislation. Most of their amendments I found were very constructive and strengthening and some of them were not quite that good, but they are acceptable and workable. I think this is desirable legislation in that when we pass it tonight, if we do, that the President can, without any hesitation, sign it with pleasure.

Now the question about the filing of investigative reports and the availability of them, let me say that the Senate deleted a requirement that the inspector generals include in their semiannual report a listing of each investigative report completed during the reporting period. The basis for this deletion was their belief and their feeling that it would be improper and undesirable and basically unnecessary to have the names of persons under investigation routinely made a part of a public document.

I would point out, however, that it would still be possible for congressional committees to request and obtain such a listing under its own authority if so desired.

Mr. WYDLER. And I would hope that the gentleman ask that we exercise that at any time he felt it was necessary in the future:

Further reserving the right to object, Mr. Speaker, I still do not understand whom we are protecting. Why should not the department or agency involved report to the Congress the titles and the facts as to completed investigations. Certainly, if a person is innocent, the completed investigation is going to reveal that fact. I do not see how he can possibly be hurt, so I really am at a loss to understand that there is any sense to that deletion from the information which is going to be reported to the Congress.

Mr. BROOKS. If the gentleman will yield further, I understand the gentleman.

I would say that the Senate felt that it was not necessary to list people in a public document when the investigation was over.

The list of investigated individuals is fully available to congressional committees at any time, and we could put in a standing order to get them if we needed them.

Mr. Speaker, I ask unanimous consent to revise and extend my remarks on the bill at this point in the RECORD.

Mr. BAUMAN. Mr. Speaker, there is a pending request, is there not?

The SPEAKER pro tempore. The gentleman is correct. There is a reservation of objection pending.

Mr. WYDLER. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. I thank the gentleman for yielding, Mr. Speaker.

I listened carefully to what both the gentleman from New York and the gentleman from Texas had to say.

The gentleman from New York (Mr. WYDLER) seemed to indicate that the other body has written in a prohibition against giving congressional committees reports concerning the investigations made by Inspectors General which is the entire purpose of this bill, as I understand it.

Is there an absolute prohibition against giving this information to a Member of Congress or to congressional committees?

Mr. WYDLER. No, I do not think that that is what the Senate has done. What the Senate has done, as I understand it, is to say that in reporting to the Congress, the agency or department does not have to give the Congress the names of the investigations which have been completed or does not have to list the investigations which the agency or department has completed during that period, so that that information would not be on the report which is submitted to Congress.

The only thing I can make out of what the gentleman from Texas (Mr. BROOKS), the chairman, said is that we should ask for that information as a committee or each individual committee should ask for it.

The only thing I can see with respect to that is that that would not necessarily be information which would be available to the press, whereas the information in the report would be. Otherwise, I do not see any distinction between the two situations.

I really still do not understand why we have that provision. I do not think it is a good provision. I was hoping that the chairman would say that he would work to try to amend this bill at the first opportunity so as to get that provision out of it. That is what I was hoping, I would say frankly. I am sorry that the chairman did not because I do not think the bill as it stands is a sound piece of legislation insofar as that provision is concerned.

Mr. BAUMAN. If the gentleman will yield further, Mr. Speaker, is the gentleman saying that these agencies where the Inspectors General will be created by this bill will not be obligated to give the full reports to the committees upon their request or to an individual Member upon request?

Mr. WYDLER. No, no, I do not understand that. I think the committees, as they request any information, will get it. What they will not have to do, and that is what the Senate has eliminated, is to routinely report to the committees and the Congress the names of the investigations which the agency or department has completed in the particular period.

I do not understand why we should not know how many cases they have been working on—that, it seems to me, should be a matter of public record—and which investigations have been finished.

Mr. BAUMAN. It would just seem to me to be pointless to pass this legislation unless, as part of each committee's oversight function, the committee had complete access to all records of the investigations of these Inspectors General. Otherwise, the bill is unnecessary.

Mr. WYDLER. I would agree with the gentleman.

Mr. BROOKS. If the gentleman will yield further, Mr. Speaker, we will have complete access to the records if we request them. It just will not be part of the routine.

I would say to my distinguished friend, the gentleman from Maryland (Mr. BAUMAN), that there is no prohibition with respect to filing all the information which Congress wants. We will be able to get it. There is no problem about it. It is just that it will not be routinely printed in the semiannual reports.

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

Mr. WYDLER. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Speaker, I thank the gentleman for yielding.

I would like to commend the chairman of the full committee, the chairman of the subcommittee, and the ranking member for this excellent piece of legislation.

If the Inspector General offices which are being created by this bill come anywhere close to being as effective in the first year as the Inspector General legislation we passed in the last Congress was in the case of the Department of Health, Education, and Welfare, I think we, as a Congress, will be going a long way to clearing up a major portion of the fraud, waste, and abuse in Government. It may not be the full answer, but this is a major step forward.

Mr. Speaker, I thank the gentleman for yielding.

Mr. WYDLER. Mr. Speaker, I thank the gentleman.

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

Mr. BAUMAN. Further reserving the right to object, this is the time of the year when the snakes crawl through here, and just out of an abundance of caution, I want to ask the gentleman from Texas whether any of the other body's amendments were nongermane to this legislation.

Mr. BROOKS. If the gentleman will yield, I thought they were all germane.

Mr. BAUMAN. Were they or were they not all germane?

Mr. BROOKS. They were all germane, yes.

Mr. BAUMAN. I thank the gentleman for his assurances. I withdraw my reservation of objection.

● Mr. FOUNTAIN. Mr. Speaker, when H.R. 8588 passed the House on April 18 last, I made the statement that, when finally passed and properly implemented, it will turn out to be one of the most monumental laws ever passed by this or any other Congress.

I want to reiterate that statement at this time. I say this because this bill, like similar legislation which I introduced, and which became law in 1976, establishing the office of Inspector General in the Department of Health, Education, and Welfare, will provide the agencies involved with the investigative and auditing tools which have so long been needed to promote economy and efficiency and to prevent and detect fraud, waste, and abuse.

While I have minor reservations about one or two of the Senate changes, I do not believe that any of them will cause serious problems. In my judgment, the overall effect of the Senate changes is to strengthen—not weaken—H.R. 8588.

The Senate Governmental Affairs Committee had recommended several additional changes in H.R. 8588 which might have been cause for some concern; however, these changes were deleted during floor action on the bill in order to help avoid necessity for a conference.

Consequently, I urge the House to concur in the Senate amendments.

As most of you know, I have been working for several years to help secure the establishment of statutory Offices of Inspector General in Federal departments and agencies.

The civilian departments and agencies covered by this bill are responsible for expenditure of around $100 billion annually and have more than 600,000 employees.

The need for Offices of Inspector General in these establishments was clearly demonstrated last year through an extensive inquiry by the House Government Operations Subcommittee, which I chair. This inquiry, which included 9 days of public hearings, disclosed serious deficiencies in auditing and investigative organization, procedures, and resources, such as—

Multiple audit or investigative units within a single agency, organized in fragmented fashion and without effective central leadership;

Auditors and investigators reporting to officials who were responsible for the programs under review or were devoting only a fraction of their time to audit and investigative responsibilities;

Lack of affirmative programs to look for possible fraud or abuse—some agencies did not even require employees to report evidence of irregularities;

Instances in which investigators had been kept from looking into suspected irregularities, or even ordered to discontinue an ongoing investigation;

Potential fraud cases which had not been sent to the Department of Justice for prosecution; and

Serious shortages of audit and investigative personnel, even though such personnel more than repay their cost in savings and recoveries.

Several agencies admitted they had only one-third to one-fifth the number of auditors or investigators needed.

One Department had only six trained criminal investigators to look into irregularities in the expenditures of some $25 billion annually.

Other agencies had audit cycles as long as 20 years; some activities had never been audited.

These and other serious deficiencies are fully documented in the committee report (H. Rept. 95-584) and the subcommittee hearings.

Recent disclosures of widespread fraud and corruption in the General Services Administration are added evidence of the need for this bill.

Enactment of this legislation will—

Insure that each covered agency has a high-level official with no program responsibilities, required by law to give undivided attention to promoting economy and efficiency and combating fraud and program abuse.

Help to coordinate, within each agency and throughout the Government, the work of numerous audit and investigative units which are now disorganized and without effective leadership; and

Help to insure that agency heads and the Congress receive information needed to promote economy and efficiency and to combat fraud and abuse.

Waste, inefficiency, fraud, and abuse in federally financed programs is impairing the accomplishment of program objectives and imposing an intolerable and inexcusable burden on this country's taxpayers.

The House can and should do something about this deplorable situation today by concurring in the Senate amendments, thereby sending this badly needed legislation to the President for his signature.

Over the years, this legislation has the potential for saving the taxpayer untold billions of dollars.●

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

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just considered.

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

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 7010, VICTIMS OF CRIME ACT OF 1977

Mr. MANN. Mr. Speaker, by direction of the Committee on the Judiciary, I move to take from the Speaker's table the bill (H.R. 7010) to provide for grants to States for the payment of compensation to persons injured by certain criminal acts and omissions, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from South Carolina (Mr. MANN).

The motion was agreed to.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees: Mr. RODINO, Mr. MANN, Ms. HOLTZMAN, and Messrs. HALL, GUDGER, EVANS of Georgia, WIGGINS, and HYDE.

There was no objection.

FIRST ANNUAL REPORT ON SCIENCE AND TECHNOLOGY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

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

To the Congress of the United States:

I am pleased to submit to the Congress the first annual report on science and technology as required by the National Science and Technology Policy, Organization, and Priorities Act of 1976.

Science and technology contribute in significant ways to many of our social needs—maintaining economic growth and productivity, feeding the world's people, improving our health and environment, and preserving our national security. They also reveal the basic structure of nature. Moreover, our science and technology draw the respect and admiration of nations throughout the world.

I believe this report, and its successors, can play an important role in providing a foundation for informed debate on scientific and technological issues, and thereby can help assure that our scientific and technological capabilities remain strong.

JIMMY CARTER.

THE WHITE HOUSE, *September 27, 1978.*

SURFACE TRANSPORTATION ASSISTANCE ACT OF 1978

Mr. HOWARD. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 11733) to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, for highway safety, for mass transportation in urban and in rural areas, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. HOWARD).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 11733, with Miss JORDAN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Friday, September 22, 1978, title I had been considered as having been read and open to amendment at any point.

Are there any further amendments to title I?

AMENDMENT OFFERED BY MR. GIBBONS

Mr. GIBBONS. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GIBBONS: Page 140, line 24, after the period insert the following: Each State shall annually there-

after report to the Secretary its current inventory.

Page 141, line 2, after the period add the following: Each State shall annually thereafter report to the Secretary its current inventory.

Page 141, strike out lines 9 through 24, inclusive, and insert in lieu thereof the following:

(c) Not later than January 1 of the second calendar year which begins after the date of enactment of this section and each calendar year thereafter the Secretary shall submit to Congress an annual report together with such recommendations as the Secretary deems necessary on (1) the latest annual inventory of State systems of penalties required by subsection (a) of this section; (2) the latest annual inventory of State systems for the issuance of special permits required by subsection (b) of this section; (3) the annual certification submitted by each State required by section 141(b) of title 23, United States Code.

(d) Section 141 of title 23, United States Code, is amended to read as follows:

"§ 141. Enforcement of Requirements.

"(a) Each State shall certify to the Secretary before January 1 of each year that it is enforcing all speed limits on public highways in accordance with section 154 of this title. The Secretary shall not approve any project under section 106 of this title in any State which has failed to certify in accordance with this subsection.

"(b) Each State shall certify to the Secretary before January 1 of each year that it is enforcing all State laws respecting maximum vehicle size and weights permitted on the Federal-aid primary system, the Federal-aid urban system, and the Federal-aid secondary system, including the Interstate System in accordance with section 127 of this title.

"(c)(1) Each State shall submit to the Secretary such information as the Secretary shall, by regulation, require as necessary, in his opinion, to verify the certification of such State under subsection (b) of this section.

"(2) If a State fails to certify as required by subsection (b) of this section or if the Secretary determines that a State is not adequately enforcing all State laws respecting such maximum vehicle size and weights, notwithstanding such a certification, then Federal-aid highway funds apportioned to such State for such fiscal year shall be reduced by amounts equal to 10 per centum of the amount which would otherwise be apportioned to such State under section 104 of this title.

"(3) If within one year from the date that the apportionment for any State is reduced in accordance with paragraph (2) of this subsection the Secretary determines that such State is enforcing all State laws respecting maximum size and weights, the apportionment of such State shall be increased by an amount equal to such reduction. If the Secretary does not make such a determination within such one-year period, the amounts so withheld shall be reapportioned to all other eligible States."

(e) Section 141(c)(2) and (3) of title 23, United States Code, shall be applicable to certifications required by such section 141 to be filed on or after January 1, 1980.

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

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

There was no objection.

Mr. GIBBONS. Madam Chairman, I offer a set of amendments to title I of H.R. 11733 as reported. Mr. HOWARD agreed to these amendments during consideration of title V, the funding title, before the Ways and Means Committee.

Several of these amendments are of a technical nature in that they relate to reporting requirements. Each State is required to report annually to the Secretary of Transportation on the inventories required by subsections 144 (a) and (b) regarding its system of penalties for violations of the weight laws and its system of special permits for overweight or oversize vehicles. Further, the Secretary must report this information, along with his findings and recommendations, to Congress each year. The Secretary must also report to Congress annually on the certifications that States submit pursuant to section 141(b) regarding their vehicle weight and size enforcement efforts.

The amendments proposed to section 141 are designed to improve Federal and State enforcement efforts on maximum vehicle weights and sizes. This section also contains provisions on enforcing speed limits but these provisions are unchanged. As to weight and size enforcement, present law requires annual State certifications on enforcement efforts and imposes a 100-percent penalty against the annual apportionments of Federal aid highway funds for any State which fails to make such a certification. These proposed amendments would reduce this penalty from 100 percent to 10 percent for a failure to certify and for enforcement efforts that are determined to be inadequate by the Secretary. Further, the amendment provides that States shall submit with their certifications such information as the Secretary determines is necessary to evaluate the certification.

Madam Chairman, these amendments are needed if we are to insure improved enforcement of vehicle weight laws by the Federal and State governments. Further, such enforcement is critical to the preservation of our irreplaceable and most expensive highway system. The amendments are consistent with provisions contained in the Senate highway bill and have the endorsement of Mr. HOWARD and others who have studied these issues extensively. I therefore move their adoption.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. GIBBONS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. GARY A. MYERS

Mr. GARY A. MYERS. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GARY A. MYERS: Page 110, line 14, strike out the period and insert in lieu thereof a comma and the following: "except that the Secretary, in approving any project under this section during fiscal year 1979 or 1980, may increase the Federal share of the cost of such project to 100 per centum if the Secretary determines that (1) the State seeking approval of such project is unable to provide all of any part of the non-Federal share of the cost of such project due to the authorization levels contained in this section, and (2) such increased Federal share is consistent with the purposes of this section."

Mr. GARY A. MYERS. Madam Chairman, the intent of this amendment is to address a situation which I fear might occur as a result of the rapid increase of the Federal contribution to the specialty bridge program. Members are fully aware that the committee originally intended to move the specialty bridge program from $180 million a year up to $2 billion. That has been adjusted down to $1.5 billion in Federal money, as the result of a previously adopted amendment; but we must consider what the increased commitment to the Federal level will actually be out in the States as far as getting the job done of replacing the bridges or repairing them. If you take the level of Federal involvement prior to this bill and the matching ratio of $180 million that we authorized before on a 75–25-percent match, it required the States to come up with approximately $50 million to get that $180 million into action and working. If you take the $1.5 billion that we now have in this bill, and even considering the fact that we are moving the match from 75 to 25, to a 90 to 10 split, it will require the States to come up with essentially 3 times the amount of money they need to now fully utilize the Federal program.

There are many States which will not be able to respond quickly enough to get their financing in order to be able to take advantage of this rapid increase, and therefore, I think we run the risk of the specialty bridge program, in which we are all interested, becoming stagnant in a number of States over a period of the first few years of introduction.

Originally in committee I had offered an amendment which was similar to this amendment but which would have required the Secretary to allow 100 percent of Federal funding over the first 3 years. This is a moderation of that amendment in that it permits the Secretary, if he or she determines that a State is unable to fully utilize the Federal contribution during the first 2 years of the program, to permit the States to use the Federal contribution or share as 100-percent money with no payback.

I believe what this will accomplish is a speedy development of a program of replacing and repairing badly needed bridges in many situations. I think it will prove to be an efficient move, because even if we consider the fact that a State may be delayed for 1 year from picking up the money, at the current rate of inflation the program will lose almost 10 percent of its effective value, from the estimated 1979 dollar level.

Some people fear a concept like this may make the States less than fully responsible. I believe it will not make the States treat the money as gold-plating money, and that the States will realize this will only be a 2-year program. I believe they will in fact still be encouraged to pick out the worst of their bridge

situations for repair. We have to keep in mind that this does not mandate action by the Secretary, but it simply gives him the flexibility, if a State cannot pick up the money that he feels is consistent with the intent of this bill, he may allow the States to do this with 100 percent Federal financing. It will give the Secretary and the States that flexibility.

There is also the question about the responsibility of the States in regard to what they are willing to do as far as the gas is concerned. I also agree that some States are in difficulties because their State legislatures have failed to do what is responsible by providing adequate funding to pick up and provide the State match for the Federal dollars. But we have to respond also to the situation that many States have at least a 9-cent gas tax while the Federal tax is 4 cents, so we cannot ignore the fact that there is some responsibility already exhibited by their actions.

There is a suggestion that what we ought to do, if we are going to do anything like this, is create a payback situation. I would just like to discuss my feelings about a payback scheme.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. GARY A. MYERS) has expired.

(By unanimous consent, Mr. GARY A. MYERS was allowed to proceed for 2 additional minutes.)

Mr. GARY A. MYERS. Madam Chairman, if we took an example where a State was going to have a $90 million commitment from the Federal Government, that would normally mean a $10 million match on a full program from the State, for a total of $100 million in any given year. If we accept this amendment and the Secretary believes the State cannot come up with a match, then the Federal share of $90 million would be able to be utilized in the bridge program, and we would have $90 million worth of repairs and the State would benefit by $90 million. But if we tacked on a provision like this, a requirement that the State pay back 10 percent because we are concerned about the lack of a 10-percent match, then we have to ask ourselves the question: Pay back to whom and pay back what?

If the State is required to pay back 10 percent of the $90 million, that means the bottom line of the effect of this provision is that the State pays back $9 million, 10 percent of $90 million, and they come out with $81 million, where they should have been getting $90 million.

So all we are doing by this amendment is permitting the States to use the money on a 100-percent basis. It will impact on the 20-year program in that the States may have put 10 percent less for 2 years in the total program.

However, I think the benefits of getting the program off the ground quickly and getting at unsafe bridges, reducing the number of traffic tie-ups, delays, and highway inefficiencies that these bridge problems are causing around the country, will far outweigh the negative impact of the States' contribution during these 2 years.

Mr. HOWARD. Madam Chairman, I rise in opposition to the amendment.

Madam Chairman, until this legislation the Congress had committed a mere $180 million per year for bridge construction and repair. In this legislation, as it came to the floor, we not only increased that to $2 billion per year for each of the 4 years of the program but we increased the Federal-State share from the existing 75–25 formula up to 90–10.

With the possible exception of emergency situations, we do not have and never have had a program in this Federal-State relationship, which is title 23, which is our highway program, with 100 percent Federal participation and no requirement for participation by the States.

We would like the Members to know also that, in recommending a great deal lower amount of money for bridge reconstruction in the other body, they changed the Federal-State share from 75–25 down to 70–30. So we feel we are going to have a difficult enough time in holding our position when we go to conference. We have looked into 100-percent funding on many projects and have determined that they would not work unless there is a dedicated share put in by the States. So I urge rejection of the amendment.

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

Madam Chairman, although my own State of Pennsylvania would benefit from this preferential amendment, I must reluctantly oppose it for six reasons.

First. It penalizes those States which are in good financial shape.

Second. It is disincentive for States to make tough decisions to increase revenue.

Third. It is unfair because no paybacks are required.

Fourth. It sets a bad precedent. It would be only a matter of time before someone tries to do the same thing with other amendments.

Fifth. Congress traditionally has opposed so-called bailout schemes, of which this is one.

Sixth. It was fully considered in hearings before the committee rejected and, indeed, soundly defeated it in markup.

For those reasons, Madam Chairman, I would reluctantly urge disapproval of this amendment.

Mr. EDGAR. Madam Chairman, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. I thank the gentleman for yielding, and I would like to commend the gentleman for his comments. I am also from the State of Pennsylvania, and I, too, oppose the Myers amendment. I think the gentleman from Pennsylvania (Mr. SHUSTER) has made a good list of points against this amendment, and I urge its defeat.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. GARY A. MYERS).

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

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

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, she will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The pending business is the demand of the gentleman from Pennsylvania (Mr. GARY A. MYERS) for a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. HORTON

Mr. HORTON. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HORTON: Page 108, after line 3, insert the following new section:

ADVERTISING BY NONPROFIT ORGANIZATIONS

SEC. 118. Section 131(c) of title 23, United States Code, is amended—

(1) by striking out "and (4)" and inserting in lieu thereof "(4)"; and

(2) by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "and (5) signs, displays, and devices advertising the distribution by nonprofit organizations of free coffee to individuals traveling on the Interstate System or the primary system. For the purposes of this subsection, the term 'free coffee' shall include coffee for which a donation may be made, but is not required.".

Renumber the succeeding sections of title I accordingly.

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

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

There was no objection.

Mr. HORTON. Madam Chairman, I rise to offer an amendment to section 118 of the Surface Transportation Assistance Act of 1978. The purpose of my amendment is quite simple. It will allow nonprofit groups to advertise free coffee on interstate and primary roads.

The need for this amendment first became apparent when the New York State Department of Transportation announced last July that it would prohibit the advertising of free coffee on I-490 outside Rochester, near the thruway. State officials advised a local citizens band radio group that has given free coffee to thousands of holiday motorists in the last 4 years, that advertising was in violation of State and Federal law. The group was warned that their adver-

tising could jeopardize Federal highway assistance funds.

To give you an idea of the number of people who have been benefited by the free coffee service, over the July 4 weekend last summer, the Rochester area CB Radio REACT group provided free coffee to 5,500 mortorists at a rest area on I-490 near the thruway entrance at Victor, N.Y. Over the Memorial Day weekend 3,800 motorists were served. Since there are CB Radio REACT groups all across the Nation, I am certain that these figures are fairly representative of many congressional districts.

I find it hard to believe that those of us who supported congressional enactment of the Highway Beautification Act of 1965 intended to prevent this kind of community service.

The chairman of the REACT group in my area put it this way:

> You try to do something good for the community and this is what you get for it. It's a low punch. A lot of people stop to get a free cup of coffee. It gives them a chance to stretch their legs until they feel they can go on without pushing it.

My amendment does not advocate nor intend that we allow advertisements to spring up on every federally funded highway year round. Instead, it is proposed as a solution to a problem that occurs only on holiday weekends. The most equitable solution to this problem is to change the law. I urge its adoption.

Mr. HOWARD. Madam Chairman, will the gentleman yield?

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

Mr. HOWARD. Madam Chairman, I just wish to compliment the gentleman from New York (Mr. HORTON) on his amendment.

We have these programs throughout the United States. There should not be any deterrent to them. We have them in my own State of New Jersey, and I believe the gentleman's amendment is a fine addition to the bill. It clears up any question which may arise.

Therefore, Madam Chairman, we accept the amendment on this side.

Mr. SHUSTER. Madam Chairman, will the gentleman yield?

Mr. HORTON. I am glad to yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Madam Chairman, we have studied this amendment. We think it is a good one, and we accept it on this side.

Mr. HORTON. Madam Chairman, I thank the gentleman.

Mr. CONABLE. Madam Chairman, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from New York.

Mr. CONABLE. Madam Chairman, I would like to compliment the gentleman from New York (Mr. HORTON).

These groups have been very active up in our area. They are in the best tradition of the American volunteer.

I think the initiative which the gentleman in the well has taken with respect to this matter is very much to be commended, and I am very pleased to associate myself not only with his initiative and his splendid judgment, but with the remarks he has already made.

Mr. HORTON. Madam Chairman, I thank the gentleman from New York.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. HORTON).

The amendment was agreed to.

Mr. EDGAR. Madam Chairman, I move to strike the last word.

Madam Chairman, section 128 of this legislation improves and expands Federal promotion and encouragement of voluntary commuter carpooling and van pooling programs. Carpools have been around for years, and they are a well-known component of any program with a goal of reducing vehicle miles traveled. Van pools are less well known, the first formal program having been established just 5 years ago by the 3-M Co. in St. Paul, Minn.

Van pooling is an innovative and cost effective expansion of carpooling, utilizing 12 to 15 passenger vans driven by a volunteer worker-driver. In a typical employer-sponsored program, a company purchases or leases a van, designates a worker-driver, and helps find worker-passengers. The driver receives a free ride, use of the van on weekends for a small mileage fee, and a percentage of the fare of the 10th and 11th passenger. All operating, maintenance, and vehicle amortization costs are paid by the passengers in a monthly fee. Companies usually absorb administrative costs.

As pointed out by virtually every witness before the Surface Transportation Subcommittee during hearings on van pooling held on May 13, 1977, these programs have many benefits to the Nation, to participants, and to sponsoring companies.

The Nation benefits from energy conservation, pollutant reduction, reduced traffic congestion, reduced highway construction requirements, the saving of consumer dollars which can be spent for American goods instead of adding to OPEC coffers, and also by allowing prime land to be used for productive purposes instead of parking lots. Each commuter van annually saves an average of 5,000 gallons of gasoline, according to the Department of Energy. According to the Environmental Protection Agency, each commuter van reduces pollutants an average of 1.8 tons annually.

The van pooler benefits by reducing commuting costs, freeing a commuting vehicle, escaping the hassels of rush hour commuting by car, and having preferential parking at work.

The participating company benefits from saving on parking construction and maintenance costs, increasing its labor pool radius, relieving traffic congestion near the plant, and improving employee morale and productivity.

Overall, I feel strongly that ridesharing programs can made significant contributions toward achieving national transportation, energy, and environmental goals.

During the May 1977 hearings, the Surface Transportation Subcommittee learned of the experience of some of the almost 100 existing formal vanpooling programs, which have a total of more than 2,000 commuter vans on the road in 35 States and the District of Columbia. Generally, there are three types of van sponsorship—programs administered by companies for their own employees, programs run by areawide public agencies, and vans operated and administered independently by individuals.

During these hearings, the subcommittee heard testimony about the unique characteristics of vanpool programs, and about their unique problems. During subcommittee and committee markup on H.R. 11733, I introduced amendments to address some of these problems. Even before final action occurred on this bill, it contained a number of provisions which I feel will be helpful in efforts to eliminate some of the barriers to increasing ridesharing participation.

Section 3 of the Emergency Highway Energy Conservation Act (Public Law 93-239), as amended, authorizes States to set aside part of their Federal aid urban systems highway construction apportionments for demonstration carpooling and vanpooling programs. Ridesharing projects have already demonstrated their effectiveness in saving energy, reducing pollution, and relieving traffic congestion. For this reason, the committee deleted the word "demonstration" from the act, to establish these projects as an ongoing, eligible program.

The committee also amended the act to assure that stationwagons could not be financed by Federal aid urban systems funds. The committee approved several other amendments to the program—reducing the Federal share for these projects to 80 percent, thus making the Federal share consistent with most other transportation construction projects as provided in H.R. 11733. The committee also deleted the $1 million limitation on the Federal share for any single project, and authorized Federal aid primary funds to be available to States for financing these projects.

I offered three amendments in committee to further ridesharing efforts. In approving the first of these amendments, the committee recognized that ridesharing lacks an effective public or private sector constituency so it designated the Secretary of Transportation to fill that role. While it clearly is in the national interest to promote ridesharing, certain institutional, social, and political forces have worked to the disadvantage of this mode. I believe that ridesharing efforts require a strong advocate to voice the needs of this mode and to make Federal policy sensitive to the special needs of ridesharing.

Examples of these needs are Federal taxing and Federal parking policy which could promote ride sharing. In offering this amendment, I did not intent that the Secretary favor ride sharing at the expense of other modes; rather the Secretary should actively work to assure that the interests of ride sharing are sufficiently represented in all Federal rule and regulation making in which ride sharing has a significant interest.

My amendment authorizes $1 million for each of the next 3 fiscal years for the

Secretary to establish a program to assist in the establishment of new voluntary ride sharing programs, to encourage the public sector in removing legal and regulatory barriers to ride sharing, to support existing ride sharing programs by disseminating up-to-date information of interest to ride sharers and ride sharing project operators, and to provide related technical assistance.

I believe that identifying legal and regulatory barriers to ride sharing can make a substantial contribution to increasing participation in this mode. These barriers include the lack of insurance at reasonable fees and levels of coverage, unresolved questions about coverage under workers' compensation laws, labor relations questions such as which programs are eligible for exemptions under the Fair Labor Standards Act, local zoning law questions, and Federal, State, and local tax questions.

Already, at least 12 States have exempted van pools from regulation by public utility commissions. It is my intent that the Secretary under this section would be authorized to develop model State and local legislation to assist State and local governments in resolving these problems.

Subsection (h) of this section is an amendment I introduced to exempt from regulation by the Interstate Commerce Commission vehicles carrying up to 15 persons in a single daily round trip for the purpose of commuting to and from work. This provision is intended to exempt interstate van pools from economic regulation by the ICC. However, most van pools are intrastate, and are subject by regulation by the States. The approval of this provision by the Congress, in my opinion, would serve as a signal to all States that it is in the public interest to remove regulatory barriers at both the State and Federal level.

The Secretary is also authorized to help establish ridesharing programs where they are needed and desired. It was my intent in offering this amendment to establish within the Department of Transportation a ridesharing "strike force" with a capability of bringing in a team of trained ridesharing professionals to advise those who wish to start a ridesharing program. It is my hope that such a team would have sufficient experience in the start-up of programs to avoid repeating the mistakes and bad experiences of administrators of other programs. The team would provide technical assistance in the form of marketing and promotional help, and make the transition to ridesharing as easy as possible—and then turn over the reins permanently to local control. The team would continue to be on call to provide technical help, and in addition would facilitate the acquisition of financial assistance which may be available from both the public and private sector.

The committee shared my view by approving my amendment that it is necessary to provide a stable funding source for ridesharing projects. Existing funding is inadequate to meet the expected demand for financial assistance. Many States are reluctant to set aside funds apportioned to them for highway construction. For this reason, a separate category for ridesharing projects will promote more participation and ridesharing.

Section 128 repeals an existing but unfunded $7.5 million categorical grant program for carpooling demonstration projects in favor of a new, broader program of grants and loans. In offering the amendment to establish this new program, it is my intention that eligible projects should include matching ridesharers with other ridesharers, establishing ridesharing offices to administer programs, evaluating ridesharing programs, studying the feasibility of establishing ridesharing projects, financing "abort" agreements to guarantee a ridesharing project operator against loss of investment in a ridesharing program, providing marketing information to potential ridesharers, designating existing parking facilities for preferential ridesharing parking, designating existing highway lanes as preferential ridesharing lanes or preferential ridesharing and bus lanes, and providing for ridesharing traffic control devices and signs.

None of the grants could be used for the purchase or lease of vehicles. It is also my attempt that none of the funds could be used for normal operating expenses for vanpooling projects other than for administrative expenses. These programs are self-sustaining. Participant fees are charged in an amount which covers vehicle amortization, and operating and maintenance expenses. Nothing in this section was intended to preclude the use of these funds for low interest or interest-free loans for the purchase or lease of appropriate ridesharing vehicles under terms and conditions as the Secretary deems appropriate.

My amendment authorizes $15 million for fiscal year 1979 and $20 million for fiscal year 1980 to finance the program I have just described.

Vanpooling and carpooling have commanded the attention of several Federal agencies which see ridesharing as supportive of their mandates. The Department of Energy sees ridesharing as a tool to conserve energy. It should be noted that as a result of an amendment I introduced, the Federal Energy Administration vanpooling promotion program was transferred to the Department of Transportation last October. The Environmental Protection Agency encourages ridesharing as a way to reduce urban smog. The Urban Mass Transportation Administration is funding four demonstration vanpooling programs to study how vanpooling can improve the peak-to-base ratio of public transit systems, thus reducing system deficits.

The Federal Highway Administration administers the previously mentioned program authorized by Public Law 93-239, as amended. I feel that none of these programs has adequate resources to respond to the need for financing and technical assistance, and there is only minimal coordination among these programs despite their similar functions. By approving one of my amendments, the committee endorses my view that if these programs were consolidated into a single office, the elimination of duplication and the increase in efficiency could increase the delivery of services without additional need for funding. Such a "National Office of Ridesharing" would offer "one stop shopping" for those who are searching for ridesharing financing, technical promotional or marketing assistance, or for those who would benefit from a clearinghouse for ridesharing information.

My amendment proposes to authorize $125,000 to finance a study to determine the costs and benefits of creating such a "National Office of Ridesharing." Following the study, the Secretary would submit a plan to the Congress proposing a plan to centralize the programs, if necessary, to make them more efficient, cost-effective, and to avoid duplication of effort.

Section 128 also provides that the Secretary of Transportation shall not approve any project under section 3 of the Emergency Highway Energy Conservation Act, as amended, which will have an adverse effect on any public transit system. This provision would also apply to the new categorical grant and loan program.

Generally, there is little evidence that projects funded under that act have had an adverse effect on public transit. The average vanpool trip is 25 miles one-way compared to the average one-way public transit trip of 6 miles. However, vanpool programs can be tailored to interface with public transit. UMTA is presently funding four projects under authority of the UMT act section 6 demonstration program, to assess the benefits of vanpooling projects to public transit. The theory is that vanpooling could be an effective strategy for reducing public transit deficits which accrue during the peak hour. Increase in transit deficits occur during this peak because vehicles and drivers are idle for much of the day. UMTA is also taking a look at how vanpooling can substitute for conventional public transit in areas where rider density is too low to be economical.

The four UMTA-funded vanpool projects are demonstrating that vanpools complement public transit. It was my intention by adding language protecting public transit that these projects not result in significant financial harm to this conventional mode. While I am not aware of any existing vanpool project which would meet this criterion for disapproval, I feel it is important to maintain the financial viability of public transit systems, which have an important role in moving people efficiently in urban and urbanized areas.

AMENDMENT OFFERED BY MR. GARY A. MYERS

Mr. GARY A. MYERS. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GARY A. MYERS: On page 150, delete line 23 and all that follows through line 10 on page 151.

Mr. GARY A. MYERS. Madam Chairman, there is a sizable commitment by the committee in section 108 of the bill, page 97, to completing the interstate in a timely fashion.

One of the provisions of that section would prevent the Secretary from redesignating any newly released sections of the interstate to other highways around the country, except that if we go to page 150 and read section 158, we find this wording:

Notwithstanding the amendments made by section 108(b) of this Act, the Secretary of Transportation shall, not later than sixty days after the date of the enactment of this Act . . .

Madam Chairman, it goes on to explain that there are three sections of highway in the United States which ought to be excluded from this provision in section 108.

I believe this is special interest legislation if I have ever seen it. I offered an amendment in the committee to strike it. The committee would not support it. I offered an amendment in the committee to allow any other qualified highway in the United States to be able to be designated if the Secretary chose, but somehow the committee has found that these 29 miles of highway which are in California and in New York are so important that they deserve a special section of the bill and will not be handled the same as all other Federal highways in all the rest of the United States. I would not object to that if there were only 29 miles which States had previously requested to have redesignated, but the truth of the matter is that there exists now more than 5,000 miles of requests for highways to be designated as Interstate.

The other truth of the matter seems to be that these highways have been before the Secretary for more than 10 years, or at least in the middle 1960's, as I understand, on which the Secretary has never determined that they were so important that they should be designated as Interstate even though during that same course of history there were miles released and redesignated in other sections of the country. With 5,000 miles being requested, it would seem to me that virtually every State is probably affected by this, and probably the majority of the congressional districts. I wondered why in the committee, members would vote against their States' being able to receive this same benefit, because what I found even in my own State was that States have asked for this so-called 90–10 split, and that is usually what it gets down to. The States want a 90–10 split.

The House just rejected my proposal to relieve the States of 10 percent funding with regards to special bridge programs and safety programs where bridges are collapsing—I forget what number the chairman said—collapse daily around the country. Yet what we are doing here is taking 29 miles of highway in very special legislation and forgiving these two States of 20 percent of their obligation to build them. If the States feel they are so important, they should go ahead and build them, but I do not see that they merit special Federal legislation.

If this amendment fails, and that means if we fail to strike this, I intend to offer an amendment which would expand it so all States in the United States could compete for mileage as it is released. I would hope that people who represent States that have a desire to be handled fairly with New York and California would find it in their minds that they would best represent their constituents by voting for that second amendment. My first hope is that this amendment passes because it is special legislation which is not defendable, I do not believe, by any merits of the situation. I think that we would be most responsible if we make these 29 miles in California and in New York to be dealt with exactly the same way as we expect those other 5,000 miles that are on application, and perhaps again another 5,000 that would be requested during the next few years.

Mr. ANDERSON of California. Madam Chairman, I rise to oppose the amendment.

This amendment is essentially the same as one the gentleman offered in committee that was rejected 37 to 4. Not only would it gut the intent of the committee, but it also is opposed by the California Department of Transportation, the Los Angeles Board of Supervisors, the Los Angeles County Transportation Commission, Los Angeles City Mayor Tom Bradley, the Southern California Association of Governments, and the Southern California Rapid Transit District.

Madam Chairman, we need section 158. The 7 million people in Los Angeles are looking to the Harbor Freeway as their hope for the beginnings of a regional transit system.

We need to encourage these people to get out of their cars and into buses.

We need such a system to help meet the clean air mandates. For unless we do, these stringent requirements will force a shut-off of all Federal funds to an area larger in population than 42 States. This freeway transit system that section 158 will allow hinges on the Harbor Freeway as its backbone. The system will never be realized unless we get the increased Federal participation that goes with Interstate System designation.

Madam Chairman, this is not special interest legislation that benefits a few. More people moved into the Los Angeles area from 1950–70—3 million—than live in half the States of this country.

As I said earlier, this area is larger than 42 States in population. UMTA recognizes that 800,000 people are riding buses every day in this area. Since we could double this number and save millions of gallons of fuel with the Harbor Freeway transit system, the UMTA Regional office fully supports the route designation and indeed recommended that the Federal Highway Administrator move to designate the Harbor Freeway as Interstate administratively.

Secretary Brock Adams told the committee that the Clean Air Act mandated that priority be given to projects addressing nonattainment areas like Los Angeles. Yet, his Federal Highway Administration has moved to designate nearly 50 miles elsewhere while this project waits in limbo.

This is unfortunate and section 158 corrects this by mandating Interstate System designation within 60 days of enactment. This is fully consistent with the report of the Interstate and Foreign Commerce Committee on the Clean Air Act amendments. I quote:

The committee urges that agencies . . . make available any relevant program assistance to the states and regions involved in order to meet these (Clean Air) obligations.

Madam Chairman ,because of the clean air mandates, because of the unified local support, because of the committee's strong support, and because of the urgent need, I oppose this amendment and urge its rejection so that we can support the committee's bill.

I have been forced to speak in the negative on this because of the gentleman's amendment. Let me include in the RECORD now the positive side of this matter—a side accepted overwhelmingly by the committee in markup and by the full House tonight.

THE ROUTE DESIGNATION SECTION OF THE SURFACE TRANSPORTATION ASSISTANCE ACT OF 1978

Section 158 directs the Secretary of Transportation to designate certain routes as part of the Interstate System not later than 60 days after enactment of this Act. Let me explain the reasons for one route mentioned in this section.

Section 108 of this bill prohibits the Secretary from designating mileage as Interstate after the date of enactment. Exempt from this requirement is specified mileage in California and New York.

The 20.5 miles in California is presently State Route 11 (SR 11). This existing freeway is a "back-bone" transportation corridor connecting the proposed Century Freeway (I-105), the Artesia Freeway (State Route 91), and the San Diego Freeway (State Route 450). This freeway grid, serving nearly 9 million people in Los Angeles County, connects the Los Angeles/Long Beach Ports with the Central Business District (CBD) of the City of Los Angeles.

When designated as Interstate, this existing highway can be improved by building high occupancy vehicle and rapid transit lanes that are critical if Los Angeles is to meet Congressionally mandated national ambient air quality standards. I remind my colleagues that the Clean Air Act mandates that each Federal department, agency, or instrumentality must give priority in the exercise of the authorities in the implementation of State Implementation Plans (SIP).

NONATTAINMENT AREAS

Since many urban areas of the country, and Los Angeles in particular, cannot achieve national air quality standards, Sections 171 and 172 of the Clean Air Act permit five or ten year deadline extensions. However, in return for any extension, exhaustive action and proof of achievements throughout this period are required.

DOT Secretary Brock Adams, in answer to my questions during our committee hearings on this bill, stated that he was required to give priority to projects which would help non-attainment areas comply with these standards.

Notwithstanding these comments, DOT has since designated nearly 50 miles of highways across the nation as Interstate, while the SR 11 application remains in limbo. Though the stated purpose of the SR 11 designation is to lay the groundwork for a regional public transit network in a severe non-attainment area under threat of a complete cut-off of all HUD, highway, and public works projects, the request for SR 11 to be

designated as Interstate has gone unanswered.

Very specific provisions forbidding either approval or funding of projects by Federal agencies unless an implementation plan has been submitted are included in the Clean Air Act. However, without the increased Federal match that goes with Interstate designation, we can hardly fault local transportation planners for not including air quality improvement measures like these high occupancy vehicle lanes unless they could afford to pay for them. With the existing 70–30 match this is not possible.

On the other hand, a 92% Federal share basis would allow these planners to move to create a public transit grid that will serve this area of Southern California and its 9 million residents. Without this increased Federal assistance, we may see DOT and, indeed, all Federal agencies, withholding grants to this area.

THE STATE PLAN FOR SR 11

The Harbor Freeway (SR 11) is presently an 8-lane freeway. Interstate System designation is requested in order that an exclusive bus/car pool guideway can be constructed as part of a Regional Freeway Transit System (RFTS).

The estimated cost of Segment One of the freeway transit project along SR 11 is $75 million. This would include 2 miles of aerial guideway and 5½ miles of widening along the freeway to accommodate buses and car pools. In addition, three on-line stations are proposed to be financed with non-highway funds.

South of proposed I–105, buses and car pools will use the existing SR 11 mixed-flow freeway lanes until Segment Two begins. Five on-line stations are proposed.

The proposed Interstate System designation and the existing southerly leg of SR 11 (Segment Two) would provide connections with I–10 and I–405, and with the proposed I–105. This continuous system ties Los Angeles' CBD to the southern and western portions of Los Angeles County.

SR 11 ties the CBD and its 200,000 jobs to the Los Angeles/Long Beach Port area and its 100,000 jobs.

SR 11 is a key element in the operation of a tentative 370-mile, one hundred station FTS. This system is Los Angeles' only hope to attain national ambient air quality standards and thus avoid a cut-off of all Federal funds after 1982. Patronage forecasts for 1990 of the freeway transit element indicate that the SR 11 corridor will carry the highest patronage in Los Angeles County.

The "People Mover" for downtown Los Angeles has termini at the Union Station to the east and the Convention Center to the west. The SR 11 freeway transit project will connect with the "People Mover" terminus at the Convention Center, located just north of I–10.

UMTA SUPPORT STRONG

On April 28 Dee V. Jacobs, Director, UMTA Region IX, sent a memorandum to Urban Mass Transportation Administration Administrator Dick Page urging UMTA to advise the Federal Highway Administration of "UMTA's very strong support in principle for this designation."

PRIOR PLANNING

During 1975 and 1976, a comprehensive transit alternatives analysis was conducted by concerned agencies in the Los Angeles region. Based upon the findings of the analysis, a four part Regional Transit Development Program was developed and endorsed by the Southern California Rapid Transit District (SCRTD), the California Department of Transportation (Caltrans), and the City of Los Angeles.

The four elements of the plan are: a transportation system management plan (TSM); a high-level bus-on-freeway service to be commonly known as "Freeway Transit"; a "People Mover"; and a rail rapid transit system.

Former DOT Secretary Coleman stated that UMTA and FHWA are prepared to provide the requested funds for preliminary engineering and environmental impact analysis for the first three elements. (Letter dated December 22, 1976)

SR II, a major north-south freeway through central Los Angeles, is a key element in the operation of the tentative 370-mile, one hundred station FTS.

Preliminary planning indicates a need for nine on-line stations along the 20.5 mile route of SR II. These stations would intercept local east-west bus lines providing widespread access to hospitals, universities, schools, shopping centers, major sport complexes, and employment areas like the Los Angeles/Long Beach Ports—all at a cost of $125 million.

The "People Mover" has termini at the Union Station to the east and the Convention Center to the west. It is planned to extend the El Monte busway westerly to the Union Station to interface with the "People Mover." The SR II freeway, the back-bone of the entire system, will connect with the "People Mover" termini at the Convention Center, located just north of I–10, and east of and adjacent to SR II. With efficient transfer facilities to the "People Mover", the SR II designation will be a significant factor in the success of the people mover operation.

Los Angeles is presently negotiating with the International Olympic Committee, to host the 1984 Olympic Games. If Los Angeles is successful, many of the activities will be centered at or near the Convention Center and the Los Angeles Coliseum/Sports Arena. The SR II freeway is so located that it will be the main transportation arterial between the two complexes.

Presently, plans are being prepared for the implementation of ramp meters on the northbound SR II on-ramps between SR 47 and I–405. On SR II between I–405 and I–10, the on-ramps in both directions are currently being metered. However, with the completion of proposed I–105, the ramp control programs on SR II will be a major mitigating measure for lessening the impact from I–105.

SR II TODAY

Heavy congestion during peak commuting hours is a common, every day occurrence on SR II. At times, coupled with the commuters is traffic generated by two major sport complexes near SR II—the Dodger Stadium just north of the Los Angeles CBD(and the Los Angeles Coliseum/Sports Arena, south of the CBD.

The present SR II traffic volumes range from 40,000 vehicles daily at the junction of SR 47 to 205,000 at both I–10 and proposed I–105. As can be expected, the major cause of accidents on SR II is directly related to the congestion and in some cases, to the older design standards used in the construction of the freeway in the mid-1950's and early 1960's. Major programs that could be financed with Interstate System designation on SR II would go a long way in reducing accidents.

JUSTIFICATION FOR THE SR 11 DESIGNATION

Following is a list of characteristics which the committee feels contributes to the justification of Section 158:

SR 11's freeway transit project is included in the Southern California Association of Government's (SCAG) Regional Transit Development Program.

SR 11 provides service to the Los Angeles Convention Center, a proposed Regional Transportation Center, with connections to the proposed "Downtown People Mover"/ Union Station/El Monte Busway.

SR 11 provides a vital and direct link between LA Harbor/San Pedro and related port activities, and the Los Angeles CBD.

SR 11 provides the most direct route between Los Angeles International Airport (LAX) and the Los Angeles CBD via proposed I–105.

SR 11 provides the most direct route between Terminal Island including the U.S. Naval Base and Naval Shipyard and Long Beach Harbor and the Los Angeles CBD.

SR 11 has the highest potential projected transit patronage of any of the various freeway corridors in the 370-mile transit system.

SR 11 provides access to the recreational/ beach activities of the San Pedro/Palos Verdes coastal areas.

SR 11 has continuous heavy use because land-use in this corridor runs the gamut from light/heavy density residential to commercial-industrial.

CONCLUSION AND SUMMARY

Designation of SR 11 between 1–10 and SR 47/San Pedro as a part of the Interstate System will accomplish several objectives for the region.

Eligibility for Interstate funds would accelerate and provide adequate funding for the freeway transit element. In addition to providing a better traffic service and a safer facility, by inducing a large diversion from the auto mode to the freeway-transit mode, it would result in reduction of fuel consumption, congestion on freeways, especially during peak commuting hours, and more importantly, reduction of air pollution in the Los Angeles Basin.

On the other hand, without this designation, funding for this critical proposal would need to compete with other funding sources, eg. FAU, FAP, and UMTA. This would add considerably to the burden of the region as it must then consider the tradeoffs and delaying of other needed regional projects funded from other sources.

Overall, it is apparent that SR 11 in line with national goals could play an important role early in the implementation of the entire Freeway Transit System. With the anticipated extension of the El Monte Busway westerly to the Union Station; the implementation of the "Downtown People Mover" between the Union Station and the Convention Center; the rail rapid transit system between the San Fernando Valley and the Los Angeles CBD; the proposed I–105 Freeway connection to LAX; and the Interstate Freeway links between I–10, 1–105, and I–405, SR 11 plays a key role in transportation planning in Los Angeles County.

Mr. NOWAK. Madam Chairman, will the gentleman yield?

Mr. ANDERSON of California. I yield to the gentleman from New York.

Mr. NOWAK. Madam Chairman, I also rise in opposition to the amendment.

Madam Chairman, the 1978 Surface Transportation Assistance Act directs a new focus for the interstate highway system, with provisions inserted for speeding completion of the system and an expansion of the focus on resurfacing and rehabilitating existing roadways.

In keeping with the committee's intention to get projects underway quickly, section 158 of the bill directs the Secretary of Transportation to expeditiously designate—within 60 days after enactment—certain routes selected by the committee as necessary components of an effective interstate highway system.

I am personally familiar with the pro-

posed addition of 4.2 miles of the planned Lockport Expressway near Buffalo, N.Y., to the interstate system. The highway will serve an interregional and interstate function in an area poorly served by free interstate facilities.

The Lockport Expressway is an essential element of the transportation plan for the Niagara frontier. It enjoys vast public support and is the highest priority major highway project within the urban area. Environmental impact analyses and design for the route have already been approved by the Federal Highway Administration. With interstate designation, the project will proceed in a timely manner to serve the metropolitan area.

The route will provide access to the new State University of New York campus at Amherst and will establish an appropriate connection to Interstate Route 290, while reducing congestion, accidents, energy consumption and air pollution on local streets and roads.

As an integral component of the regional transportation plan, the highway will provide better suburban access to public transportation facilities, including the regional bus network and light rail rapid transit system currently being funded under grants from the Urban Mass Transportation Administration and the State of New York.

The amendment authorizing Interstate designation for the Lockport and two other needed projects in New York and California was included in the bill after careful consideration of the alternatives. I would urge Members in the Committee of the Whole to look to the action in the full committee when a similar amendment by the gentleman on this section was rejected by a vote of 37 to 4 and call for Members to maintain section 158 in the bill.

Mr. HOWARD. Madam Chairman, will the gentleman yield?

Mr. ANDERSON of California. I yield to the gentleman from New Jersey.

Mr. HOWARD. Madam Chairman, I thank my colleagues, the gentleman from California and the gentleman from New York, for their statements. This was gone into very deeply and felt to be necessary and was adopted by the full committee.

Madam Chairman, I urge defeat of the amendment.

Mr. WALSH. Madam Chairman, I strongly oppose the amendment offered by the gentleman from Pennsylvania (Mr. GARY A. MYERS). The gentleman introduced this same motion in committee, and it was soundly defeated.

I-481 will be a strong link in the interstate system around Syracuse, N.Y. The Syracuse Metropolitan Transportation Study Policy Committee and the State of New York recognized the importance of the planned northeast extension of I-481 as a needed link in the urban expressway system. This link will provide access to the industrial expansion in the northeast quadrant of Syracuse and also provide a more direct access route to traffic destined for Oswego and other points north of the Syracuse area. Since 1958, New York State has attempted to obtain interstate designation for this extension of I-481. In 1968, New York listed the interstate designation of this highway link as highest priority in an application submitted under the provisions of the 1968 Highway Act. The outcome of this action was that the FHWA agreed on signing this route as I-481 but did not approve its construction using interstate funds. In the most recent attempt to obtain interstate designation for this link, FHWA did not dispute the merits of placing it on the interstate system but turned the application down administratively due to a lack of mileage.

Currently, New York is completing the FEIS for I-481 and expects to send the report to FHWA in the near future. The project is scheduled for letting in the spring of 1981 assuming the availability of interstate funding.

The project enjoys a rate of return that allows the users to receive benefits that equal approximately two and one-half times the investment cost of the improvement. Included in this return are the following:

First. Distance savings—44 percent over existing expressway routes;

Second. Time savings—66 percent over existing expressway routes;

Third. Energy savings amounting to 650 billion gallons of fuel per year;

Fourth. Accident rates being less than one-half those of statewide averages.

Extending I-481 would provide the necessary improved access to major transportation terminals such as Hancock International Airport, 25 trucking terminals and the Port of Oswego.

This link will offer strategic bypass capabilities and better serve the:

First. U.S. Air Force Syracuse Station;

Second. U.S. Marine Corps Reserve Training Center;

Third. New York Air National Guard Base;

which are located at Hancock International Airport. In addition, four major industrial defense plants (Chrysler, GM, GE and Crouse-Hinds) would realize increased access security from the interstate network.

Unemployment statistics have shown Syracuse to be above the national average. Any public works activity that would improve access to 60 major and minor industries in the immediate vicinity of this highway would insure a positive effect on the employment situation in the Syracuse area. A positive effect would also be realized by State recreational attractions such as Lake Ontario, Oneida Lake, and State parks located in the surrounding area.

Mr. HANLEY. Madam Chairman, it is essential to the northeast extension of I-481 in New York State that the Myers amendment be defeated. The link provides access to the industrial expansion in the northeast quadrant of Syracuse and points north. Since 1968, New York listed this link as highest priority.

Currently, New York is completing FEIS for I-481 and expects to report to FHWA in the near future. Hopefully the contract will be let in 1981.

The rate of return has users receiving benefits that equal about two and half times the investment cost.

The Myers amendment would indeed be penny wise and pound foolish. I urge its defeat in concurrence with committee judgment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. GARY A. MYERS).

The amendment was rejected.

AMENDMENT OFFERED BY MR. GARY A. MYERS

Mr. GARY A. MYERS. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GARY A. MYERS: Page 151, line 1, delete "shall" and insert in lieu thereof "may".

Page 151, line 7, delete "and".

Page 151, line 10, delete the period and insert in lieu thereof a comma and the following: "or any other qualified Federal-aid highway."

Mr. GARY A. MYERS. Madam Chairman, what we have done for New York and California we can do for all the rest of the country. By adopting this amendment it will put in exactly the same situation any other qualified Federal highway system road which would qualify under the circumstances in a category that the Secretary may, in fact, redesignate unused mileage as interstate. That means that any State on any of the 5,000 miles which are now on application could be chosen by the Secretary on the basis of some criteria or priority.

Now, I hesitate to challenge my chairman on the statement about how well the committee looked at this, but I would like to put in perspective that the committee did not even know how many miles were presently before the Secretary for redesignation. I do not know that the committee brought one other road project up in discussing this subject. I was in the committee when it was offered. I did not hear any support for any other project or discussion of how much more important this was than those other 5,000 miles.

All we would do here by adopting this amendment is to say to the Secretary that when the mileage becomes available over the next 60 days, "You can choose among any of the projects that lay before you that you consider qualified."

I respect the Secretary. If he thought one, two, or three of these projects were the most important in the country, he should pick them. I do not have any dispute with that, but it is sort of surprising to me if these applications have laid before several Secretaries since the mid-sixties that we have found it necessary for a legislative mandate that he must do this.

I think in all fairness to any State—you name it—that we ought to tell the Secretary we really do not mean section 108 for the next 60 days. What we mean is that for the next 60 days you can redesignate.

Mr. HOWARD. Madam Chairman, I rise in reluctant opposition to the amendment.

Madam Chairman, I think the one thing we should look at is the third portion of this amendment, which states:

On page 151, line 10, "delete the period and insert in lieu thereof a comma and the following: 'or any other qualified Federal-aid highway.'"

That merely means that the Secretary of Transportation may at the request of a State add to the Interstate Highway System any other qualified Federal-aid highway.

We have many thousands of miles of Federal-aid highway, and we have in the Interstate System 42,500 miles of highway.

We have been trying for years and years, since the 1950's, to complete this system. We felt this was designed to meet the national security needs back in the 1950's, and that is why it was called the Interstate and Defense Highway System. This amendment would wipe that out, with no limitation, and we could have virtually every part of the Federal-aid highway system declared an interstate, and it would be able to get funding under those circumstances.

Therefore, Madam Chairman, I think this amendment would do a great deal of damage, if not destroy the entire highway program.

Mr. SHUSTER. Madam Chairman, will the gentleman yield?

Mr. HOWARD. I would be glad to yield to the ranking minority member, the gentleman from Pennsylvania (Mr. SCHUSTER).

Mr. SHUSTER. Madam Chairman, I thank the distinguished chairman of the subcommittee for yielding.

If I understand the explanation given to us by the chairman, this means, for example, that even a two-lane secondary road which is in the Federal-aid highway system could qualify to become an interstate road, if it meets the standards?

Mr. HOWARD. No. If it is a four-lane highway in the Federal-aid highway system, yes.

Mr. SHUSTER. But there are still thousands of highways that could qualify?

Mr. HOWARD. That is true.

Mr. SHUSTER. Then this might be considered as a "Katie-bar-the-door" amendment?

Mr. HOWARD. I am not sure what the gentleman means, but I think I agree with him.

Mr. HARSHA. Madam Chairman, will the gentleman yield?

Mr. HOWARD. I yield to the gentleman from Ohio.

Mr. HARSHA. Madam Chairman, I think that if the Members pay close attention to the amendment, they will see that what it really does is give every State a hunting license to add more roads in the interstate system.

In addition to that, we are gutting the provision in the bill. Although we give the Secretary of Transportation the discretion to designate these three routes, he will never do it. In other words, we are not only giving every State a hunting license to add more roads to the interstate system, but we are in effect taking away what the committee has already designated and what is made mandatory by the language of the bill.

Mr. HOWARD. Madam Chairman, the gentleman is correct. The gentleman says that we would give every State a hunting license, but we would in fact give the Secretary the only gun.

Mr. HARSHA. Or for sure we would be giving him the only bullets.

Mr. GARY A. MYERS. Madam Chairman, will the gentleman yield?

Mr. HOWARD. I yield to the gentleman from Pennsylvania.

Mr. GARY A. MYERS. Madam Chairman, I think all of us on the committee are familiar enough with the law to know that the Secretary cannot expand the number of miles on the Interstate Highway System as a result of this committee's action beyond what has been previously authorized. I believe that we all could agree that the amendment would only extend during the period of time during the three highways that were previously suggested ought to be redesignated be available for all qualified highways and that is for 60 days. It only applies to that period. That would not give them very much time to get their hunting license in order.

The fact of the matter is that some 5,000 miles of applications are already before the Secretary, and my feeling is that we are dealing unfairly with some States by passing this special legislation which only pulls out and approves only 29 miles of highway.

Mr. HOWARD. Madam Chairman, I would like to state to the gentleman, however, that in this act, on pages 156 and 158, which apparently is going to stand as it is now, with the authority given the Secretary in the first five lines on page 151 and the language on page 150, where it does state routes, if the gentleman's amendment is agreed to, then he would have an opportunity and would be able to include and expand the 42,500 miles by any amount he wants beyond what is specifically written in the act.

Mr. GARY A. MYERS. Madam Chairman, if the gentleman will yield further, it is my understanding of the language on page 158 that there must be mileage released before these can be redesignated. If that is not the case, then I think the committee was misled, because we were led to believe it was not creating any new authority for interstates. All I am saying is that this amendment would fit in at the end of the section, and it would also require there would be a release of mileage from other projects around the country.

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

(By unanimous consent, Mr. HOWARD was allowed to proceed for 30 additional seconds.)

Mr. HOWARD. I would just like to state that there was a great deal of discussion with it as to how it could be written in that way. Then what finally came out of the committee after this discussion was the language as it is now, which would make it open-ended.

Madam Chairman, I urge defeat of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. GARY A. MYERS).

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

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

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, she will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One-hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The pending business is the demand of the gentleman from Pennsylvania (Mr. GARY A. MYERS) for a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

Mr. VOLKMER. Madam Chairman, I move to strike the last word.

Madam Chairman, I would like to direct a question to the gentleman from New Jersey (Mr. HOWARD), the chairman of the subcommittee.

One aspect of the Surface Transportation Assistance Act of 1978 that I am interested in is the section regarding priority primary routes.

In the Committee report several segments of priority primary routes are mentioned as worthwhile projects including the Illinois leg of the Chicago-Kansas City Expressway.

The Missouri segment of the expressway was not mentioned in the committee report, however the State Highway Commission has endorsed a resolution that the segment in Missouri of this route be considered as a worthwhile project for funding under the priority primary authorizations.

If the next step in the process, the designation of the Missouri segment as a priority primary route by the Federal Highway Administration, is taken in the next year I would hope the committee would consider this project for a portion of that priority descretionary funding.

I direct this comment to the gentleman from New Jersey (Mr. HOWARD).

Mr. HOWARD. If the gentleman will yield, Madam Chairman, I would like to state that I do agree with him. The matter has been discussed. The gentleman has spent some time on this matter. I know of the consideration he has for his own State.

I would like to say that certainly, should the next step be taken by Missouri designating this as a priority primary route, the committee certainly will consider funding this as a portion of the priority primary program.

Mr. VOLKMER. Madam Chairman, I thank the chairman of the subcommittee.

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

Mr. COLEMAN. Madam Chairman, will the gentleman yield?

Mr. HOWARD. I yield to the gentleman from Missouri.

Mr. COLEMAN. Madam Chairman, I would like to obtain the advice of the gentleman as it relates to the funding of a priority-primary road between Chicago and Kansas City. On page 8 of the report to accompany this bill (No. 95–1485), language was included to indicate to the Department of Transportation that Congress considered certain routes worthy of consideration for funding as part of the priority-primary highway system.

That language included only that portion of the Kansas City to Chicago route between Quincy, Ill., and Chicago. At the time the report was prepared, Missouri had not dedicated any portion of the route as primary route. Since then, however, the Missouri Highway Commission has adopted a resolution favoring the construction of this route.

My question of the gentleman is this: Does the language in the report in any way stop the Department of Transportation from considering the full route from Kansas City to Chicago since the obstacle to earlier inclusion in the report has been removed by the Missouri Highway Commission's adoption of the resolution?

Mr. HOWARD. If the gentleman will yield, Madam Chairman, I would like to respond in this way to the gentleman: since the designation does not at this time exist, but should this be presented to the Congress as a request from the State of Missouri, we will certainly do everything we can to comply with that request and look into it.

I congratulate the gentleman for his statement and thank him for bringing it before the committee at this time.

Mr. COLEMAN. Madam Chairman, may I say to the gentleman that the designation may not yet have been received by the Congress, but the Commission has already performed this act, and the request will be forwarded to us.

I would join with my colleague in hoping that we could get this matter before the Congress next year for further authorization.

Mr. HOWARD. I would say to the gentleman that it is my hope that all of us will be here at that time so as to take care of the matter.

Mr. COLEMAN. Madam Chairman, I thank the gentleman.

Mr. ANDERSON of California. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, during the mark-up of this bill by our Public Works and Transportation Committee, I offered an amendment that now appears as section 131. I want to thank Chairman JIM HOWARD and our excellent committee staff for their cooperation and assistance in the development of this section. I also want to thank two gentlemen with the League of American Wheelmen, Ralph Hirsch and Will Jourdin, for their technical expertise. Thanks also go to Sandra Spence, legislative representative for the California Department of Transportation here in Washington, and to the many Members of this House who joined in this effort to assist the bicycling community.

The bicycle has played a major role in this country's history.

Though that role is now largely forgotten, the enactment of this section will once again assure the bicycle and its enthusiast their role in contributing to health and physical fitness, to energy conservation, and to the shaping of a better urban environment.

Section 131 authorizes the Secretary of Transportation to make grants to States and municipalities for the construction of bikeway projects—$25 million is provided for each of the fiscal years 1979–82, of which $12.5 million is from the highway trust fund and $12.5 million from general revenues. The Federal share of any project would be 80 percent of the total cost.

This amendment increases the flexibility of the States in responding to the convenience of bicyclists.

We have included the addition of shoulder construction as an eligible project type under the act. In my home State of California, as bicycle travel has increased, so have the complaints from cyclists indicating that they want to use selected segments of freeway shoulders for bicycling because these shoulders are both safer and more convenient than the alternate routes available.

In the course of developing this section, we have worked closely with the League of American Wheelmen and the California Department of Transportation. We found that in many locations, some of the highest priority needs for cyclists are the addition of roadway width to provide for safe and convenient bicycle travel on existing roads used extensively by cyclists.

Section 131 will allow States to make bikeway improvements incrementally by shoulder construction, lane widening, or by building exclusive bikeways.

BICYCLE SAFETY

Over 500 miles of freeway shoulders in California are presently open for cycling. This has created virtually no reported problems. Accident data for the past 4 years shows that those bicycle accidents occurring on freeway shoulders are consistent with such accidents on other streets and highways and do not appear to present unusual safety problems.

UNINTERRUPTED ACCESS FOR CYCLISTS

The committee has recognized the importance of not reducing access for bicycle traffic by amending section 109 of title 23, United States Code, to insure that routes heavily traveled by bicycles are not severed or destroyed by any highway project under this title unless such project provides a reasonably alternate route or such a route exists.

We intended that section 131 encourage more bicycle use on shoulders and that other States look to the California experience in maintaining safety while at the same time making as many shoulders available for bicycle traffic as possible when it is not feasible to construct exclusive bikeways.

As author of this section, I intend that those States restricting shoulder traffic by bicyclists move expeditiously to encourage uninterrupted travel by cyclists. This section recognizes that the prohibition of a certain class of travelers from the public roads ultimately raises constitutional questions. Restrictions on freeway use do not substantially reduce the freedom to travel so long as reasonably alternate routes are available, but when these are lacking, shoulders should be opened to bicycle traffic or new, exclusive bikeways be constructed.

As the California Association of Bicycling Organizations stated:

> It is important to note that "freeway bottlenecks" are found only on freeways (in California) funded before 1970. After then, the legislature amended the Streets and Highway Code to require either that the freeway remain open to the class of usually prohibited users or that an alternate route be preserved or built anew. The legislature hence recognizes that freeway bottlenecks work an injustice.

In recognition of this injustice, section 131 encourages the States to give bicyclists the right to reach all points served by the public road network. We anticipate no disruption of the title 23 program to result from this action. This does not mean that bicyclists have the right to use all roads, but it does mean that they have the right to use any road providing a unique access.

DESIGN AND CONSTRUCTION STANDARDS

Section 131(e) directs the Secretary to establish design and construction standards for projects authorized by the section and section 217 of title 23, U.S.C. Our report lists criteria that shall be addressed. I would like to comment on five criteria of specific concern to the committee.

Shoulder width is a concern to bicyclists regardless of the type of facility. Freeways usually have a 4-foot shoulder, which is adequate if maintained. Normally, shoulders are less than 4 feet only in mountainous areas where the constructed shoulder width has not been maintained, or in metropolitan areas where the freeway has been restriped for additional lanes. We feel that the problem of narrow shoulders can often be helped by placing edge stripes in the 12-foot position rather than encroaching on an already narrow shoulder. We realize that the shoulders on alternate routes are probably even narrower and tend to be swept clean for more of its width due to the flow of traffic.

High-volume ramps and weaving sections are a real concern to bicyclists and usually exist in urban settings where the cyclist will be using the local network

of streets—not the freeway. Bicyclists avoid this situation and are aware of the difficulty of crossing a high-volume ramp with their backs to traffic. These problems should be noted and efforts taken to reroute cyclists over the ramps themselves, exiting and reentering the freeway on the ramp shoulders. At some locations, a separate bikeway may be necessary to provide routing around a specific barrier.

The lack of maintenance is of particular concern to the committee. We feel that almost no effort is spent to keep the shoulders free of debris. Maintenance personnel need to become educated and priorities need to be altered. Aside from the debris problem, very little maintenance will be required.

Narrow bridges, and especially long bridges, are a serious problem. A responsible cyclist could probably handle a short bridge by waiting for a break in motorized traffic. Longer bridges with no shoulders, on an otherwise adequate section of freeway, may need to be widened or provided with an outboard walkway if the user demand dictates. In the case of a structure with an interchange, it may be possible to route the cyclist around the bottleneck by use of ramps or with a short bike way. Each case must be studied individually.

Railing height is not a really critical issue, especially on a bridge with wide shoulders. Obviously, some barrier is quite comforting, particularly on a high-level structure. In any event, we intend that a low railing in itself shall not be a reason to prohibit bicycles.

Most freeway riding takes place during daylight hours. Ankle lights, flashing beacons, rear lights are currently available to cyclists. They should be used by night cyclists. Roadside debris is very hard to see at night and thus experienced cyclists usually avoid night travel. However, a ban on all night cycling by regulation would be contrary to our intent and shall be avoided.

ELIGIBLE PROJECTS

Section 131(a)(2) lists several eligible projects. This list is not exhaustive.

For example, the construction of shower facilities, clothes changing facilities, restrooms, and so forth, are all eligible. Also, it has come to our attention that the San Diego Transit Authority has started an experiment in which bicycle racks are mounted on the rear of the city's bus fleet enabling cyclists to pedal to certain bus stops, load their bikes on the racks, and then ride the bus to another site where within a minute they can unload their bikes for more cycling. The racks are marketed at a very minimal price ($10 each) and have been found to meet all requirements of the State of California.

We congratulate the San Diego Transit Authority and intend that the cost of these racks be an eligible project under the definition of bikeway in section 131. In addition, any unit of government having already made purchase of such racks, shall be eligible for reimbursement under this section.

SUMMARY

Madam Chairman, the committee has recognized that bicycles burn cholesterol and calories and not gasoline and their use is to be encouraged. I now include at this point in my remarks an excellent history of the use of bicycles prepared by the League of American Wheelmen. I am sure my colleagues will find it to be interesting reading.

Thank you for allowing me this opportunity to explain the intent of section 131 of H.R. 11733.

THE BICYCLE'S EARLY HISTORY

Nearly a century of European experimentation with early forerunners of the bicycle preceded its introduction in the United States. Some primitive models without pedals were developed in the late 1700's. The first boom was brought about by the hobbyhorse or dandyhorse around 1820. This was the first bicycle with a steerable front wheel, and consisted of two wheels connected by a wooden bar; it was propelled by pushing off with the feet.

Several pedal-operated bicycles were built in Scotland, France and Germany in the 1840's and 1850's, but the first machines that proved to be a practical success were developed by Michaux and Lallement in Paris in 1861. By 1865 the annual output of the Michaux factory was 400 machines (known as "velocipedes") and other manufacturers had started production. British factories also began producing bicycles, and an annual volume of 400 "boneshakers" was reached by the Coventry Sewing Machine Company in 1868. The Franco-Prussian War of 1870–71 effectively killed the budding French bicycle industry, and Britain became the European center of bicycle manufacturing. Some early American velocipedes were made in 1868–69 in Boston, Dayton, Philadelphia, and Poughkeepsie, New York.

The velocipede had two wheels of roughly equal size, usually between 32 and 38 inches in diameter, with cranks and pedals fixed directly to the front wheel. The resulting low gear ratio sharply limited the speed attainable on a velocipede.

In the 1870's the high-wheeler was introduced, with a front wheel of as much as 5 feet in diameter and a back wheel of 20 inches or less. It offered much higher gear ratios and hence greater speed also known as the "ordinary", the high-wheeler was shown at the Centennial Exposition in Philadelphia in 1876. Within a few years several workshops in the United States began to make ordinaries. Although hazardous to ride the ordinary caught on rapidly, and soon the first great bicycle boom was under way. By 1879 bicycle tours were being organized, and the first bicycle organization in the country, the League of American Wheelmen, was formed in Newport, Rhode Island in May 1880.

The second great bicycle boom, which far eclipsed the first, came after the first successful "safety" bicycle, the Rover, was introduced from England in 1885. The safety had two wheels of 25 to 30 inch diameter, an iron frame, saddle and pedals set between the wheels, and a chain-and-sprocket drive. The smaller wheels practically eliminated the danger of taking a "header" that had limited the appeal of the high-wheeler chiefly to athletic males, and the sprocket drive provided the higher gear ratios (and speeds) that cyclists wanted. Thus the major defects that had kept many people from going into bicycling had been eliminated, and with the introduction of the pneumatic tire in 1890 the basic features of the modern bicycle were complete.

The public responded with great enthusiasm, and the market moved to fill the demand. According to the Census of 1890 there were 27 firms that made bicycles and tricycles. By 1900 the number had risen to 312, and the capital investment had risen nearly fifteenfold. While bicycle sales skyrocketed, prices dropped sharply; the safety sold for about $60 in the 1890's, compared to $150 for the ordinary, and by 1900 a new safety bicycle could be bought for as little as $18. Ten million bicycles were estimated to be in use in the 1890's.

IMPROVING THE ROADS

At the time the bicycle started to become popular, America's roads were "rough and rutted, muddy in the spring, sandy and dusty all summer." The early turnpikes, privately owned and operated, had become unprofitable due to competition from the railroads. Road construction and maintenance were the responsibility of cities and towns, not of the state or federal governments.

The League of American Wheelmen led the drive for road reform in the 1880's and 90's. A note in the League's 1898 Pennsylvania Road Book points out that "no organization in existence has done a tithe of the work in the interest of improved highways as has the L.A.W. The organization has spent more than $150,000 in that movement alone, and many hundreds of miles of improved roads are the result of its influence." In 1893 the League's efforts resulted in the creation of a federal agency, the Office of Public Roads Inquiries, and by 1896 sixteen states had appropriated money to improve their roads. Several states, Massachusetts and New Jersey being the first, established state control of roads through highway commissions; in Massachusetts, all members of the highway commission were L.A.W. members.

Through its direct efforts the League greatly improved the road network and the systems of supporting services. The League built road signs to mark danger spots, and its Committee on Danger Signs would send these signs free to any place in the country. It also set up signposts with direction and distances to neighboring cities.

L.A.W. members surveyed and mapped many thousands of miles of roads, evaluated them according to the standards set forth by the League, measured travel distances, and reported topographical and other problems. The road books published by the League were the standard guides for personal travel (and served as forerunners of the maps and guidebooks later published by the oil companies for auto travel).

Hand signals and the first systematic rules of the road were developed by bicyclists in order to make travel safer. The League lobbied successfully for statutes to require cyclists to keep right except when passing, and to require that names and addresses be exchanged in case of accident. Because cyclists could outdistance policemen mounted on horseback, many cities began to equip squadrons of bicycle cops, and the League called for and encouraged strict enforcement to enhance safety on the roads.

TECHNOLOGY AND INDUSTRY

In its evolution from "bone-shaker" to modern form, the American bicycle made the first extensive use of numerous technical and production innovations, proving their value for later use in automobiles and aircraft. In the 1870's the bicycle first used tubular frames, ball bearings, the differential gear, and chain-and-sprocket drive for the rear wheel. The pneumatic tire appeared in 1890, tubeless tires less than ten years later. About 1899 the hub gear and derailleur were introduced, followed by coaster brakes and drum brakes to supplement the earlier spoon and caliper brakes.

American bicycle makers perfected manufacturing methods to standardize and increase their production. Faced with demand for precision parts in large quantities, they adopted assemblyline techniques. Such standardization allowed parts fabrication

and bicycle assembly to take place on a large scale in separate locations. The industry was thus able to meet the rapidly-growing demand for bicycles and the accompanying demand for bicycle repairs, equipment, and accessories.

Eventually a number of U.S. bicycle manufacturers adapted their facilities and production methods to the making of automobiles. Among the early American automobile designers who began as bicycle makers or mechanics were such illustrious names as Olds, Pierce, Pope, Winton, and the Duryea brothers (who built the first American automobile in 1893).

THE SOCIAL IMPACT OF THE BICYCLE

Before the bicycle's advent, urban and rural dwellers alike had a choice of moving on foot, by horse or carriage, or by railroad. The bicycle offered a new mobility, with enormous consequences for Americans. Relatively inexpensive, easy to ride, and convenient, the bicycle could cover long distances while being enjoyable and healthful to use. Suddenly the range of activities and places within reach of the average person was greatly enlarged. City families took outings on Sundays to the countryside and to neighboring towns, often traveling 30 to 50 miles in a day. Workers had more choice about where to live, and many chose to move to the outskirts of the city and commute by bicycle.

The new independence had particular significance for women, once the drop-frame safety bicycle appeared in the 1890's. For the first time, unchaperoned bicycle outings with young men became socially proper. Full dresses gave way to more comfortable and practical clothing within a few years during the "Gay Nineties". Bloomers, which had existed for years, became socially acceptable only after women in large numbers adopted them for cycling. All these were permanent changes; along with increasing educational opportunities and the movement for women's suffrage, bicycling marked the beginning of political and economic equality for women.

Of course these changes did not occur without opposition. Some denounced the new clothing styles as scandalous and indecent. Articles and sermons foretold the impaired health and moral decline which were sure to overtake the woman cyclist. Some religious authorities initially opposed any cycling on the Sabbath, but as the boom continued most accepted it. Eventually many clergymen took part; an 1896 article in the Spectator advised that it was proper for a bishop to ride a bicycle, as long as he did not "coast downhill on his bicycle with his legs up."

The bicycle had become a multi-purpose vehicle, with advocates in all social classes and in towns of all sizes. Full acceptance of the bicycle in American life created growing demand for personal mobility which the private automobile eventually came to fill. In this way the social changes brought by the bicycle phenomenon prepared Americans for the age of the automobile. They were a preview of the larger changes to come later, when the auto would provide almost unlimited mobility and choice of residence, and would have a lasting impact on the patterns of urban development.

BICYCLING FOR FUN AND SPORT

As spectator sport and for recreation, bicycling was immensely popular in the 1880's and 90's. Beginning in the days of the ordinary, bicycle racing became a popular pastime among athletic young men, and somewhat later among young women.

Bicycle racing tracks were built throughout the country, and tournaments were set up for amateurs and professionals. Six-day bicycle races attracted many thousands of spectators. The bicycle racing champion Arthur Zimmerman became the idol of American youth, and earned $40,000 a year, an astronomical income in the 1890's. With the increasing financial pressure on professional bicycle racing, the L.A.W. in 1895 took over the supervision of the sport to keep it honest.

Interest in bicycle racing waned in the United States in the early 20th century as auto racing became more popular, but in recent years under the United States Cycling Federation there has been a marked resurgence of popular interest in bicycle racing. Training facilities and techniques have improved greatly, and the performance of Americans in recent international competition has been highly encouraging and augurs well for the future.

Recreational cycling grew rapidly after the introduction of the safety cycle in the eighties. Family outings, with each person on a bicycle or tricycle of appropriate size, became a regular feature of American life. Clubs were organized, some of them around specific types of cycle such as the tandem. The L.A.W. gained rapidly in membership and numbered 150,000 members in 1900, and its magazine and other publications provided much useful information on all aspects of recreational cycling.

The start of the 20th century saw a decline of interest in recreational cycling among adults, although the bicycle remained popular among children and youths below legal driving age. Following a period of slow growth in bicycle sales in the early 1960's, the third U.S. bicycle boom came in the 1970's with a tremendous increase in recreational cycling among adults.

Lightweight ten-speed bicycles, incorporating various improvements in materials and refinements in components, were sold by the million; since 1970, new bicycle sales in the U.S. total more than 74 million, compared to less than 69 million new automobiles sold.

Long-distance bicycle touring became increasingly popular: more than four thousand persons rode the 4,500 mile Bikecentennial trail across the United States in 1976. On both coasts touring trails were developed. The California Pacific Coast Trail stretches 1,000 miles from north to south, and the East Coast Bicycle Trail covers over 800 miles between Boston and Richmond.

According to the best available estimates, about 100 million persons in the United States now bicycle in some degree, thus making bicycling the first or second ranking recreational activity in the country.

TOWARD BICYCLING'S SECOND CENTURY

With the growing shortage of energy, the bicycle is seen by many as an increasingly important and attractive option for local transportation. Over the past few years the federal government and many states have moved to improve the environment for bicycling by the elimination of hazards on the roads, by constructing bikeways where necessary, and by providing better training for bicyclists and motorists.

Perhaps the most important aspect of increased bicycle use will be the opportunity for many millions of people to have regular exercise in a pleasant way. More than a century ago, the Eclectic Medical Journal for January 1869 recognized the possibility when it commented on the newly introduced velocipede:

"We look upon this mode of exercise . . . as one of the most brilliant discoveries of the nineteenth century: the grand desideratum that will emancipate our youth from muscular lethargy and atrophy that is so common."

ACKNOWLEDGMENTS

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Mr. EDGAR. Madam Chairman, will the gentleman yield?

Mr. ANDERSON of California. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. Madam Chairman, I would like to commend the gentleman from California (Mr. ANDERSON) for his work on this particular section of the bill.

I think it is very important for us at the Federal level to focus in on bikeways and bike paths. As an avid bicyclist, I know the value of these paths.

Madam Chairman, I commend the gentleman for his outstanding work.

AMENDMENT OFFERED BY MR. WINN

Mr. WINN. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WINN: Page 100, after line 4, insert the following:

URBAN SYSTEM DISCRETIONARY GRANTS

SEC. 109. Subsection (a) of section 104 of title 23, United States Code, is amended by inserting "(1)" immediately after "(a)" the first place it appears and by adding at the end thereof the following new paragraph:

"(2) In addition to the deduction authorized by paragraph (1), the Secretary shall deduct an amount equal to 10 per centum of the sums authorized to be appropriated in each fiscal year for expenditure on the Federal-aid urban system. The sum so deducted shall be available for expenditure at the discretion of the Secretary for grants to States and to political subdivisions of States for projects on the Federal-aid urban system in accordance with those provisions of this title otherwise applicable to such projects unless the Secretary finds any such provision to be inconsistent with the purpose of this paragraph. No grant shall be made under this paragraph to any State which has not obligated all of the funds apportioned to such State for such fiscal year for expenditure on the Federal-aid urban system. No grant shall be made under this paragraph to any political subdivision of a State which has not obligated all of the funds made available to such political subdivision for such fiscal year for expenditure on the Federal-aid urban system. Any sum deducted by the Secretary under this paragraph shall remain available until expended. Sums apportioned to a State under paragraph (6) of subsection (b) of this section unexpended at the end of the period of their availability shall lapse as provided in section 118(b) of this title and shall thereupon become immediately available for expenditure, at the discretion of the Secretary, in accordance with this paragraph.".

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

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

There was no objection.

Mr. WINN. Madam Chairman, my amendment would create a discretionary fund within the Federal-aid urban system program to be channelled by the Secretary of Transportation toward those urban areas which have demonstrated an ability to use and a need for funds over and above the amounts apportioned to them under the Federal-aid urban system apportionment formula.

The amendment would in no way increase the funding level authorized in H.R. 11733 for the Federal-aid urban system, but merely assure that these funds be distributed according to greatest need and capacity for utilization.

One of the greatest shortcomings of the Federal-aid urban (FAU) program has been a significant backlog of unobligated funds in some areas of the country, while in other areas, shortages of funds have prevented the implementation of needed—and otherwise realizable—urban transportation projects.

Out of the total $3.820 billion in apportionments attributable to urban areas, over $1.222 billion have not been obligated or put into use as of July 1, 1978—almost one-third. Meanwhile, cities such as Omaha, Kansas City, Peoria, St. Louis, and Minneapolis-St. Paul lack the funds necessary to undertake new projects.

This year over $27 million in fiscal year 1974 FAU funds will lapse and be lost to the FAU program simply because these funds were not obligated within the time frame allowed by law.

To remedy this situation, a flexible yet objective approach is preferable to a rigid reformulation of the existing apportionment formula. The discretionary fund proposed in this amendment would be distributed by the Secretary of Transportation according to simple and objective criteria: the applicant must propose a needed, feasible project and maintain an insufficient unobligated balance of funds to realize it.

This discretionary fund would have two components: First, an initial 10 percent of the sums authorized each year for the FAU program; and second, all apportioned funds which have lapsed each year at the end of their period of availability.

Those urban areas and States which have developed a consensus on urban highway priorities, efficient administrative procedures within their metropolitan planning organizations, and a high degree of administrative coordination with the State highway agencies would thus be allowed adequate funds to construct needed projects when so many FAU dollars go unused by others nationwide.

I again urge your support of this amendment which will put FAU funds to the use they were intended: responding to the needs of those urban transportation systems which can and must be modernized.

Mr. HOWARD. Madam Chairman, I rise in opposition to the amendment.

Madam Chairman, I have checked with officials at the Federal Highway Administration and they tell me that, as of the end of August, only $10 million of the $800 million fiscal year 1975 authorization remains unobligated and is in danger of lapsing: Hawaii, $2.7 million; Pennsylvania, $6.6 million; Vermont, $0.7 million. We have since checked with those States and all have indicated an intention to obligate those funds by the end of the month. We have never had any funds lapse in this program, Mr. Speaker, and it appears the same will be true again this year.

I see no reason to tamper with this program. The current population formula is equitable. Reports from the department of Transportation show a high correlation between urban population and urban highway needs. We do not need to give the Secretary any discretion over the allocation of these funds.

I urge the rejection of the amendment.

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

Madam Chairman, I would like to commend the gentleman in the well, the author of the amendment. He has worked very hard on this proposition. He has pointed out to me on different occasions the problem confronting the area to which he alluded in his remarks in support of the amendment; but one of the problems is that urban system funding now in the bill is the same as fiscal year 1978 funding. We have not increased the amount one dime. To take 10 percent of that amount and set it aside would obviously leave only 90 percent of that pot to deal with. So the balance of the States, those that are not eligible under the gentleman's amendment, would be getting only 90 percent of what they would be getting under the formula that distributes the money.

It is a very difficult problem the gentleman raises. He has worked hard on it and makes a very eloquent plea for his amendment; but until the funding level is raised so that no State would be adversely affected by the 10 percent set-aside, I would have to oppose the gentleman's amendment.

Mr. WINN. Madam Chairman, I thank the gentleman from New Jersey and the gentleman from Ohio for their consideration.

Madam Chairman, I withdraw the amendment.

The CHAIRMAN. Without objection, the amendment is withdrawn.

There was no objection.

AMENDMENT OFFERED BY MR. HOWARD

Mr. HOWARD. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HOWARD: Page 103, strike out lines 8 through 16, inclusive.

Renumber the succeeding sections of title I accordingly.

Mr. HOWARD. Madam Chairman, I offer this amendment on behalf of the gentleman from New York (Mr. BIAGGI). This deals with some regulations concerning buses for the elderly and handicapped, the Transbus. The regulations had not been promulgated by the director of UMTA at the time it was passed out of the full committee. The Secretary has since promulgated this and that would make this section unnecessary.

Mr. HARSHA. Madam Chairman, will the gentleman yield?

Mr. HOWARD. I yield to the gentleman from Ohio.

Mr. HARSHA. Madam Chairman, as far as we are concerned, there is no objection to the amendment.

Mr. JOHNSON of California. Madam Chairman, will the gentleman yield?

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

Mr. JOHNSON of California. Madam Chairman, I would like to commend the gentleman from New Jersey (Mr. HOWARD), and the ranking minority Member, the gentleman from Pennsylvania (Mr. SHUSTER) for working this out and coming here and offering this amendment here tonight. It clears up a great shortcoming in the bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. HOWARD).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. MITCHELL OF MARYLAND

Mr. MITCHELL of Maryland. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MITCHELL of Maryland: Page 103, immediately before line 8, insert the following:

ADVANCES TO STATES

SEC. 114. Section 124 of title 23, United States Code, is amended by inserting immediately before the first sentence thereof the following: "(a)". Such section 124 is further amended by adding at the end thereof the following new subsection:

"(b) Notwithstanding subsection (a) of this section, if the Secretary of Transportation determines that any toll bridge, toll tunnel, or approach thereto, which meets the requirements of section 129 of this title is necessary to complete an essential gap in the Interstate System then, upon request of the State highway department, the Secretary shall, at any time during construction of such bridge, tunnel, or approach and for one year after it is opened to traffic, and subject to the conditions and limitations of such section 129, advance to such State 100 per centum of the cost of construction of such bridge, tunnel, or approach. So much of the amount so advanced that exceeds the Federal share of such construction cost shall be repaid to the United States as follows:

"(1) 50 per centum within one year of the date such bridge, tunnel, or approach is opened to traffic,

"(2) 25 per centum within two years of such date of opening, and

"(3) 25 per centum within three years of such date of opening.

Any advance made to a State under this subsection shall be from the funds apportioned to said State for the Interstate System. If a State receives any advance under this subsection with respect to any toll bridge, tunnel, or approach thereto, then the provisions of section 103(e)(4) of this title shall not apply to such bridge, tunnel, or approach.".

Renumber succeeding sections and references thereto accordingly.

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

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

There was no objection.

Mr. MITCHELL of Maryland. Madam Chairman, the amendment which I have introduced to H.R. 11733, the Surface Transportation Act of 1978, would authorize the Secretary of Transportation to advance to States the local share of the construction cost of any project which has been determined by the Secretary of Transportation to be an "essential gap" in the Interstate System and which is constructed under section 129 of title 23, United States Code; that is, major bridge and tunnel toll crossings. My amendment requires that this advance be repaid by the locality to the Highway Trust Fund over a 3-year period following completion of the project. For those of you who may not have familiarized yourselves with my Dear Colleague letter on this issue, let me point out that 50 percent of the advanced funds are to be repaid within 1 year of the opening date of the facility; and, 25 percent of these funds are to be repaid within 2 and 3 years respectively.

According to the Federal Highway Administration, there are two "essential gaps" in the Interstate system which would benefit from this amendment; namely, the Boston I-90 airport spur tunnel, which is in a very preliminary status. and the new I-95 tunnel in my own State of Maryland. This tunnel is planned to relieve the existing Baltimore-Harbor Tunnel, which, in mv estimate, represents the eptiome of congestion within the Northeast corridor.

The existing harbor tunnel through Baltimore, which was opened in 1957, is a four-lane narrow tunnel which becomes congested due to rush-hour traffic and/or vehicle breakdowns in the tunnel itself, on a daily basis. Those of you who may be Northeast Corridor commuters are certainly familiar with the exasperating experience of being stalled in the traffic buildup for the Baltimore Harbor Tunnel. Since the new I-95 tunnel will be an an eight-lane roadway, completing Interstate 95 through Baltimore, its completion will halt the occurance of these devastating incidences.

The existence of a unique funding arrangement in Baltimore City has detained initial construction actions with regards to the tunnel; Maryland law provides for a separation of financing authorities, which. in turn, places the burden of providing the entire local share of the construction. maintenance, and operation of all highways and streets within its corporate limits, including 1,400 miles of streets and a $1.9 billion 32 mile Interstate System. The new I-95 tunnel is the final 2 miles of Interstate 95 which remains to be completed within the State of Maryland.

The estimated cost to the city of Baltimore for the interest charges. on their construction bonds during the construction period for the new I-95 tunnel is $25 million. I believe that this is an enormous amount of money for Baltimore City to pay in interest costs to finance a project which clearly benefits the entire east coast transportation network, particularly in light of their $210 million investment in local funds to complete the other sections of their interstate program.

Let me emphasize that my amendment will not require any additional outlay or budget authority. Further, as is clearly mandated in my amendment Baltimore City is prepared to repay the additional 10 percent Federal advance within 3 years after the tunnel is completed. Finally, it should be noted that the advances made to a State for the instances in question will come from the State's own Interstate System apportionments.

Under the provisions of section 129, the new I-95 tunnel would be a toll facility until such time as the local costs are recovered. By alleviating the need for Baltimore City to pay interest on construction bonds during the construction period and thus, reduce the bond issue required, my amendment would bring about one of the noted goals of the Federal Highway Administration—the elimination of toll facilities on the Interstate System at the earliest possible date.

Madam Chairman, the problem which I am addressing is certainly not new. The Maryland State Highway-Administration has been working on the issue of financing this essential gap for several years. I might add that they have done a very thorough job of analyzing all the alternatives in this situation; their initial efforts of determining that a Federal advance was necessary, immediately culminated in the seeking of opinions from the other States on this amendment. If I may again refer to my dear colleague on this issue, 43 States, as of this date, have responded, with only three of these expressing opposition.

Let me reiterate that the new I-95 tunnel has been in planning and design for some time. It has received the necessary environmental clearances. At this juncture, it is ready to go. The Secretary of Transportation has designated it as a route that must be completed to connect an intercity system—that is, an "essential gap." Some estimates conclude that at current funding levels, some portions of the system may not be completed until the 21st century. With spiraling construction rates, this could mean that the remaining 10 percent of the system will cost as much as that completed in prior years. The new I-95 tunnel in Baltimore is one of those last vital links, which, if further delayed, could result in costing the Highway Trust Fund substantially more than its present estimate.

The passage of my amendment would alleviate a serious local financing problem that, as you know, is unique to Baltimore and the State of Maryland. Further, it would expedite completion of the Interstate System in the Northeast corridor.

I certainly hope that my colleagues will join in this effort to secure passage of an amendment that would greatly assist Baltimore City in funding the new I-95 tunnel project, result in the early completion of an essential gap of the Interstate System, and result in the project becoming a toll-free facility at the earliest possible date.

Mr. HOWARD. Madam Chairman, will the gentleman yield?

Mr. MITCHELL of Maryland. I yield to the gentleman from New Jersey.

Mr. HOWARD. Madam Chairman, I thank the gentleman for yielding.

Madam Chairman, we have discussed this amendment, and I would like to point out a few facts.

First of all, this comes out of present apportionment funds; so it does not burden the total program in any way.

Second, as I understand it, this would be paid back, it is estimated, within 3 years from tolls on the tunnel.

Mr. MITCHELL of Maryland. The gentleman is correct.

Mr. HOWARD. And at that time the tunnel would become free.

Mr. MITCHELL of Maryland. The gentleman is correct.

Mr. HOWARD. There is also a provision in this amendment that would insure that this money would be used only for that purpose by eliminating the possibility of transferring interstate funds into other programs. In other words, this tunnel money can be used only to build the tunnel.

Mr. MITCHELL of Maryland. The gentleman is absolutely correct. The funds would be used only for that purpose.

Mr. SHUSTER. Madam Chairman, will the gentleman yield?

Mr. MITCHELL of Maryland. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Madam Chairman, we have studied this amendment, and particularly with the removal of the interstate transfer program, we support it and urge its adoption.

Mr. MITCHELL of Maryland. Madam Chairman, I thank the gentleman.

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

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BAFALIS

Mr. BAFALIS. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BAFALIS: Page 85, line 21, after "which are" insert "either".

Page 85, line 22, after "System" and before the first comma insert the following: "or which, on the date of enactment of this Act, have approved final environmental impact statements required by the National Environmental Policy Act of 1969".

Page 86, line 9, after the period insert the following:

In obligating funds under clause (1) of the preceding sentence, the Secretary shall give priority to projects on which construction can be commenced within the period such funds can be obligated by the Secretary.

Mr. BAFALIS. Madam Chairman, the purpose of this amendment is to make

sure that we get the maximum acceleration of ready-to-go projects on the Interstate System under the discretionary funding provisions in section 102(b) of the bill.

We in Florida have been looking to this legislation for additional impetus to complete construction of segments of Interstate 75. My State department of transportation has strongly supported the discretionary provision.

Last week this body accepted the amendment of the gentleman from New Jersey, the chairman of the Surface Transportation Subcommittee, reducing the over-all funding in the bill, with the result that the $500 million in the discretionary fund was reduced to $200 million.

Therefore, my amendment is needed to refine the provision to get maximum mileage from the funds available. My language giving priority to projects capable of going to construction within the year of availability of discretionary funds should assure that ready-to-go projects in my State and any others receive first consideration on a fair and equitable basis.

Mr. HOWARD. Madam Chairman, will the gentleman yield?

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

Mr. HOWARD. Madam Chairman, this involves one-half of the $200 million that is left in the discretionary part of the interstate money. It does not in any way involve the formula money that all the other States are entitled to at this time.

Mr. BAFALIS. The gentleman is correct.

Mr. HOWARD. Madam Chairman, the gentleman discussed this with me after the vote last week. We have had an opportunity to review his language on this side and feel that he has a valid point and that this is a worthwhile amendment.

In combination with other interstate acceleration provisions of the bill, it would certainly help speed up the program and clarify our intent that ready-to-go projects in any area be speeded up under 102(b). The gentleman's I–75 projects are an excellent example of our intent in terms of funding and eligibility for priority. The amendment should provide useful guidance to the Secretary in this regard. We accept the amendment.

Mr. BAFALIS. Madam Chairman, I thank the gentleman.

Mr. SHUSTER. Madam Chairman, will the gentleman yield?

Mr. BAFALIS. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Madam Chairman, we have studied this amendment. It is an excellent amendment, and we urge its adoption.

Mr. BAFALIS. Madam Chairman, I thank the gentleman from Pennsylvania. I urge the committee to adopt the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. BAFALIS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. FOWLER

Mr. FOWLER. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FOWLER: Insert at the end of section 108 the following new subsection:

(f)(1) Section 103(e) of title 23, United States Code, is amended—

(A) in paragraph (4), by striking out the last sentence;

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

(C) by inserting after paragraph (4) the following new paragraphs:

"(5) Notwithstanding any other provision of law—

"(A) upon the withdrawal of approval of any route or portion thereof on the Interstate System under this section, a State, subject to the approval of the Secretary, shall not be required to refund to the Highway Trust Fund any sums paid to the State for intangible costs;

"(B) refund will not be required for the costs of construction items, materials, or rights-of-way of the withdrawn route or portion of the Interstate System which will be or have been applied (i) to a transportation project permissible under this title, (ii) to a public conservation or public recreation purpose, or (iii) to such other public purpose as may be determined by the Secretary to be in the public interest; *Provided*, That the State shall make assurances satisfactory to the Secretary that such construction items or materials or rights-of-way have been or will be so applied by the State of any political subdivision thereof to a project under clause (i), (ii), or (iii) within 10 years from the date of the withdrawal of approval; and

"(6) Nothing in this subsection shall in any way alter rights under state law of persons owning property within the right-of-way immediately prior to such property being obtained by the State.The Federal share of the cost of property sold or otherwise transferred to previous owners under state law shall be refunded and credited to the unobligated balance of the state's apportionment for interstate highways."

(2) The amendment made by paragraph (1) of this subsection shall apply to any withdrawal of approval before the date of the enactment of this subsection.

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

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

There was no objection.

Mr. FOWLER. Madam Chairman, I offer this amendment on behalf of myself and my Georgia colleague (Mr. LEVITAS), a member of the committee.

My amendment would permit the conversion of abandoned interstate highway lands to public conservation/recreation areas, alternative transportation projects, or other uses determined by the Secretary of Transportation to be in the public interest. The goal of my amendment is to establish a major neighborhood revitalization program at no additional cost to the taxpayer.

Madam Chairman, in 11 States approximately $70 million have been expended from the highway trust fund for the purchase of rights-of-way for interstate segments that have been canceled. These lands are, at present, unused and are subject to illegal dumping and vandalism, thus contributing to urban blight. The greatest stumbling block to the development of these lands is the payback requirement in existing Federal law. Under current law, should a State elect to discontinue an interstate segment, 90 percent of the recoverable moneys must be returned to the trust fund. Due to the extensive financial drain that would result from payback, all affected States have contested the legality of the existing law. It should be pointed out that the relative burden of the payback provision is much greater on State governments than the equivalent loss of revenue would be to the highway trust fund should the payback provision be altered.

The moneys have already been appropriated from the Highway Trust Fund and are for the most part unrecoverable, although what is recoverable through the payback provision would be a burden to State governments. This amendment does not call for any additional Federal outlays.

The potential public benefits of reuse of these lands are enormous. Parks, hospitals, schools, or recreational areas could be developed on these now barren lands whose future is complicated by a mass of conflicting statutes and regulations.

In a letter to Secretary of Transportation, Brock Adams, Interior Secretary Cecil Andrus pointed out that my amendment would provide an opportunity to respond directly to the recommendations of the National Urban Recreation Study. In referring to my amendment, Secretary Andrus stated:

> . . . the greatest urban recreation deficiencies for land and facilities exist in the inner cores of the Nation's largest cities. It is precisely in these areas that the abandoned interstate segments lie. Implementation of these provisions would permit the transfer of these properties to other federal agencies, states, and localities at no cost. To attempt to duplicate a similar effort through land acquisition today would be prohibitive due to the costs involved.

The Department of Transportation is in agreement with the principles and objectives of this amendment. In a related effort, DOT has proposed regulations to implement a similar policy. Due to the vague statutory basis for such regulations, I feel it important that the Congress express its intent to achieve this goal. Already, the other body has adopted a similar provision in its transportation bill.

There are situations, however, in which highway projects not on the Interstate System are abandoned or changed, leaving significant parcels of property which States and cities could use for public interest purposes. I do not intend this amendment to restrict the authority of the Secretary of Transportation to apply the approach which this amendment takes to noninterstate situations. The Secretary has already done so in one instance of which I am aware, in Milwaukee, Wis. It is my hope that the Secretary will continue to apply this policy in noninterstate situations.

The objectives of this amendment are in keeping with the goals of President Carter's urban policy: to keep our city

neighborhoods livable and to renew the partnership between local and Federal governments in determining how our cities grow. I ask my colleagues to join with me in supporting this amendment to H.R. 11733.

Mr. HOWARD. Madam Chairman, will the gentleman yield?

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

Mr. HOWARD. I thank the gentleman for yielding.

Madam Chairman, we have discussed this at some length. As we understand it, the amendment deals only with portions of the highway program that have, in the enactment of this legislation, been taken off of the highway system. It is not intended in situations where the States, knowing they are not going to build a highway, get the highway money, and then change their minds. It is only in existing situations created in good faith around the country. With that understanding of the limitations of the amendment, we are happy to accept the amendment on this side.

Mr. FOWLER. I thank the gentleman.

Mr. SHUSTER. Madam Chairman, will the gentleman yield?

Mr. FOWLER. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Madam Chairman, I thank the gentleman for yielding, and we accept the gentleman's amendment.

Mr. FOWLER. I thank the gentleman.

Mr. MINETA. Madam Chairman, will the gentleman yield?

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

Mr. MINETA. Madam Chairman, I rise in strong support of the amendment offered by my colleague from Georgia (Mr. FOWLER,), which will permit alternative uses for abandoned interstate highway lands.

Even though none of the interstate segments to which this amendment addresses itself are located in my own State of California, I nevertheless joined as a cosponsor of the amendment, because I believe that it goes to the very heart and philosophy of our urban policy goals.

Urban land, by its very definition, is a precious commodity. The use to which such land is put can have a critical affect on its surroundings.

This amendment recognizes that abandoned land in our urban areas is a psychological and financial drain on the community in which it is located. By permitting the conversion of this abandoned land to public conservation purposes, recreation purposes, or other uses determined by the Secretary to be in the public interest, the amendment also recognizes the philosophy underlying urban redevelopment: That the proper use of urban land can be just the catalyst required to breathe new life and energy into our urban neighborhoods.

Allowing this abandoned land to be utilized in a productive manner will enhance our urban areas—at no additional cost to the Federal Government. I urge the adoption of this amendment.

Mr. GREEN. Madam Chairman, I rise in support of the Fowler amendment to the Surface Transportation Assistance Act of 1978. As the cosponsor of the bill, H.R. 13095, upon which this amendment is based, I am pleased that the House has this opportunity to permit alternative uses for abandoned interstate highway lands.

The Fowler amendment would provide that when an interstate highway project is terminated, States and localities receiving Federal money for the project would be permitted to apply those funds for alternative transportation projects and/or for public conservation or recreation purposes. Under present law, the Federal funds must be returned or used to build another highway project. The amendment before us would allow more imaginative use of such funds. As the National Audubon Society pointed out in a letter I received this morning in support of the Fowler amendment:

> With the growing citizen concern for the environment, dramatic movement of people back into our inner city neighborhoods and de-emphasis on the automobile, it is important that the States be given other alternatives for use of these abandoned rights-of-way than those now allowed by law.

Across the Nation, approximately $70 million has been expended from the highway trust fund for purchase of rights-of-way for interstate segments that have been canceled. The Fowler amendment would free this money to be used for conservation, recreation, or other transportation projects.

In New York City, sections of I-78, I-478, and I-878 are affected and the sum that would be available for such other projects is $11,957,615.

It is my understanding that this amendment has the endorsement of the Secretary of the Interior, the Secretary of Transportation, the League of Cities, National Association of Counties, State of New York, Sierra Club, Congress Watch, Consumer Federation of America, Friends of the Earth, National Wildlife Federation, Environmental Action, Wilderness Society, National Audubon Societv, National Recreation and Park Association, and the Natural Resources Defense Council.

I commend the gentleman from Georgia (Mr. FOWLER) for his excellent work on behalf of this proposal, and I urge my colleagues to vote in favor of this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. FOWLER).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. OBERSTAR

Mr. OBERSTAR. Madam Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. OBERSTAR: Page 115, line 21, insert "(a)" immediately after "SEC. 120.".
>
> Page 116, after line 8, insert the following new subsection:
>
> (b) Section 148(a)(5) of title 23, United States Code, is amended to read as follows:
>
> "(5) the provisions of section 129(a) of this title shall not apply to any bridge or tunnel on the Great River Road and no fees shall be charged for the use of any facility constructed with assistance under this section, except for parks, recreational areas, and historical sites operated by State or local governments where admission fees may be charged to cover operational costs.".

Mr. OBERSTAR. Madam Chairman, the amendment that I offer is simply to clarify a provision of existing law dealing with the fees that the States would like to charge for entrance to recreational and historic facilities that are constructed along the Great River Road. This arises out of a misunderstanding with the Department of Transportation. I think the amendment will clarify the provisions of existing law.

Mr. HOWARD. Madam Chairman, will the gentleman yield?

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

Mr. HOWARD. I thank the gentleman for yielding, and I would like to say that this amendment clarifies the law concerning parks and areas where they do charges fees and their ability to build roads and facilities in those areas. We have discussed this. I want to congratulate the gentleman for all of the work he has done on the committee and on the Great River Road itself, with all of its ramifications. I certainly will accept the amendment on this side of the aisle.

Mr. OBERSTAR. I thank the gentleman.

Mr. SHUSTER. Madam Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. I thank the gentleman for yielding.

Madam Chairman, we have studied this amendment. I understand that the Members from the gentleman's State on this side of the aisle have worked closely with the gentleman on this matter, and we accept the amendment.

Mr. OBERSTAR. Madam Chairman, in particular, I would like to commend the gentleman from Minnesota (Mr. QUIE) who has had a great interest in the Great River Road throughout his service in the Congress.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. OBERSTAR).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. OBERSTAR

Mr. OBERSTAR. Madam Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. OBERSTAR: Page 116, line 4 after the word "with" strike everything up to and including "to" on line 6.
>
> On line 8 delete "." and insert the following "using existing bridges, when such features be no further from the Mississippi River than the Great River Road at its farthest point, lies from the river.

Mr. OBERSTAR. Madam Chairman, the purpose of this amendment is to clarify further the operation of the Great River Road in the matter of bridges that cross over fom one side to another. At the outset of this program it was fully agreed upon that the Great River Road would not consist of two new roadways on either side of the Mississippi, particularly where there are already highways on one or another side, but merely

to help link those two sections and save costs and save on construction of the Great River Road.

The purpose of this language is simply to tie down or make very clear that we do not intend for spurs to go any greater distance than necessary from the Mississippi River, which this language makes clear:

. . . no farther from the Mississippi River than the Great River Road at its farthest point, lies from the river.

Mr. HOWARD. Madam Chairman, will the gentleman yield?

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

Mr. HOWARD. Madam Chairman, the language of this amendment says that we use existing bridges when such features be no farther from the Mississippi River than the Great River Road at its farthest point, road to road, from the river, and that would certainly help to straighten out a problem that was in a sense left hanging.

Mr. OBERSTAR. That is right. It ties it down and limits it very carefully.

Mr. SHUSTER. Madam Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. I thank the gentleman for yielding.

Madam Chairman, we have examined the amendment and find it acceptable.

Mr. OBERSTAR. I thank the gentleman.

Mr. STANGELAND. Madam Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Minnesota (Mr. STANGELAND).

Mr. STANGELAND. Madam Chairman, the gentleman from Minnesota Congressman QUIE has worked very hard on this as well.

Some of the notable sites on the Minnesota side that are not now served by the Great River Road are the Anderson Hotel at Wabasha which has been just named to the Register of Historical Sites and is the oldest operating inn in Minnesota; the Camp NOK-SI-LA, a camping area on Lake Pepin; the historic "Old Frontenac," which is an early settlement and fort; and Winona, a historical river town.

I thank my colleague for offering the amendment which was worked out between himself and our good colleague Congressman AL QUIE.

I thank the gentleman very much, and I support the amendment.

Mr. OBERSTAR. I thank the gentleman for his cooperation. Although his district lies some distance from the main construction activity on the Great River Road, that Great River does rise in the gentleman's district, and he has a proper paternal interest in this matter.

Congressman QUIE, from the First District where the Great River leaves the State of Minnesota, has had an abiding interest in the Great River Road for many years, which he has demonstrated by his continued leadership on this issue.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. OBERSTAR).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. WEISS

Mr. WEISS. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WEISS: On page 108, after line 3, insert the following and renumber accordingly:

SEC. 118. The first three sentences of section 138 of title 23, United States Code, are amended to read as follows: "It is hereby declared to be the national policy that special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, historic sites, and the navigable waters of the United States. The Secretary of Transportation shall cooperate and consult with the Secretaries of the Interior, Housing and Urban Development, Agriculture, and Army, the Administrator of the Environmental Protection Agency, and with the States in developing transportation plans and programs that include measures to maintain or enhance the natural beauty of the lands traversed and to maintain the navigable waters of the United States. After the effective date of the Federal-Aid Highway Act of 1968 in the case of land, and after the date of enactment of the Surface Transportation Act of 1978 in the case of the navigible waters of the United States, the Secretary shall not approve any program or project which requires the use of any publicly owned land from a public park, recreation area, or wildlife and waterfowl refuge of national, State, or local significance as determined by the Federal, State, or local officials having jurisdiction thereof, or any land from a historic site of national, State, or local significance as so determined by such officials, or which requires dredging and filling of navigable waters of the United States, unless (1) there is no feasible and prudent alternative to the use of such land or the dredging and filling of such navigable waters, and (2) such program includes all possible planning to minimize harm to such park, recreational area, wildlife and waterfowl refuge, historic site, navigable waters resulting from such use or such dredging and filling. After the date of enactment of the Surface Transportation Act of 1978, the Secretary shall not enter into any obligation on behalf of the Federal Government to pay any sum with respect to any such program or project (including any such program or project approved before such date of enactment) unless such program or project is consistent with the provisions of this section and will be carried out in a manner consistent with the provisions of this section. Any determination made under this section that the project or program is consistent or inconsistent shall be published in the Federal Register with a complete explanation for the reasons thereof.

Mr. WEISS. Madam Chairman, this amendment would require the Secretary of Transportation not to approve highway construction involving the dredging and filling of navigable waters unless there is no prudent or feasible alternatives. This amendment amends section 138 of the Federal Highway Act, which is exactly the same as section 4(f) of the Transportation Act, which already requires the Secretary not to approve highway construction which—

Requires the use of any publicly owned land from a public park, recreation area or wildlife and waterfowl refuges.

My amendment would merely extend this wise protection to navigable waters, an important natural resource, which deserves to be included in this section.

I should state at this point, Madam Chairman, that although the impetus for this amendment arises from a local condition in my district, it has national consequences and implications.

Madam Chairman, during the 5-year period between 1972 and 1977, we spent $18 billion in Federal funds to clean up the Nation's waterways and improve water quality. Under the Clean Water Act of 1977, enacted by this Congress in December, another $24.5 billion has been authorized for the next 5-year period. Programs authorized under the Toxic Substances Control Act of 1976 will further invest large sums in water quality improvement efforts. In addition the private sector is making a huge investment in changing its waste disposal practices and becoming less and less reliant on waterways for this purpose.

This investment has paid excellent dividends: The President's Council on Environmental Quality reported the substantial improvement of at least 50 bodies of water in the United States as a result of our efforts in its annual report. The Detroit River, CEQ reported is once again a welcomed fishing spot for fishermen. Walleye, pike, and other marine life are being seen in renewed quantities. It was considered a dead river in the late 1950's and early 1960's. There are other examples as well where our national investment in water treatment facilities is reaping benefit.

What spurs us to make such a tremendous investment? We need water that is safe for drinking, swimming. We need water that is habitable for aquatic life and usable for agriculture and industry. And we need water that once again we can see is actually clean and not unsightly.

I am offering an amendment to H.R. 11733, the Surface Transportation Act, to protect this important investment. My amendment would provide that the Secretary of Transportation must find that there is no prudent or feasible alternative before approving a construction of a highway involving dredging and filling of navigable waters.

Dredging and filling activity when necessary is a highly desirable method for man to manipulate the environment and manage resources for the benefit of all. But when it is unnecessary and avoidable it is an environmental disaster.

The adverse effects of dredge and fill activity are well known: it stirs up toxic substances causing the release of toxic organic compounds; it increases land erosion and can alter the flow of water; it destroys acquatic habitat and ruins marine life; and can create the hazard of flood. A sampling of the bottom sediments (subject to dredging activity) by the Environmental Protection Agency in 1971 revealed the existence of heavy metal pollutants such as lead, zinc, cadmium, mercury, chromium, and copper. In addition there was found oil and grease deposits.

We are currently at a stage of develop-

ment of dredge and fill techniques—the state of the art—where we do not really know enough about the environmental impact of this activity and thus are taking great risks of further damaging the environment. A General Accounting Office (GAO) report of June 28, 1977, concluded:

In fact, the long-term effects of contaminated dredged material on the environment have not been determined.

It is apparent, that we should only allow dredge and fill activity when there is no prudent or feasible alternative for highway construction.

Indeed, current law already attempts to deal with this problem by setting guidelines for avoiding this activity. Section 109 of the Federal Highway Act (title 23 U.S.C.) requires the Secretary of Transportation to maintain regulations to eliminate and minimize water pollution and soil erosion. My amendment would merely make explicit the preference to avoid dredge and fill activity that does indeed lead to the adverse effects mentioned in section 109.

As I indicated earlier current law already recognizes a need to give special preference in highway construction to avoiding the adverse effects of highway construction on natural land areas. I am proposing now that we enlarge this section to include a major natural resource—waterways. Section 138 was enacted in 1966 out of recognition for the fact that the Federal Government has a unique responsibility to insure the integrity of public lands that might otherwise be harmed by federally funded highway action. As the Supreme Court pointed out in the case of Overton Park in Memphis (Citizens to Preserve Overton Park against Volpe) cost-benefit analysis will always find it preferable to build through natural open spaces rather than around them. In a similar manner many developers and construction companies may prefer to construct highways through navigable waters rather than around them or at least in a way that will minimize adverse effects.

Every action of Congress and the executive branch points to the fact that the Federal Government has already indicated that dredge and fill activity should be avoided where possible and minimized when it is not possible to completely avoid it.

The Clean Water Act of 1977 specifically states:

The objective of this Act is to restore and maintain the chemical, physical, and biological integrity of the Nation's waters.

The Corps of Engineers in promulgating final regulations in response to this act specifically states:

Discharges of dredged or fill material into waters of the United States should be avoided or minimized through the use of other practical alternatives.

In the Executive order of May 24, 1977, on floodplain management, the President set an explicit policy of avoiding the adverse environmental effects of modifications of floodplains. Floodplains have been identified in the order to mean lowlands and relatively flat areas adjoining inland and coastal waters. The order clearly states that all Federal agencies avoid filling in land wherever practicable.

Since avoidance of fill and dredge activity is already a stated preference of the Federal Government and our large expenditures of funds have occurred in order to enforce this preference, then it is only consistent and logical to expect this preference to be yielded in highway construction action authorized by Federal highway legislation.

The final conclusion of our own deliberations in this body over the Clean Water Act was to realize the biological need and role of navigable waters (including wetlands) to ecosystems and the orderly use of waterways. For example, wetlands serve to recharge ground water supply and provide natural protection from floods and storms. We do not have to redebate the Clean Water Act to realize that highway construction employing dredge and fill activity will denigrate our progress in maintaining wetlands and waterways. My amendment incorporates in Federal highway statute the appreciation of the role of navigable waters in our environment.

Without this amendment we will be foolishly squandering our important investment in improving water quality. Because for example, on a river we may on the one hand be spending millions of dollars on municipal waste treatment and on the other hand, foil the progress of that treatment by allowing highway construction on that very same river. We cannot afford to allow this lack of coordination in our environmental and spending policy.

Mr. HOWARD. Madam Chairman, I rise in opposition to the amendment.

Madam Chairman, I rise in opposition to the proposed amendment and urge that it not be approved. The amendment purports to protect the navigable waters of the United States. What it actually does, and I am sure that it is not the gentleman's intent, is to create unnecessary and unreasonable delays and additional complications for the bridge replacement program as well as for highway projects which may cross or parallel navigable waters.

The amendment has apparently been offered to resolve a difficult local problem. But the result would be to create a grandaddy of a national problem well beyond anything that could reasonably have been contemplated.

There are already a number of laws which protect the integrity of the navigable waters of the United States.

Let me give a few examples:

First. Authority to regulate dredging and other construction work in navigable waters of the United States is provided under sections 9, 10, 11, and 14 of the River and Harbor Act of 1899. Permits are issued only if the proposed work would, in the opinion of the Secretary of the Army, be in the public interest.

Second. Section 404 of the Federal Water Pollution Control Act regulates the disposal of dredged or fill material in navigable waters. A permit for such activities is required from the Secretary of the Army.

Third. Section 402 of that same act regulates other types of discharges, and requires a permit by either the Administrator of the Environmental Protection Agency or by the appropriate State in which the discharge occurs.

Fourth. The general bridge acts of 1906 and 1946 require a permit from the Secretary of Transportation for any bridge over the navigable waters of the United States.

Fifth. Additional protection is provided by the requirement for an environmental impact statement under the National Environmental Protection Act prior to the issuance of any permit under these provisions. An environmental impact statement is also required for projects planned and constructed under title 23. The preparation of the EIS requires consideration of alternatives—which is precisely what I understand the amendment would require.

Madam Chairman, I submit there is no need for this proposed amendment, and I urge its rejection.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. WEISS).

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

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

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, she will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The pending business is the demand of the gentleman from New York (Mr. WEISS) for a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. ERTEL

Mr. ERTEL. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ERTEL: Page 119, after line 23, insert the following:

(c) In any case where an Appalachian development highway on the Federal-aid primary system, is the final section of an approved Appalachian development corridor highway within an urbanized area, transects an unincorporated jurisdiction, and is a necessary element of a flood control project for the protection of a commercially-zoned area containing not less than 70 commercial and industrial establishments which is authorized under Section 205 of the Flood Control Act of 1948, the Secretary of Transportation shall provide to the State highway department so much of the costs, not to exceed $1,800,000, as may be necessary to permit construction of that portion of such development highway as is necessary to permit completion of the flood control project.

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

Mr. HARSHA. Madam Chairman, I reserve a point of order against the amendment.

The CHAIRMAN. The gentleman from Ohio (Mr. HARSHA) reserves a point of order against the amendment.

Is there objection to the request of the gentleman from Pennsylvania (Mr. ERTEL)?

Mr. JOHN T. MYERS. Madam Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk will read the amendment.

The Clerk concluded the reading of the amendment.

Mr. HARSHA. Madam Chairman, I reserve a point of order against the amendment.

Mr. ERTEL. Madam Chairman, I would request that we argue the point of order at this time to save time.

POINT OF ORDER

The CHAIRMAN. The gentleman from Ohio will state his point of order at this time.

Mr. HARSHA. Madam Chairman, the amendment the gentleman offers is in violation of House rule XVI, clause 7, which prohibits nongermane amendments.

The amendment seeks to provide moneys for the completion of a flood control project by way of amending the bill providing for an increase in the Federal share for highway construction projects under the Appalachian Regional Development Act.

The fundamental purpose of an amendment must be germane to the fundamental purpose of the bill. The obvious fundamental purpose of the gentleman's amendment is to permit completion of a flood control project for a certain city in Pennsylvania.

The fundamental purpose of the bill is to make authorizations for highway construction, highway safety, and mass transportation. Flood control projects are in no way within the ambit of this legislation.

Clearly, the amendment does not relate to the subject matter under consideration. I would direct the Chair's attention to a precedent contained in the CONGRESSIONAL RECORD July 3, 1968, on pages H11926 through H11927. The bill being read in that case was the Federal-Aid Highway Act to which a Member offered an amendment allowing any Governor of a State to permit the diversion of funds apportioned to a State from highway construction to urban mass transit.

The Chair in that case held such an amendment was not germane.

A basic rule of germaneness is that an amendment must not only have the same end as the matter sought to be amended, but must contemplate a method of achieving that end that is closely allied to the method encompassed in the bill.

Even assuming that the basic purpose of the gentleman's amendment is to actually complete the highway, this test is not met, because an ancillary purpose is to complete this flood control project. This is not closely allied to the method encompassed in the bill, which is simply highway construction, unrelated to any flood walls or levees.

A further reason this amendment does not meet the test of germaneness is that it creates a new class by providing relief for a different group of people. Those aided by this bill are motorists in need of good highways, while the gentleman's amendment instead is aimed at providing flood control relief to the citizens of a particular borough in Pennsylvania. Clearly, it violates the rule. These beneficiaries are clearly not in the same class and would rarely if ever be the same people.

The gentleman's amendment broadens the scope of the original bill by providing a general purpose which is not germane to the specific subjects of the original bill. This legislation builds bridges, highways, and mass transit systems; the gentleman's amendment builds flood control levees.

I urge, therefore, that the Chair rule the gentleman's amendment out of order, because it is clearly not germane.

The CHAIRMAN. Does the gentleman from Pennsylvania (Mr. ERTEL) desire to be heard on the point of order?

Mr. ERTEL. I do, Madam Chairman.

The CHAIRMAN. The Chair will hear the gentleman.

Mr. ERTEL. Madam Chairman, this is an amendment to complete the Appalachian Development Highway on the Federal-aid primary system, and it is clearly germane to the bill.

It is true that this is to complete final sections of that highway, and that is the purpose: To build the base for the highway.

That is the purpose of this amendment, and any flood control project or any flood control benefit which might result has already been appropriated and is incidental. The primary purpose of this is to complete the Appalachian highway regional system in order to connect regional highways together.

Therefore, Madam Chairman, the amendment is germane.

The CHAIRMAN. Does the gentleman from New Jersey (Mr. ROE) wish to be heard on the amendment?

Mr. ROE. I do, Madam Chairman. I wish to speak against this point of order.

For the benefit of the Members of the House, including my dear friend, the gentleman from Ohio (Mr. HARSHA), the distinguished member of the committee from the minority, let me say that I inspected this area myself on behalf of the committee, and I want to report that the Appalachian development highway program and the regional program are part of this program, and this particular link that is to be connected in Pennsylvania is an integral part of the highway program. It had to be approved by the Environmental Protection Agency, and it is part of the comprehensive planning of the Appalachian program.

Now, the question is whether or not the roadbed per se is a matter of flood control versus a highway.

You could not complete this program without putting this highway on about a 52-foot fill. It happens to be because the elevation and the terrain is in that direction. Therefore, Madam Chairman, it is obvious that, whether it serves as an ancillary purpose and does benefit the flood situation in the area, you could not complete this highway without building it on the 52-foot fill. Therefore, I would respectfully suggest to the Chairman that this is not, in my judgment, nongermane and the point of order should be defeated.

The CHAIRMAN (Miss JORDAN). The Chair is ready to rule.

The gentleman from Pennsylvania (Mr. ERTEL) has offered an amendment to section 125 of the bill, the section entitled "Appalachian Development Highways."

The gentleman from Ohio (Mr. HARSHA) argues that the amendment offered by the gentleman from Pennsylvania (Mr. ERTEL) is not germane because it is violative of the fundamental purpose of the bill, which is to build highways and not to engage in flood control.

The fundamental purpose of the bill is not only to build roadways. This is a surface transportation bill. There are a number of ancillary highway-related activities and projects which are authorized under the terms of the bill.

The gentleman from New Jersey (Mr. ROE), in arguing in opposition to the point of order, has contended that it would be impossible to complete a certain highway without the construction contemplated on this amendment. That the roadbed will be part of a flood control project is ancillary to the main thrust of the amendment. The completion of a highway is apparently its fundamental purpose, since the highway could not be completed without going into a flood control area and completing the highway with the authorization provided in the amendment.

Consequently, the Chair overrules the point of order raised by the gentleman from Ohio (Mr. HARSHA).

The Chair recognizes the gentleman from Pennsylvania (Mr. ERTEL) for 5 minutes in support of his amendment.

Mr. ERTEL. Madam Chairman, the purpose of this amendment is simple. The Appalachian Development Act of 1965 is recognition by the Congress that the Appalachian region of the country has not shared fully in our Nation's prosperity and requires special assistance to acquire a self-sustaining economic base. This amendment will insure that authorized flood control projects protecting certain commercial and industrial developments and jobs are not delayed, because of a delay in highway construction. Because some States do not have the funds to match all available Federal highway money, we may face the situation where associated flood-control projects also are delayed. This amendment will permit highway projects to proceed, to the extent that the flood control projects are completed.

Mr. HOWARD. Madam Chairman, will the gentleman yield?

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

Mr. HOWARD. Madam Chairman, as the gentleman from New Jersey (Mr. ROE) stated, the committee has looked thoroughly at the project. It is part of a larger highway project which will be part of the regular Federal highway system and program, and it is a part of the staged construction which has a unique quality about it in that it is not otherwise normal in a highway project.

There is also in the gentleman's amendment a maximum figure of $1.8 million.

Madam Chairman, we would be happy to accept the gentleman's amendment.

Mr. ERTEL. I thank the gentleman.

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

Madam Chairman, I would like to ask the author of the amendment if the part of this project over which the so-called road goes is not a contemplated levee in a flood control project.

Mr. ERTEL. I am sorry. I could not quite understand the gentleman's question. Would the gentleman be kind enough to repeat it, please?

Mr. HARSHA. Madam Chairman, I would ask the gentleman whether or not the area encompassed by the gentleman's amendment completes a flood control project as well as the completion of this highway.

Mr. ERTEL. If the gentleman will yield, this is a general amendment, but if it were used for the specific area I think it should be used for, it will have in it an impervious core for which a sum has already been set aside by the Corps of Engineers. This is to build the embankment for the road itself.

The impervious core which would be built would be funded by the Corps of Engineers. That is inside, but we need the base of the road to get up to where we surface the road.

Mr. HARSHA. But the base of the road would serve as part of the levee for the flood control project; would it not?

Mr. ERTEL. It would serve a dual purpose. The money has already been set aside by the corps for the care of the embankment.

Mr. HARSHA. The gentleman from New Jersey said he came up and looked at the project.

Mr. ERTEL. That is correct.

Mr. HARSHA. Maybe he did not go as a subcommittee. Maybe he just went at the gentleman's personal request. I do not know that.

Mr. ERTEL. If the gentleman will yield, there was to my knowledge no testimony before the gentleman from New Jersey (Mr. ROE) and the subcommittee that I am aware of.

Mr. ROE. Madam Chairman, will the gentleman yield?

Mr. HARSHA. I yield to the gentleman from New Jersey (Mr. ROE).

Mr. ROE. Madam Chairman, I know the gentleman from New Jersey knows under our jurisdiction is the Appalachian program, as the gentleman knows, and this particular highway is an integral part of the Appalachian road program which is already in this bill.

Factually, forgetting the hearing or anything else involved—now hear me out—OK, I will ask for my own time.

AMENDMENT OFFERED BY MR. HARSHA TO THE AMENDMENT OFFERED BY MR. ERTEL

Mr. HARSHA. Madam Chairman, I offer an amendment to the amendment offered by the gentleman from Pennsylvania (Mr. ERTEL).

The Clerk read as follows:

Amendment offered by Mr. HARSHA to the amendment offered by Mr. ERTEL: At the end of the proposed subsection (c), add the following new sentence: "The Federal share of the total cost of any complete Appalachian development highway a portion of which receives assistance under this subsection shall not exceed (including all assistance under this subsection) that percentage of such total cost which, but for this subsection, would otherwise be applicable to such development highway.".

Mr. HARSHA. Madam Chairman, the purpose of my amendment is to assure that the normal Federal share of costs allocable to the highway projects not be exceeded.

As a result of my amendment, that portion of any highway project which is necessary to the flood control project can be built with full Federal financing when the flood control project is ready to go. It need not wait until the total highway project has been brought to a point where construction is ready to commence.

At the same time, it would assure that when elements of the highway project that are totally unrelated to the flood control improvements are constructed, the Federal share will be reduced by the amount necessary to assure that the total highway project does not exceed the share normally applicable under the statutory authority governing its construction.

In specific terms, this means that if the strictly highway portion is to be financed as a primary highway, the Federal share will be 80–20, as provided in this bill. It will be up to 90–10 if the highway is constructed under the provisions of this bill allowing for a combination of Federal-aid primary funds and Appalachian development highway funds. In any case, the requirement for the non-Federal share will be preserved as in general provisions of law.

Mr. ERTEL. Madam Chairman, I rise in opposition to the amendment offered by the gentleman from Ohio (Mr. HARSHA).

Madam Chairman, quite frankly, I did not quite follow the gentleman from Ohio's discussion, but as I analyzed this amendment, it cuts back exactly on the purpose of the particular amendment which I have offered. The reason I have offered it is to get this program started, to do this unique function which is to connect the ends of the Appalachian regional highways which are not completed, to complete the project and, second, to do the levee. The levee is 100-percent financed and does not come out of these funds, that is paid for by the Corps of Engineers. He is trying to cut back on the 90–10 formula that is in the bill, and I oppose the amendment.

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

Madam Chairman, first of all there is a provision in the bill that allows a 90–10 matching program on Appalachian programs. I think that is No. 1, which is highway financed, and I think, No. 2 is that the Corps of Engineers is going to put up $1.3 million of water resources moneys, so to speak, to build the core of this under highway bed, you might say, the bed of this highway which will be built 52 feet in the air. The gentleman from Ohio (Mr. HARSHA) says, and quite rightly so, that he only wants fair play and that if we are going to be using highway money it should only be the 90–10. But, one must remember that the Corps of Engineers will put in an additional $1.3 million which is about two-thirds of the cost of the roadbed, because of the 52-foot elevation. So, in any case, if that were not going to be serving as an ancillary purpose, which in my view is a bonus, and we had to use highway money to build that whole particular roadbed we would be spending another $1.3 million out of the highway trust fund.

So it seems to me that what the gentleman from Pennsylvania (Mr. ERTEL) is trying to do is to serve two purposes and I think he is doing a splendid job and I do not think he should be penalized for doing it.

Mr. HARSHA. Madam Chairman, if the gentleman will yield, I am not trying to penalize him at all. I am trying to keep him from getting a windfall. All that I am trying to do is to assure that whatever money is spent on highways will be spent in the same Federal-State matching ratio as every other Appalachian highway is funded.

Now, this does not prevent the project from going ahead one bit; you can go ahead with the project. What his amendment does is authorize $1,800,000 to build the levee. It does not authorize enough money to build a highway. You cannot build a highway, in the first place, with the money in this amendment.

It authorizes the full funding of $1.8 million to build the levee.

What I am saying in my amendment is when they go back and build the highway, then the cost of that portion of the levee which is attributable to the highway should be charged against the highway so that the rest of the country is treated equitably and fairly.

Mr. ROE. I do not believe the gentleman understands the technical problem involved.

Mr. HARSHA. I understand it.

Mr. ROE. I am just trying to clarify the point, just as the gentleman is.

It is not the fact that we have a chicken and egg situation. If there was not any flooding in the area whatsoever, if there was no flood control involved whatsoever, they would not have to construct the roadbed 52 feet high to connect the two pieces, so it is just an ancillary advantage which we are receiving.

What I am trying to get at is that it is not a question of building a levee or whatever. This is an integral part of that roadbed. We are going to get an

added advantage, because of its being built at the elevation it is being built on.

Mr. HARSHA. If the gentleman will yield further, Madam Chairman, of course, if that were the case, there would be no problem, because they have already gotten Appalachian money. They could go ahead and build the road under the Appalachian program. Certainly they can. They have moneys allocated to them.

Mr. ROE. That is not so.

Mr. HARSHA. They have an allocation for that.

The primary purpose of this whole thing is to build the levee at 100 percent Federal money and then, hopefully, the highway will be completed. That is all right if that is what the committee wants to do.

Mr. ROE. There is no way they can complete the highway if they do not build the levee. It is an integral part of the road.

Mr. HARSHA. They could build a bridge.

Mr. ROE. No. The gentleman apparently has not inspected the area. I know the gentleman's sincerity of purpose.

That bridge would probably cost about $50 or $100 million in order to close that gap.

Mr. HARSHA. If the gentleman will yield further, what I am saying is that the levee is not an integral part of the highway because the highway could be constructed in any number of ways.

Mr. ROE. It is designed. It has been approved by the Federal Highway Department. That department has approved its design.

It is an added bonus to the great State of Pennsylvania, because there is no other way they can build it short of paying three times as much to build a bridge, which is not even feasible.

Mr. HARSHA. My amendment would not stop them from proceeding to build a levee or whatever they want to build. The only purpose of my amendment is to say that they do not get more than 80–20 or up to 90–10 or whatever it may be, but nothing more, as the Federal share of a highway project.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. HARSHA) to the amendment offered by the gentleman from Pennsylvania (Mr. ERTEL).

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

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

The CHAIRMAN. Evidently a quorum is not present.

The Chair announced that pursuant to clause 2, rule XXIII, she will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

Pending before the House is an amendment offered by the gentleman from Ohio (Mr. HARSHA) to an amendment offered by the gentleman from Pennsylvania (Mr. ERTEL), and the pending business is the demand of the gentleman from Ohio (Mr. HARSHA) for a recorded vote.

All those Members in favor of taking the vote on this amendment by a recorded vote will please rise and remain standing until they are counted.

Mr. HARSHA. Madam Chairman, I ask unanimous consent to withdraw my request for a recorded vote.

Mr. JOHN T. MYERS. Madam Chairman, I object.

The CHAIRMAN. The Chair will state that since she has not announced the count of those requesting a recorded vote, the Member requesting the recorded vote may withdraw the request without unanimous consent. Does the gentleman from Ohio (Mr. HARSHA) withdraw his request?

Mr. HARSHA. Madam Chairman, I withdraw my request for a recorded vote.

The CHAIRMAN. The gentleman from Ohio (Mr. HARSHA) withdraws his request for a recorded vote.

Mr. HARSHA. Madam Chairman, I just want to make certain I am not withdrawing my amendment. I am withdrawing my request for a recorded vote.

Mr. HOWARD. Madam Chairman, on that I demand a division.

On a division (demanded by Mr. HOWARD) there were—ayes 60, noes 2.

So the amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. ERTEL), as amended.

The amendment, as amended, was agreed to.

PREFERENTIAL MOTION OFFERED BY MR. JOHN T. MYERS

Mr. JOHN T. MYERS. Madam Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. JOHN T. MYERS moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken.

The CHAIRMAN. The gentleman from Indiana (Mr. JOHN T. MYERS) is recognized for 5 minutes in support of his preferential motion.

Mr. JOHN T. MYERS. Madam Chairman, it is regrettable that I offer this motion because this bill is very badly needed. It is a very important bill to our Nation.

However, here we are 5 minutes to 9, with just 62 Members voting on the last vote on a most important bill.

It is regrettable that each year we come up—and for the past several years this has happened—in the closing days of the session of Congress with a most important bill, the highway bill. I hope that in future sessions we will bring this legislation to the floor in a more timely manner, earlier in the session and earlier in the day. I will not ask for a record vote and take this time only to register a dissatisfaction with the procedure which is shared by many here tonight and obviously by many others who are not interested enough in this legislation to be present tonight.

Highways are very important to the commerce, to the transportation of our country. Why is it that every year we wait until the closing down of a session to come up with this very important piece of legislation and then do it with so few Members present on the floor? Madam Chairman, it is rather obvious tonight that we have not had any recorded votes, and maybe we have not needed any. But there has been a protection here this evening in the fact that we have not had any votes, and we have been protected in the fact that we have had a lack of quorum. Just a moment ago, when we had a noticed quorum, it took 12½ minutes to get 100 Members present on the floor. There is not a majority of the Members of the House present to conduct business for a most important piece of legislation. We are considering legislation that affects the highways of our country, the safety of our highways and the bridges on the roads and highways in our country which are so inadequate—and other surface transportation. In my own State of Indiana it has been estimated there are more than 10,000 bridges which are inadequate—and yet we are passing legislation tonight with fewer than 100 Members—in fact, just 62 Members—on the floor of the House to conduct this important business of the House. I do not think this is really the way the people of this country want our laws to be written.

So it is with regret that I offer the motion that we do now rise, but I think it would be better that this legislation be brought up tomorrow, with a majority of the Members of the House present so they know what is going on concerning this very important legislation. It is obvious we cannot finish this legislation tonight.

So, Madam Chairman, I have reluctantly offered this motion only for the purpose of the fact that we do not have a sufficient number of Members on the floor tonight to carry on with this important legislation.

Mr. HOWARD. Madam Chairman, I rise in opposition to the motion.

I would like to state to the gentleman from Indiana that I heard him so eloquently speak on the water projects legislation last week while I was not on the floor—I was watching the proceedings in my office on television. He stated we could not just look at the people here, but there may be hundreds or thousands of people back in the buildings who are watching the gentleman this evening. I want to thank him for his statement.

Madam Chairman, I urge defeat of the motion.

The CHAIRMAN. The question is on the preferential motion offered by the gentleman from Indiana (Mr. JOHN T. MYERS).

The motion was rejected.

The CHAIRMAN. Are there further amendments to title 1?

AMENDMENT OFFERED BY MR. GARY A. MYERS

Mr. GARY A. MYERS, Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GARY A. MYERS: Page 151, after line 10, insert the following new section:

FEDERAL PARTICIPATION IN PREVIOUSLY INCURRED COSTS

SEC. 159. (a) Chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following new section:

"§ 159. Federal participation in previously incurred costs

"(a) If, prior to the time that any sums apportioned to a State for expenditure on any Federal-aid system lapse pursuant to section 118 of this title, the State requests that such sums be available for payments to such State for expenditures made by such State for a project in such State which was constructed during the period that such sums were available for expenditure in such State without any Federal assistance, the Secretary shall enter into an agreement with such State for the payment of 50 per centum of the cost of such project if the Secretary determines that—

"(1) the project would, at the time of its construction, have been eligible for Federal financial assistance under this title;

"(2) such agreement will not adversely affect the public interest;

"(3) construction of such project was in substantial compliance with all Federal statutory requirements and that there was no willful violation of any other Federal requirements;

"(4) the cost to the United States under such agreement will not exceed what would have been the cost to the United States at the time of construction if Federal assistance had been provided; and

"(5) the project has been fully and adequately maintained since construction.

"(b) The total Federal expenditure in any State in any fiscal year under this section shall not exceed the amount of such State's apportionment which would have lapsed in such fiscal year under section 118 of this title but for this section.

"(c) Any request submitted under subsection (a) of this section shall provide information as the Secretary shall require.".

(b) The analysis for chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following:

"159. Federal participation in previously incurred costs.".

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

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

There was no objection.

Mr. GARY A. MYERS. Madam Chairman, I assume the chairman is confident that everybody knows what is in the amendment. Maybe that will permit me to act more expeditiously by his asking unanimous consent that the amendment be considered as read.

However, what the amendment is intended to do is face up to the fact that some States, for different reasons, have found that occasionally some of the funds which were previously available from the Federal Government will lapse because of the inability of the State to provide sufficient matching money within the period of time that the money was available to them. One of the problems could be that a State during the period the Federal Government had money available to them was running two companion programs, one in which they were going along the line and matching the Federal money and picking it up and building highways, and in companion using State money on a 100-percent State money basis and building highways without attempting to pick up the match because they were already picking up as much as was available. Then, due to some economic situations, they find they cannot continue with that two-part program and in fact find that during the 4-year period that the money is available they are going to have to retrench and will not be able to come up with sufficient match at the end of that time.

What I am attempting to do here is to permit the Secretary to apply retroactively State highways which were 100 percent State funded and which would substantially comply with all other conditions for a Federal highway, for a match that the State could have otherwise gotten if they had not gone the projects alone.

There are a couple of conditions. First of all, that retroactive application would only be permitted if in fact the States were going to see some of their funds lapse. The State highways would have had to have been built during the same period that the Federal money that was about to lapse was available to them and the Secretary was able to determine that they were in substantial compliance with Federal regulations and laws.

There are a number of States which might see substantial amounts of money lapse, and in all fairness to those States they were in many cases contributors to the highway program. In other words, they contributed more than they actually got out.

I admit in many of the cases their problems will be due to either bad planning by the States or irresponsible action by the State legislatures from the standpoint of not providing an adequate amount of State highway funding. But, for whatever the reason, I think we have to give consideration to the fact that they are about to lose a substantial amount of money and this would only permit the States to use those roads which they had funded fully on their own in good faith.

The amendment also provides a substantial penalty for a State that comes this way; in other words, the match would be only on a 50 per centum basis, so this amendment would not encourage the States to go this route. In other words some States might think if the match were not to be reduced they would be encouraged to build roads with State funds then come back and retroactively attempt to get the money.

It is not my intent to permit that to happen. It is not my intent to permit a road which was built prior to the time frame in which the money was available to be acceptable. I offer this amendment and hope that the committee can support it as a compromise in a spirit of fairness to those States which find very difficult situations within their departments of transportation.

Mr. HOWARD. Madam Chairman, I rise in opposition to the amendment.

I would like to point out a few things, and one of them is very basic.

No. 1. When these roads were built, they were built with 100 percent State money and no environmental impact statements were required nor other statements as far as the Federal Government is concerned. What it would do is take Federal money and take what would be a larger share and then permit the States to use that as a smaller share on the Federal program, calling again for a much larger Federal share.

This was not the intention when the roads were built and, also, if you look at the amendment carefully the very objectionable point is that if the Federal money comes to a State there is no provision as to specifically where that money may be spent; it may be spent in any place in the State and not necessarily for highways, not necessarily for highway safety, not necessarily for mass transportation; it could go into anything; so it really would not work for the improvement of the highway systems in the country.

I urge a no vote on the amendent.

Mr. WRIGHT. Madam Chairman, will the gentleman yield?

Mr. HOWARD. I would be happy to yield to the majority leader, the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. Madam Chairman, I have asked the gentleman from New Jersey (Mr. HOWARD) to yield in order that I might make a comment with respect to the bill and to our scheduling.

As soon as this bill is completed, if we can complete it in 20 minutes, that is all we will do tonight. There will be no other business scheduled if the House can complete this bill tonight.

In any event, we will rise at 10 o'clock. But I would suggest to the House that I have been visiting with the manager of the bill, the gentleman from New Jersey (Mr. HOWARD) the chairman of the subcommittee, and it appears that most of the amendments remaining will be accepted by the chairman of the subcommittee. There appear to be only two or three that would project any disagreement, and if there were any general sense of cooperation it is altogether possible that we could wrap this up and conclude tonight's business.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. GARY A. MYERS).

The amendment was rejected.

Mr. ANDERSON of California. Madam Chairman, I move to strike the last word.

Madam Chairman, section 156 of H.R. 11733 calls for a study of all factors involving the Clean Air Act Amendments of 1977, the Energy Policy and Conservation Act, the National Mass Transportation Assistance Act of 1974, and this act, the Surface Transportation Assistance Act of 1978.

Why another study? This is not just another study. Let me explain.

The Clean Air Act Amendments of 1977 contain major provisions that will have a direct impact on our cities. Under threat of Federal sanctions, State, local, and regional governments are required to develop and implement plans to attain clean air standards by July 1, 1987.

A January 1979 interim deadline for the adoption of these plans draws near. No Federal department, including the Department of Transportation (DOT), will be allowed to engage in support, or approve any activity like a highway project, for example, which does not conform to this clean air plan.

There exists a very real possibility that all title 23, United States Code assistance will come to a halt in urban areas in the very near future. In the next 10 years, virtually all of urban growth, development, and Federal funding to urban areas will be predicated on the degree to which urban areas of the country comply with Clean Air Act requirements and plans to attain air quality standards.

This section 156 study is absolutely necessary if we are to reconcile the various requirements of each of these very important laws and make certain that we have the necessary information to resolve conflicts that are caused by wasteful duplication and overlapping rules and regulations.

Such duplication has been blamed for the taxing of local, State, and regional agency resources. Conflicting demands by Federal agencies wanting to meet the objectives of their specific laws exceed the available resources.

There is a clear and immediate need to examine these laws and their companion rules and administrative actions together and to identify all resources, both Federal and non-Federal, currently available to local, regional, and State agencies to achieve the objectives of these laws and to determine if any legislative changes are required or if additional resources are needed.

CLEAN AIR ACT RELATIONSHIP TO DOT AND DOE PROGRAMS

In recent years the Congress and the executive branch have initiated a series of legislative and administrative actions in the areas of air quality, energy conservation, and transportation management. Each of these actions seek similar objectives, but integration at the national policy level is lacking.

This lack of "agency-talking-to-agency" by the Environmental Protection Agency (EPA), Department of Energy (DOE), and DOT is disturbing when we know that they have responsibility over air quality, energy conservation, and transportation, respectively.

Section 156 will allow these agencies to report to Congress on the progress being made to coordinate—as OMB has directed.

For the benefit of Members I would like now to outline the relevant sections of law and administrative regulation that this section 156 study will address.

CLEAN AIR ACT

When Congress enacted the Clean Air Act in 1970, a provision was included requiring all States to develop State Implementation Plans (SIP) outlining specific actions to achieve national air quality standards. Section 110(a)(2)(B) also requires Transportation Control Measures (TCM).

There have been a number of problems regarding implementation of the TCM. For example, information on the effectiveness, cost, and implementability of transportation options in 1973 was limited. The extremely tight court-imposed time constraints did not allow for the investigation of the social and economic effects on a case-by-case basis.

As mentioned earlier, January 1979 marks the date that these plans must be submitted. After July 1, 1979, permits for new major stationary sources will be granted only if a plan has been submitted. Then, by 1982, the plan must have enforceable measures to assure attainment by July 1, 1987. No Federal department will be allowed to engage in support or approve an activity which does not conform to the plan. In addition, each Federal department, agency, or instrumentality must give priority in the exercise of their authorities in the implementation of the plan.

The section 156 study will document that this priority is in fact being given and will address the problems which stem from the lack of funds to implement transportation measures; that is, improved public transit.

ENERGY POLICY AND CONSERVATION ACT

Section 362 of the 1975 act provides for the preparation of State energy plans (SEP). These plans are eligible for Federal assistance if they include a number of measures, including programs to promote the availability and use of carpools, vanpools, and public transportation.

In November 1976, and later in May 1977, rules were published outlining, among other things, minimum criteria for required program measures. Under the section on program measures to promote availability and use of carpools, vanpools, and public transportation, specific actions were required.

Our section 156 study will include a discussion of these requirements as they relate to subsections (a)(1)(2)(3)(4).

NATIONAL MASS TRANSPORTATION ASSISTANCE ACT

In September 1975, DOT issued final rules instituting a transportation improvement plan (TIP). Among other things, TIP instituted an urban transportation planning process, required to be coordinated with air quality with consideration given to energy conservation.

A significant required component of TIP is an annual preparation of a transportation system management (TSM) element. TSM is designed to meet short-term transportation needs and thus emphasizes making efficient use of existing facilities. The emphasis on short-range measures is consistent with EPA's need to achieve air quality standards as expeditiously as practicable. DOT identified specific TSM measures employing a variety of locally conceived operating, regulatory, and pricing policies to bring about a more rational organization of the public transportation system and a better balanced use of the private automobile.

Many of these kinds of measures are currently being required by EPA imposed SIP transportation control plans. But there are basic differences between DOT and EPA on these related actions. For example, DOT requires only approval of the process leading to the plan, whereas, EPA actually approves the plan; DOT does not prescribe specific objectives, but rather requires that the transportation plans meet broad criteria of efficiency and cost effectiveness, while EPA requires the plan to achieve national ambient air quality standards; DOT does not impose rigid deadlines for implementing certain measures, while EPA requires the plan to achieve the objective by a deadline.

Our section 156 study requirements under subsections (a)(1)(2)(3)(4) will explore this situation which has placed a very heavy cumulative burden on planners at the local, regional, and State level. This study is necessary when we consider that proper management—without excessive or duplicative requirements—of the existing transportation system has a vital role to play in urban conservation efforts. Judicious management of automobile access and greater attention to the needs of pedestrians, supported by efficient and attractive local circulation services, can give new economic stimulus to downtown districts, enhance the livability of inner city residential neighborhoods and preserve our central cities.

SUMMARY

It would seem reasonable that the integration of Federal programs and policies, coordination of Federal funding and the paralleling of Federal requirements should be a part of the process now underway to develop a national urban and regional policy. Such action could assure that activities by EPA, DOT, DOE, OMB, HUD, and the Department of Commerce are designed and in fact do meet our objectives contained in the Clean Air Act Amendments, the Energy Policy and Conservation Act, the National Mass Transportation Act of 1974, and this Surface Transportation Assistance Act of 1978.

The section 156 study will provide Congress with an outline of the efforts underway to bring various requirements and activities together into a single, coherent and mutually supportive set of Federal and local objectives, implementing regulations, funding supports, intergovernmental relationships, and administrative reviews and approvals.

Section 156 is not just another study. Section 156 shows the desire of Congress to assist local, regional, and State agencies—who do not have the resources necessary to reconcile conflicting Federal requirements—come to grips with unnecessary and duplicative administrative actions.

Unless this occurs, the possibility exists that none of the worthwhile objectives of the laws I have mentioned will be met.

I'd like to thank Congressman PAUL ROGERS, chairman of the Health and Environment Subcommittee of the Interstate and Foreign Commerce Committee, for his support for this section 156 study. His April 14 letter follows:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES, SUBCOMMITTEE ON HEALTH AND THE ENVIRONMENT OF THE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,

Washington, D.C., April 14, 1978.

Hon. GLENN M. ANDERSON,
House of Representatives, Rayburn House Office Building, Washington, D.C.

DEAR COLLEAGUE: This is in response to your letter of April 11, 1978, enclosing a copy of your proposed amendment to the "Federal Aid to Highway Act of 1978" and inquiring whether the adoption of the enclosed amendment would lead me to seek referral of the bill.

I appreciate your past support for strong Clean Air legislation, and I agree with you that effective implementation of the Highway Act requires coordination with the Clean Air Act, the National Mass Transportation Assistance Act, and the Energy Policy and Conservation Act. A study such as you propose seems to me to make a great deal of sense.

I would have jurisdictional concerns about the amendment, however, if it could in any way be construed to amend, delay, stay, or restrict any duty or authority under the Clean Air Act. From staff conversations, however, I gather this is not in any way your intent. All that your amendment would do is to mandate a study and investigation, as I read it.

To make this point absolutely clear, I would recommend the inclusion of the following language in your amendment:

"(c) Nothing in this section shall be construed to amend, stay, or in any other way restrict or limit any authority or duty under the Clean Air Act, the Energy Policy and Conservation Act, or the National Mass Transportation Assistance Act."

With the addition of this language and upon the advice of the House Parliamentarian's Office (Pete Robinson) that section 144, as so amended, would not make Clean Air Act amendments germane in this bill, I would support your amendment and would not seek referral of the bill because of your amendment.

I appreciate your consideration of my concerns in this matter. I also want to express my appreciation for the very cooperative spirit evidenced by Mr. John Ingram of your staff in dealing with this question.

Sincerely,

PAUL G. ROGERS,
Chairman, Subcommittee on Health and the Environment.

Mr. McFALL. Madam Chairman, I move to strike the last word.

Madam Chairman, I take this time not to offer an amendment, but to ask a question of the members of the committee and the chairman of the subcommittee, the gentleman from New Jersey, Mr. HOWARD, about section 154 which I personally consider a rather unfortunate section that is in the bill, and that, as the Members of the House may know, if they have copies of the bill, refers to the Dulles Airport Highway Access. It reads:

Notwithstanding any other provision of law, the Secretary of Transportation shall permit carpools and vanpools to enter and leave the Dulles Airport Access Highway during rush hours using those entrances, exits, and ramps which are in existence on the date of enactment of this Act.

I would ask did the committee have hearings on this particular section?

Mr. HOWARD. Not on this particular section, if the gentleman would yield, I would say, but certainly we have had hearings for several years on what we could do to try and tie in our transportation legislation with our energy conservation. What we want to do is to get as many people per vehicle as we can on the roads, and certainly where we have a road where you might encourage that sort of thing we should do it.

I might point out to the gentleman that in the overall this Nation spends $45 billion a year for imported foreign oil.

It is a tremendous drain on our Nation and on our economy.

We have an average of 1.2 persons per vehicle in our automobiles in this Nation. If we could just double that to 2.4 or add in a mix of mass transportation, we would not have to import one barrel of oil into the country.

Therefore, the subject of trying to encourage people to use mass transit, to have preferential bus lanes, and lanes with a maximum number of people in automobiles has been a goal of the committee for several years.

Mr. McFALL. Madam Chairman, will the gentleman allow me to reclaim my time so that I may say something about it.

I understand that there is some serious opposition to this matter in the other body. I would hope that in considering this matter in conference, the committee would take into consideration the views of the Air Transport Association as expressed by the president of that association, Paul Ignatius. I have a copy of the letter which he sent to the chairman of the committee, the gentleman from California (Mr. JOHNSON).

The letter says the following:

AIR TRANSPORT ASSOCIATION OF AMERICA,

Washington, D.C., September 13, 1978.

Hon. HAROLD T. JOHNSON,
Chairman, Committee on Public Works and Transportation, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: The airlines serving the Washington, D.C. Metropolitan area are deeply concerned about the current effort to open the Dulles Airport access road to vanpool and carpool traffic as proposed in Section 154 of H.R. 11733. We believe Section 154 would seriously compromise the basic purpose of the access road, and it is respectfully requested that the non-airport traffic restriction be reaffirmed when H.R. 11733 is considered by the House.

During the development of Dulles Airport, it became clear that its distance from downtown Washington, and the lack of public transportation, would require an alternative system assuring fast and efficient access. The alternative system decided upon was the special access road. Congress was assured by the Federal Aviation Administration when the road was authorized, and when funds for its construction were appropriated, that it would be used exclusively for airport traffic. In this connection, access and egress originally were controlled so that the road could only be used by airport traffic. In 1971, however, the U.S. Department of Transportation authorized conditional use of the road for the Reston buses, and for people attending functions at Wolf Trap Farm. At that time we expressed concern that such precedential action would stimulate other groups to request similar use of the road. Since then, various groups have requested access to this vital airport artery but all such requests properly have been denied.

Air travelers enroute to Dulles Airport already are subject to congestion and traffic delays on sections of the beltway and Virginia State Route 123, which are major arteries leading to the access road. The most recent proposal to open the access road to vanpools and carpools during commuting hours, as set forth in Section 154 of H.R. 11733, would cause additional heavy traffic congestion at times of peak airport activity, and bring the congestion problem closer to the airport. The resulting delays will deny air travelers and other airport users the efficient, rapid airport access for which the roadway was authorized and constructed.

There is growing public concern about delays being encountered by air travelers because of ground access problems at some of the major airports in the United States. An indication of this concern occurred when the Senate Committee on Appropriations, in June 1977, directed the Federal Aviation Administration to undertake a comprehensive study of the constraints imposed on air travel and airport capacity by inadequate ground access. We understand this report is nearing completion and is expected to be submitted to the Senate Committee shortly.

In view of heavy air traffic demand, and the continued absence of public transportation, it is more important than ever that the current vehicular capacity of the access road not be diminished. We believe use of the access road by non-airport traffic should continue to be restricted, and we urge you to reassert the intent of Congress in this connection when H.R. 11733 is considered by the House.

Sincerely,

PAUL R. IGNATIUS.

Madam Chairman, it takes a person an hour to get to the access road. Once one gets onto it, then he can get to the airport.

Mr. SMITH of Iowa. Madam Chairman, will the gentleman yield?

Mr. McFALL. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Madam Chairman, I appreciate the gentleman's yielding.

The gentleman is the chairman of the Subcommittee on Transportation of the Committee on Appropriations, and he knows that for years now they have been trying to open up this access road. The reason more people do not use Dulles Airport and thus save energy instead of circling Chicago for an hour to make a connection with another airline is that it takes so long to get to Dulles.

Madam Chairman, if there is any sure way to finish killing Dulles Airport, this provision is the way to do it, because then it will take so long to get from the access road to Dulles, on top of the time which it takes to get to the access road, that the two together may make it practically impossible to use Dulles after 3:30 in the afternoon.

Mr. McFALL. Madam Chairman, I

agree with the gentleman from Iowa (Mr. SMITH).

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

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

Mr. MCFALL. Madam Chairman, it seems to me that we are not going to be saving energy. We are going to be losing energy in this way because we are not going to be able to get to Dulles Airport. Those of us who use Dulles Airport and have to leave here in order to get out there in a hurry are not going to be able to do it.

Mr. LLOYD of California. Madam Chairman, will the gentleman yield?

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

Mr. LLOYD of California. Madam Chairman, I thank the gentleman for yielding.

I would like to concur with the gentleman. I would only say that the object of opening this road, no matter how it comes across to others, comes across to me as being some service to selfish interests which have no interest in aviation or in aviation transportation. All they are trying to do is to open up some areas out there for commercial enterprise.

I say that we would do a tremendous disservice to air transportation if we get involved in opening up that access road to anything but air transportation.

Madam Chairman, I would remind this House that the major way of traveling today is by air.

Mr. MCFALL. Madam Chairman, that road was built so that extra roads could be built on the side, and the bridges were built so that other roads could be built down there.

The CHAIRMAN. The time of the gentleman has expired.

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

Mr. HOWARD. Madam Chairman, will the gentleman yield?

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

Mr. HOWARD. I certainly want to thank the gentleman for his statement. I would like to say that the members of the subcommittee are not part of any interest in commercial activity along the Dulles Airport Road. Many of us had a good goal in mind, and that was to try and relieve congestion on our roads; also when we get to the Beltway. But I certainly appreciate the gentleman's bringing it up to the House. I think it is a very important matter we will consider. As the gentleman said, the other body had some great reservations on it. I am sure that it will be looked at in depth, and I am sure the gentleman's position will be enhanced by his bringing it before the attention of the whole House this evening.

Mr. MCFALL. I have great respect for the committee and the judgment of the committee. I bring it up this way rather than through an amendment because I know once the Members look at it, they will come to a very good conclusion.

Mr. BOLAND. Madam Chairman, will the gentleman yield?

Mr. MCFALL. I yield to the gentleman from Massachusetts.

Mr. BOLAND. I thank the gentleman for yielding.

With his typical magnificent personality, the gentleman would bring it up in this way and that is to his credit. However, it is too bad someone does not offer an amendment to knock this section out of the bill. It ought to be out of it.

The CHAIRMAN. The time of the gentleman has expired.

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

Mr. BOLAND. If the gentleman will yield further, this section ought to be in the bill. This road was built by the Federal Aviation Agency. As the gentleman so well knows, he succeeded me as the chairman of the Subcommittee on Appropriations for the Department of Transportation. This is not a new issue. We have been fighting this issue for a good number of years, and for years there has been an effort made by the people living along that particular road to open it up. There is a effort being made really to open up the great areas down in that area. It does impact on the ability of the people to get from Washington and the surrounding areas into Dulles timely and in a convenient manner. It ought not be in this bill.

Mr. MCFALL. I understand that both Senators from Virginia and the county of Fairfax are opposed to it, so perhaps in the conference we might have some hope that it might be knocked out.

Mr. POAGE. Madam Chairman, I move to strike out the last four words.

Madam Chairman, I take this time not to make legislative history but to try to see that we understand legislative history. The report accompanying this bill contains a provision for the extension of Interstate 27 from Lubbock, Tex., south to Interstate 10. For a long time it has been the understanding, I think, by most of the Members from Texas that it was proposed to make provision for an interstate highway from Lubbock down to Interstate 10 at whatever point the Department of Transportation might decide that they wanted. That is what many of us have told our constituents. Frankly, I have told some as late as 5 o'clock this afternoon that the exact location was not going to be decided by the Congress. There are about seven routes that could be followed, and all of them make out a good case. Five of them go through the district I represent, including Federal Highway 87. The bill does not name this highway. The bill does exactly what we all thought, and I want the record to show clearly that this bill does not designate a route between Lubbock and Interstate 10. I would ask the Chairman if I am not correct.

Mr. HOWARD. If the gentleman will yield, the gentleman is absolutely correct. I believe that it may in the other body, but in this bill it does not designate it. It is only mentioned in the report.

Mr. POAGE. That is right. The report suggests that this route is worthy of the consideration of the Department. I am not criticizing the use of Highway 87. It is one of the six or seven or eight roads that is quite practical. I simply want to make it perfectly clear that neither I nor anyone else in the 11th District of Texas has attempted to say which one of these routes should be used. But I would hope that when we finally wind up, they would all be considered so that we might have a free-for-all contest, so that everybody could present the merits of their route, which is the shortest, which is the cheapest, which serves the most people. The bill does not attempt to do it, and I want the record to show clearly that the bill does not confine the possible route to Highway 87.

Mr. JOHNSON of California. Madam Chairman, will the gentleman yield?

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

Mr. JOHNSON of California. I thank the gentleman for yielding.

I want to assure the gentleman it is not in the bill at the present time. This was brought to us by another Member of the Texas delegation, and we gave consideration to it. We thought at that time that he had spoken to the other two Congressmen who are affected.

We knew nothing about this until tonight. Now, in the other body, it is in their bill. It is designated as Route 87, as a demonstration project.

We will give consideration to this when we go to conference with the Senate. I am sure between the other body and ourselves we will be able to work this out to the satisfaction of the Texas delegation.

Mr. POAGE. I hope so. I appreciate the effort of the committee and I want to commend the committee. I am not criticizing anybody's action and I am not criticizing the use of Highway 87. It is one of the several routes that is perfectly practical but they should all be open to consideration.

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

I yield to the distinguished gentleman from Virginia.

Mr. WAMPLER. Madam Chairman, I thank the gentleman for yielding.

During consideration of the Surface Transportation Assistance Act. I wish to take the opportunity to draw the attention of my colleagues to a unique situation regarding the need for highway bridge replacement in Virginia.

Because of the unique terrain of southwestern Virginia, the primary and secondary roads serving the area are also energy roads, over which numerous heavy vehicles must travel in connection with the coal mining industry of that region. Other areas in the Nation are impacted in much the same manner. Many of the bridges that must be traveled are unsafe, either due to outmoded construction or from heavier than anticipated usage over the years. For the safety of all citizens of the region it is imperative that funds be available for the repair and replacement of these bridges.

Under the provisions of this legislation, Virginia would receive substantial funds for the bridge replacement program. With the provision included in the bill that at least 25 percent and up to 35 percent of the apportioned funds may be obligated for bridges on public roads not in the Federal-aid system, and with the increased apportionment, many of these unsafe and dangerous bridges can be repaired or replaced. The safety of the citizens, and the enhancement of our energy resources delivery routes will be positive results of the use of these funds.

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

Madam Chairman, I would like to ask the distinguished chairman a question.

First, I say to the distinguished chairman of the committee how much I think the bill, H.R. 11733, can contribute to our Nation as we reach for a balanced transportation system. I compliment the Members for the bill.

I do have grave reservations with respect to the notion of placing an artificial cap on the amount of interstate transfer funds that can, in fact, be used for mass transportation, when the local decision is made that the transportation needs will be better served by going the mass transportation mode, rather than the highway mode.

I note that the other body does not contain such an artificial cap.

I would ask the distinguished chairman if the committee might not have an open mind as it enters into consideration with the other body on this matter.

Mr. HOWARD. Madam Chairman, if the gentleman will yield, we certainly do have an open mind. In fact, we have been discussing some possibilities with the other body as to the cap or no cap.

We all know that many areas have in desperation looked toward interstate transfer money, because there was such insufficient public transportation money available to them.

What we hope and what we feel is that with the kind of public transportation legislation we will come out with, that this whole idea of looking to interstate transfer money may become moot, except in areas where they do not need this.

Members of the other body are going to be discussing it. We do not want to hold back any interstate transfers.

Mr. HARRIS. Madam Chairman, I thank the gentleman.

Madam Chairman, I am glad to rise in support of H.R. 11733. I continue to be a strong believer in a balanced program of public transportation and highway improvements around the country. Of course, I am particularly interested in moving forward with the continuing program to improve public transportation in the National Capital region and H.R. 11733 has some features that are necessary to accomplish that goal.

However, much of the recent progress of the National Capital area's Metro System has been made possible by the use of interstate highway transfers. It also appears that progress in the immediate future will depend upon the continuing use of such transfers.

Consequently, I am concerned about two provisions of H.R. 11733. This bill contains, for the first time, a severe restriction on the flexibility of the Congress to appropriate such grants to State and local governments by placing a ceiling of $675 million on the total amount that can be transferred. By placing in law such an unnecessary and inflexible ceiling, the development of important public transportation projects could be curtailed—a particularly undesirable situation since these projects are usually the product of difficult political decisions by State and local officials.

The second provision of H.R. 11733 that is of concern to me relates to matching ratios. Currently, the Federal Government pays 90 percent of the cost of an interstate highway project. If the area elects to exercise its option and substitute public transportation and/or other highway projects for the interstate, only 80 percent of the cost of these new projects will be supported by the Federal Government. This 10-percent reduction represents a significant disincentive to transfer, even if a local area decides that an interstate is not the most desirable project to meet its transportation needs.

If a city is designated to receive $90 million in Federal assistance for a $100 million interstate highway project and elects to transfer the funds, the Federal Government will put up the $90 million only if this amount represents 80 percent of the total cost of the substitute projects. In other words, the new total project cost must then be increased to $112.5 million (the figure of which $90 million represents 80 percent). The local share would then have to be raised from $10 million to $22.5 million ($112.5 million less $90 million) if the city is to receive the full $90 million in Federal aid. If the city can only put up the original $10 million it committed, it will then only receive $40 million in Federal money (since the Federal share of the total cost for the substitute project cannot exceed 80 percent). Simply by virtue of the decision to transfer, the city would then lose $50 million in Federal assistance.

Equalizing the Federal share will therefore facilitate decisions which are based on the merits of a project rather than on the amount of State or local funds necessary to match the Federal funds. A 90-percent Federal share for interstate substitutions will permit the most rational mix of transportation projects and prevent skewing transportation decisions toward the largest pot of Federal money.

Substitution can be made only for those routes considered nonessential to the completion of a unified and connected interstate system; the integrity of the interstate systems would therefore not be threatened by the proposed change.

Controversial interstate sections now subject to transfer are concentrated in densely populated areas which often have inadequate transportation service; this situation in turn results in the substantial waste of economic and human resources. If there are substitute projects which promote national transportation goals similar to those of the interstate system—such as energy conservation, adequate transportation service, and economic development—but in a different manner, local areas should be permitted to choose those substitute projects without sacrificing Federal funds. This change in the law would allow them to do so.

It is my understanding that the public transportation legislation under consideration by the other body does not place such a limit on the transfer fund, and sets the matching ratio for substitutions at 90-percent Federal, 10-percent State and local. Consequently, in view of the importance of the interstate transfer process to this region and other regions across the country, I would hope that the managers for the House in conference would look carefully at this issue again when the conferees meet on this legislation and adopt these provisions as they exist in the legislation of the other body.

Mr. HOWARD. Madam Chairman, if the gentleman will yield, I want to state to the gentleman that I do also have a provision that was put in the bill the last time that this interstate transfer could also be used for roads and highways other than interstate. In this bill that would be 80 to 20, just as mass transit is.

So it is not completely accurate to say that if this interstate money is used for highways at 90 to 10, it cannot be used for other roads, because it is used at the rate of 80 to 20. If it is used for other highways, it is at 80 to 20, and it is on the same level as mass transit.

There is a difference of opinion as well within our own subcommittee on this. If interstate money is put somewhere, ought it to be used at the rate at which it is taken, or ought it to be at the rate it is put in the program.

The gentleman is correct; the other body has decided to leave it at the original rate of 90 to 10, and that will be a subject for conference. I will say there is nowhere unanimity even in our own committee on this, let alone in the conference.

Mr. HARRIS. Madam Chairman, I thank the gentleman.

Mr. GREEN. Madam Chairman, will the gentleman yield?

Mr. HARRIS. I yield to the gentleman from New York.

Mr. GREEN. Madam Chairman, I want to commend the gentleman from Virginia (Mr. HARRIS) for pointing out the importance of making these funds available for mass transit. I think State and local governments ought to have the maximum possible freedom to use these funds for mass transit if they feel that is the best mode for their citizens.

I think it is a very important point that the House conferees on this bill be sensitive to giving State and local governments maximum flexibility in this respect, and I thank the gentleman for bringing this issue to our attention.

Mr. HARRIS. Madam Chairman, I am pleased to get an ally from the other side of the aisle.

Again I wish to point out how much

I admire the great advances we are taking toward a balanced transportation system in this bill, and I thank the gentleman from New York (Mr. GREEN) for the great leadership he has shown in that endeavor.

AMENDMENT OFFERED BY MR. JOHNSON OF CALIFORNIA

Mr. JOHNSON of California. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JOHNSON of California: Page 97, line 2, insert "(a)" after "SEC. 107.".

Page 97, after line 8, insert the following:

(b)(1) The definition of "forest road or trail" in section 101(a) of title 23 of the United States code is amended to read as follows:

"The term 'forest road or trail' means a road or trail wholly or partly within, or adjacent to, and serving the National Forest system and which is necessary for the protection, administration, and utilization of the National Forest system and the use and development of its resources.".

(2) The definition of "forest development roads and trails" in section 101(a) of title 23 of the United States Code is amended to read as follows:

"The term 'forest development roads and trails' means a forest road or trail under the jurisdiction of the Forest Service.".

(3) The definition of "forest highway" in section 101(a) of title 23 of the United States Code is amended to read as follows:

"The term 'forest highway' means a forest road under the jurisdiction of, and maintained by, a public authority and open to public travel.".

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

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

There was no objection.

Mr. JOHNSON of California. Madam Chairman, this amendment to the definition of "forest highway" deletes the requirement that such roads be on the Federal-aid system and clarifies the respective role and responsibility of the Federal and State governments.

The amendment is necessary to reflect Federal needs and considerations in selecting forest highway projects as well as local needs.

The Federal-Aid Highway Act of 1970 amended the definition of a forest highway to require that such roads be on a Federal-aid system.

This requirement permitted forest highways to be funded from the Highway Trust Fund but it also made many miles of forest roads (those that were not on the Federal-aid system) ineligible to be improved with forest highway funding whether or not they provided vital access to the National forests.

In essence, this created a "gap" between forest development roads and Federal-aid system roads.

Roads within this "gap" frequently provide the essential link between the forest and the Federal-aid system but they cannot be improved with Federal funds.

This "gap" further increased with the enactment of the 1973 Federal-Aid Highway Act, which forced a reduction of the Federal-aid system by establishing new criteria and classification requirements for roads on that system.

Thus, forest roads which could not meet the new Federal-aid classification requirements which were effective in 1976 had to be removed from the Federal-aid system and, subsequently, could not be improved with forest highway funding.

It is estimated that the combined effect of the 1970 and 1973 Federal-Aid Highway Acts resulted in 5,000 miles of forest roads becoming ineligible for forest highway funding even though they provide essential access to National forest land.

This amendment will alleviate that problem. I urge its adoption.

Mr. HOWARD. Madam Chairman, will the gentleman yield?

Mr. JOHNSON of California. I yield to the chairman of the subcommittee.

Mr. HOWARD. Madam Chairman, I thank the distinguished chairman of the committee for yielding.

I know that this is merely a redefinition of "forest highways" to clarify certain things that have not been made clear before. I believe this point was made also by the gentleman from California (Mr. DON H. CLAUSEN) in committee, and I am happy to accept the amendment.

Mr. DON H. CLAUSEN. Madam Chairman, will the gentleman yield?

Mr. JOHNSON of California. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. Madam Chairman, I am pleased to join my colleague from California, the distinguished chairman of the full committee, in supporting this amendment.

The problem it addresses involves the eligibility of forest highways not on Federal systems for funding from the Highway Trust Fund. An estimated 5,000 miles of forest roads have become ineligible for such a funding as a result of the combined effects of Federal-Aid Highway Acts of 1970 and 1973.

The gap thus created is a severe problem in areas where forest access roads in fact have as much economic significance as many roads on our primary and secondary systems. Certainly the prominence of the forest products industry in my own district in northern California and elsewhere in the State bears that out, in terms of my own personal observation.

At a time when we are recognizing other off-system needs, as in the case of the greatly expanded bridge program, it strikes me as altogether appropriate that we remedy this defect in existing law. Furthermore, the responsibility of Federal Government with respect to our National forests also argues strongly for this amendment. I urge its adoption.

Mr. SHUSTER. Madam Chairman, will the gentleman yield?

Mr. JOHNSON of California. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Madam Chairman, the gentleman from California (Mr. JOHNSON) has offered an excellent amendment, and we vigorously support it.

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

The amendment was agreed to.

AMENDMENT OFFERED BY MR. WALGREN

Mr. WALGREN. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALGREN: Page 151, after line 10, insert the following new section:

INCREASED FEDERAL SHARE

SEC. 159. (a) Notwithstanding any other provision of law, the Federal share of any project approved by the Secretary of Transportation under section 106(a), and of any project for which the United States becomes obligated to pay under section 117, of title 23, United States Code, during the period beginning on the date of enactment of this section and ending on the last day of the one-year period beginning on such date of enactment (both dates inclusive), shall be such percentage of the construction cost as the State highway department requests, up to and including 100 per centum, provided such commitment of funds is required to prevent any funds authorized under title 23 from lapsing.

(b) The total amount of such increases in the Federal share as are made pursuant to subsection (a) of this section for any State shall be repaid to the United States by such State before September 30, 1982. Such repayments shall be deposited in the Highway Trust Fund. No project shall be approved under section 106 or section 117 of title 23, United States Code, for any project in any State which has failed to make its repayment in accordance with this section until such repayment has been made.

Mr. WALGREN. Madam Chairman, I will be very brief at this hour.

I think that in the long run this country will look back at the work of this committee with a great deal of respect because of the increase in bridge funding under this bill.

I come from a district where our bridges are literally closed down. We have taken four-lane bridges and built bulwarks down the middle to reduce them to two lanes, and where loads have been required we have hung huge metal shields across the top of the bridge superstructure so that the height of the vehicle will be restrained at the pain of being destroyed.

So I think in the long run we are going to look back at the literally eightfold increase in bridge money that this bill provides and see it as a great change in national highway policy that is very much needed by our country.

However, I dc feel that we are overlooking a great need, and that is on the temporary inability of States to come up with matching shares. This amendment that I offer would simply defer the payment of the States' share to prevent any lapses of moneys that would otherwise go to highways during the next calendar year.

It is clear, from my State, that there are a number of States that need the flexibility of time that this would give them to put their own financial house in order so that they can take advantage of the extra moneys that are going

to come to the municipalities under this bill.

Madam Chairman, I urge the adoption of the amendment.

Mr. HOWARD. Madam Chairman, I rise in opposition to the amendment.

Madam Chairman, I would like to commend the gentleman from Pennsylvania (Mr. WALGREN) for his activities on behalf of the bridge program, the bridge need, in coming to the committee before he was a Member of this body. As to the 100-percent payback, we have gone through this one time several years ago, when former President Ford, in combating an economic situation, released suddenly, on February 12, 1975, $2 billion out of the Highway Trust Fund that had been impounded in those days. At that time it was in the middle of a budget year. Many States were caught unprepared to match this, because they had set their budgets up for the year, and this money we wanted to get out within 45 days. At that time we did advance the States' share. We did provide for a payback. We found that we had a great deal of difficulty with that. In the 1976 act, on behalf of one State we were a little embarrassed to have to extend that payback again. There was an attempt in the full committee this year to extend that payback from the Ford years again. And we found that this does not seem to work. I think we have been very generous with the States by raising the 75–25 bridge Federal-State match to 90–10 at this point. It would be unwise, unworkable, and we may live to regret it if we accept this amendment. So, Madam Chairman, I reluctantly oppose the amendment.

Mr. SHUSTER. Madam Chairman, will the gentleman yield?

Mr. HOWARD. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. I thank the gentleman for yielding.

Madam Chairman, I join the gentleman from New Jersey (Mr. HOWARD) in reluctantly opposing this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. WALGREN).

The amendment was rejected.

The CHAIRMAN. Are there further amendments to title I?

If not, the Clerk will read title II.

The Clerk read as follows:

TITLE II

SHORT TITLE

SEC. 201. This title may be cited as the "Highway Safety Act of 1978".

HIGHWAY SAFETY

SEC. 202. The following sums are hereby authorized to be appropriated:

(1) For carrying out section 402 of title 23, United States Code (relating to highway safety programs), by the National Highway Traffic Safety Administration, out of the Highway Trust Fund, $200,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(2) For carrying out section 403 of title 23, United States Code (relating to highway safety research and development), by the National Highway Traffic Safety Administration, out of the Highway Trust Fund, $50,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(3) For carrying out section 402 of title 23, United States Code (relating to highway safety programs), by the Federal Highway Administration, out of the Highway Trust Fund, $25,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(4) For carrying out in accordance with section 402 of title 23, United States Code, section 154 of such title (relating to the national maximum speed limit), out of the Highway Trust Fund, $100,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(5) For carrying out sections 307(a) and 403 of title 23, United States Code (relating to highway safety research and development), by the Federal Highway Administration, out of the Highway Trust Fund, $10,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(6) For bridge reconstruction and replacement under section 144 of title 23, United States Code, out of the Highway Trust Fund, $2,000,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(7) For carrying out section 151 of title 23, United States Code (relating to pavement marking), out of the Highway Trust Fund, $75,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(8) For projects of high-hazard locations under section 152 of title 23, United States Code, and for the elimination of roadside obstacles under section 153 of title 23, United States Code, out of the Highway Trust Fund, $150,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(9) For carrying out section 406 of title 23, United States Code (relating to schoolbus driver training), out of the Highway Trust Fund, $7,500,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(10) For carrying out section 407 of title 23, United States Code (relating to innovative project grants), out of the Highway Trust Fund, $5,000,000 for the fiscal year ending September 30, 1980, $10,000,000 for the fiscal year ending September 30, 1981, and $15,000,000 for the fiscal year ending September 30, 1982.

RAIL-HIGHWAY CROSSINGS

SEC. 203. (a) The first sentence of paragraph (1) of subsection (b) of section 203 of the Highway Safety Act of 1973 (Public Law 93–87) is amended by striking out "and $125,000,000" and inserting in lieu thereof "$125,000,000", and by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "and $150,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.".

(b) The first sentence of subsection (c) of section 203 of the Highway Safety Act of 1973 is amended by striking out "and $75,000,000" and inserting in lieu thereof "$75,000,000", and by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "and $100,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.".

(c) Subsection (d) of section 203 of the Highway Safety Act of 1973 is amended by adding at the end thereof the following: "If a State fails to obligate all of the funds apportioned to it for the transition period ending September 30, 1976, or for fiscal year 1977 or 1978 under subsection (c) of this section by the end of the first fiscal year after the fiscal year or period for which such funds were apportioned, the unobligated amount may be reapportioned by the Secretary of Transportation to any State which has obligated all of the funds apportioned to it under such subsection (c) for such fiscal year or period. The Secretary of Transportation shall reduce future fiscal year apportionments under subsection (c) to any State to whom funds are reapportioned under this subsection by the amount reapportioned to such State and shall increase the future fiscal year apportionment of any State whose apportionment was so reapportioned by such amount.".

MINIMUM APPORTIONMENT

SEC. 204. The sixth sentence of subsection (c) of section 402 of title 23, United States Code, is amended by striking out ", except that" and all that follows down through the period at the end thereof and inserting in lieu thereof a period.

NATIONAL MAXIMUM SPEED LIMIT

SEC. 205. Section 154 of title 23, United States Code, is amended by adding at the end thereof the following new subsections:

"(e) Each State shall submit to the Secretary such data as the Secretary determines by rule is necessary to support its certification under section 141 of this title for the twelve-month period ending on September 30 before the date the certification is required, including data on the percentage of motor vehicles exceeding fifty-five miles per hour on public highways with speed limits posted at fifty-five miles per hour in accordance with criteria to be established by the Secretary.

"(f)(1) For the twelve-month period ending September 30, 1978, if the data submitted by a State pursuant to subsection (e) of this section show that the percentage of motor vehicles exceeding fifty-five miles per hour is greater than 70 per centum, the Secretary shall reduce the State's apportionment of Federal-aid highway funds under each of sections 104(b)(1), 104(b)(2), and 104(b)(6) of this title in an aggregate amount of up to 5 per centum of the amount to be apportioned for the fiscal year ending September 30, 1980.

"(2) For the twelve-month period ending September 30, 1979, if the data submitted by a State pursuant to subsection (e) of this section show that the percentage of motor vehicles exceeding fifty-five miles per hour is greater than 55 per centum, the Secretary shall reduce the State's apportionment of Federal-aid highway funds under each of sections 104(b)(1), 104(b)(2), and 104(b)(6) of this title in an aggregate amount of up to 5 per centum of the amount to be apportioned for the fiscal year ending September 30, 1981.

"(3) For the twelve-month period ending September 30, 1980, and for each succeeding twelve-month period thereafter, if the data submitted by a State pursuant to subsection (e) of this section for that year show that the percentage of motor vehicles exceeding fifty-five miles per hour is greater than 40 per centum, the Secretary shall reduce the State's apportionment of Federal-aid highway funds under each of sections 104(b)(1), 104(b)(2), and 104(b)(6) of this title in an aggregate amount of up to 5 per centum of the amount to be apportioned for the fiscal year ending September 30, 1982.

"(4) For the twelve-month period ending

September 30, 1981, and for each succeeding twelve-month period thereafter, if the data submitted by a State pursuant to subsection (e) of this section for that year show that the percentage of motor vehicles exceeding fifty-five miles per hour is greater than 30 per centum, the Secretary shall reduce the State's apportionment of Federal-aid highway funds under each of sections 104(b)(1), 104(b)(2), and 104(b)(6) of this title in an aggregate amount of up to 10 per centum of the amount to be apportioned for the fiscal year ending September 30, 1983.

"(5) For the twelve-month period ending September 30, 1982, and for each succeeding twelve-month period thereafter, if the data submitted by a State pursuant to subsection (e) of this section for that year show that the percentage of motor vehicles exceeding fifty-five miles per hour is greater than 15 per centum, the Secretary shall reduce the State's apportionment of Federal-aid highway funds under each of sections 104(b)(1), 104(b)(2), and 104(b)(6), of this title in an aggregate amount of up to 10 per centum of the amount to be apportioned for the fiscal year ending September 30, 1984, and for each succeeding fiscal year thereafter.

"(g) The Secretary shall promptly apportion to a State any funds which have been withheld pursuant to subsection (f) of this section if he determines that the percentage of motor vehicles in such State exceeding fifty-five miles per hour has dropped to the level specified for the fiscal year for which the funds were withheld.".

ACCIDENT DATA

SEC. 206. There is authorized to be appropriated out of the Highway Trust Fund, to the Secretary of Transportation not to exceed $10,000,000 per fiscal year for the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, for the acquisition, storage, and retrieval of highway accident data and for establishing procedures for reporting accidents on a nationwide basis.

HIGHWAY SAFETY PROGRAMS

SEC. 207. (a) The last sentence of subsection (a) of section 402 of title 23, United States Code, is amended by inserting immediately after "one or more States," the following: "including, but not limited to, such programs for identifying accident causes, adopting measures to reducing accidents, and evaluating effectiveness of such measures,".

(b)(1) Subparagraph (A) of paragraph (1) of subsection (b) of section 402 of title 23, United States Code, is amended by striking out "State agency" and inserting in lieu thereof "State highway safety agency".

(2) The amendment made by paragraph (1) of this subsection shall take effect January 1, 1979.

(c) The first sentence of subsection (d) of section 402 of title 23, United States Code, is amended by inserting immediately after "State highway safety program" the following: "(other than planning and administration)" and by inserting immediately after "non-Federal share of the cost of any project under this section" the following: "(other than one for planning or administration)".

INNOVATIVE PROJECT GRANTS

SEC. 208. (a) Chapter 4 of title 23, United States Code, is amended by adding at the end thereof the following new section:

"§ 407. Innovative project grants.

"(a) In addition to other grants authorized by this chapter, the Secretary may make grants in any fiscal year to those States which develop innovative approaches to highway safety problems in accordance with criteria to be established by the Secretary in cooperation with the States.

"(b) The Secretary shall establish a procedure for the selection of grant applications submitted under this section. In developing such procedure, the Secretary shall consult with the States and political subdivisions thereof, appropriate Federal departments and agencies, and such other public and private organizations as the Secretary deems appropriate.

"(c) Any State may make an application under this section to carry out an innovative project described in subsection (a) of this section. Such application shall be in such form and contain such information as the Secretary, by regulation, prescribes.

"(d) Not to exceed 2 per centum of the funds authorized to be appropriated to carry out this section shall be available to the Secretary for the necessary costs of administering the provisions of this section.

"(e) The Secretary shall submit an annual report to the Congress which provides a description and evaluation of innovative projects carried out with grants made under this section.".

(b) The analysis of chapter 4 of title 23, United States Code, is amended by adding at the end thereof the following:

"407. Innovative project grants.".

HIGHWAY SAFETY EDUCATION AND INFORMATION

SEC. 209. (a) The Secretary of Transportation, acting through the Administrator of the Federal Highway Administration, shall carry out six pilot projects designed, through the use of television and radio, to develop and evaluate techniques, methods, and practices to achieve maximum measurable effectiveness in reducing traffic accidents, injuries, and deaths.

(b) Each pilot project authorized by this section shall be in operation not later than the one hundred and eightieth day after the date of the first appropriation of funds made under authority of this section, and shall be conducted for a one-year period. Not later than the ninetieth day after the end of each such one-year period, the Secretary of Transportation, acting through the Administrator of the Federal Highway Administration, shall report to Congress the results of such project, including, but not limited to, an evaluation of the effectiveness of such project and a statistical analysis of the traffic accidents and fatalities within the project area during such one-year period.

(c) There is authorized to be appropriated, out of the Highway Trust Fund, to carry out subsections (a) and (b) of this section, $6,000,000, to remain available until expended.

(d) Not later than the one hundred and eightieth day after the date of submission of the final report to Congress required by subsection (c) of this section, and utilizing those techniques, methods, and practices determined most effective, the Secretary of Transportation, acting through the Administrator of the Federal Highway Administration, shall conduct a national highway safety campaign utilizing the local and national television and radio to educate and inform the public of techniques, methods, and practices to reduce the number and severity of highway accidents.

(e) Such campaign is authorized to be conducted in cooperation with interested government and nongovernment authorities, agencies, organizations, institutions, businesses, and individuals, and shall utilize to the extent possible nongovernmental professional organizations equipped and experienced to conduct such compaign.

(f) The Secretary of Transportation, acting through the Administrator of the Federal Highway Administration, shall engage such private firms or organizations as he determines necessary to conduct an on-going evaluation of the national campaign authorized by subsection (d) of this section to determine ways and means for encouraging the participation and cooperation of television and radio station licensees, for measuring audience reactions to on-going highway safety programing for evaluating the effectiveness of such programs in terms of the number of lives saved and the reduction in injuries, and for the purpose of developing new programs for the promotion of highway safety. Such evaluation shall include determinations of those programs designed to encourage the voluntary use of safety belts which are most effective and shall include recommendations for new methods and approaches which will result in greater voluntary utilization of safety belts by the public.

(g) The Secretary of Transportation, acting through the Administrator of the Federal Highway Administration, shall submit a report to the Congress on July 1 of each year in which the campaign is in progress on the results of such evaluation and on the steps being taken by the Federal Highway Administration to implement the recommendations of such evaluation.

(h) For the purpose of carrying out subsections (d), (e), (f), and (g) of this section, there is authorized to be appropriated out of the Highway Trust Fund, $10,000,000, to remain available until expended.

MOTORCYCLE HELMET STUDY

SEC. 210. The Secretary of Transportation shall make a full and complete study of the effect of the provision contained in the eighth sentence of subsection (c) of section 402 of title 23 of the United States Code relating to requirements, or lack thereof, concerning the wearing of safety helmets by operators and passengers on motorcycles. Such investigation and study shall include, but not be limited to, deaths, accidents, severity of injuries, length of time of recuperation, and permanent disabilities. The Secretary shall report the results of such study, together with his recommendations, to Congress not later than one year after the date of enactment of this section.

STUDY OF OUTSIZED VEHICLES

SEC. 211. The Secretary of Transportation shall make a complete study of outsized vehicles for operation on the highways constructed in a manner which exceed the standardized industry configurations. The Secretary shall report the results of his study to Congress, with his recommendations, not later than six months after the date of enactment of this section.

NATIONAL DRIVER REGISTER

SEC. 220. (a) There is hereby established an automated register in the Department of Transportation to be known as the National Driver Register, which shall be administered by the Secretary in accordance with section 402, title 23, United States Code, to assist the States in electronically exchanging information regarding the motor vehicle driving records of certain individuals.

(b) The Secretary shall maintain the Register which shall contain an index of the information which is reported under section 221.

REPORTS

SEC. 221. (a) The chief motor vehicle official in each State shall transmit a report to the Secretary containing the information required under section 222 regarding any individual who, as a matter of record—

(1) was denied a motor vehicle operator's license by such State, except for a routine failure to pass a written or driving test;

(2) was issued, by such State, a motor vehicle operator's license which has been—

(A) canceled;

(B) revoked;

(C) suspended; or

(3) has been convicted in such State of any traffic offense involving the operation of a motor vehicle while under the influence of, or impaired by—

(A) alcohol; or

(B) a controlled substance.

(b) Any report required to be transmitted under subsection (a) of this section shall be transmitted by the chief motor vehicle official of the State involved as soon as practicable after the date of conviction or the date of the adverse licensing determination.

REQUIRED INFORMATION

SEC. 222. Any report on an individual transmitted by any chief motor vehicle official under section 221(a) shall contain the following information as appropriate:

(1) a description of any action or occurrence specified in subsection (a)(1), (2), and (3) of section 221 and the license denial, cancellation, revocation, suspension, or conviction dates;

(2) the State in which such individual was most recently issued a motor vehicle operator's license;

(3) the social security number and any identifying number of such license;

(4) such individual's legal name, date of birth, sex, height, weight, eye color; and

(5) the date of reinstatement of the license or the date of eligibility for reinstatement.

REQUESTS FOR INFORMATION

SEC. 223. (a) Subject to such form and according to such procedures as the Secretary shall determine by regulations prescribed by the Secretary, any authorized person may request any information which the Register contains regarding any individual identified by the authorized person.

(b) Subject to section 552a of title 5, United States Code, and any other applicable Federal law, the Secretary shall transmit to any authorized person the information requested under subsection (a) of this section.

(c) Any prospective employer of any individual who seeks employment as a driver of a motor vehicle, and any employer of any individual who is employed as a driver of a motor vehicle may request his employee or prospective employee to request the chief motor vehicle official in the State in which such individual seeks employment, or is employed, to request information under subsection (a) regarding himself, and to receive information transmitted under subsection (b) to such chief motor vehicle official regarding himself in order that this information may be provided to his employer or prospective employer.

RESTRICTION ON ISSUANCE OF LICENSES

SEC. 224. No State shall issue or reissue any motor vehicle operator's license to any individual unless the chief motor vehicle official in such State has submitted a request under section 223(a) regarding such individual.

PENALTY

SEC. 225. Effective October 1, 1984, funds apportioned under section 402 of title 23, United States Code, to any State whose chief motor vehicle official is not in compliance with section 221 or 224 of this title, shall be reduced by amounts equal to not less than 50 per centum of the amount that would otherwise be apportioned to such State under such section 402, until such time as the Secretary determines that such official is in compliance. The Secretary shall consider the gravity of such noncompliance in determining the amount of the reduction. The Secretary shall promptly apportion to the State the funds withheld from its apportionment if the Secretary determines that such official has come into compliance before the end of the fiscal year for which the funds were withheld. If the Secretary determines that there was not compliance within such period, the Secretary shall reapportion the withheld funds to the other States in accordance with such section 402 not later than thirty days after the date the determination is made.

COMPUTER EQUIPMENT

SEC. 226. The Secretary shall secure, by October 1, 1982, automatic data processing equipment and electronic communication equipment necessary to carry out the provisions of this title.

REGULATIONS

SEC. 227. The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this title.

REPEAL OF EXISTING STATUTE

SEC. 228. (a) The Act entitled "An Act to provide for a register in the Department of Commerce in which shall be listed the names of certain persons who have had their motor vehicle operator's license revoked", approved July 14, 1960 (Public Law 86-660; 74 Stat. 526), and amended September 9, 1966 (Public Law 89-563; 80 Stat. 730), is hereby repealed.

(b) The Secretary of Transportation shall determine whether any information contained in any record maintained under the Act described in subsection (a) of this section shall be maintained in the Register, except that no such information shall be maintained in the Register if maintaining such information is inconsistent with the provisions of this title. Any other record maintained under such Act shall be disposed of in accordance with chapter 33 of title 44, United States Code.

DEFINITIONS

SEC. 229. For purposes of sections 220 through 230 this title—

(1) the term "authorized person" means—

(A) the chief motor vehicle official of a State, or his designated agent, for the purpose of requesting information regarding any individual who is applying or reapplying for a motor vehicle operator's license in that State;

(B) the head of any Federal department or agency, or his designated agent, for the purpose of requesting information regarding any individual who drives, or may drive, any motor vehicle as a basis for the individual's employment with such department or agency; and

(C) the Administrator of the Federal Aviation Administration or his designated agent, for the purpose of requesting information regarding any individual who has applied for, or received, any license to pilot any aircraft as a basis for a pilot's license determination regarding any such individual.

(2) the term "chief motor vehicle official of a State" means the official in a State who is authorized to maintain the motor vehicle operator's license records of such State and has the authority to grant, deny, revoke, cancel, or suspend the driving privileges of the State's citizens;

(3) the term "controlled substance" has the meaning given such term in section 102(6) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802(6));

(4) the term "motor vehicle" means any vehicle driven or drawn by mechanical power and manufactured primarily for use on the public streets, roads, and highways, except any vehicle operated exclusively on a rail or rails;

(5) the term "motor vehicle operator's license" means any license or permit issued by any State which authorizes an individual to operate a motor vehicle;

(6) the term "Register" means the National Driver Register established in section 220(a) of this title;

(7) the term "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Marianas, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

EFFECTIVE DATE

SEC. 230. Sections 220 through 230, inclusive, of this title shall take effect on October 1, 1978.

Mr. HOWARD (during the reading). Madam Chairman, I ask unanimous consent that title II be considered as read, printed in the RECORD, and open to amendment at any point.

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

There was no objection.

The CHAIRMAN. Are there any amendments to title II?

AMENDMENT OFFERED BY MR. CLEVELAND

Mr. CLEVELAND. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CLEVELAND: Page 159, after line 16, insert the following:

(c) Paragraph (1) of subsection (b) of section 402 of title 23, United States Code, is amended by adding at the end thereof the following new subparagraph:

"(G) provide for programs (which may include financial incentives and disincentives) to encourage the use of safety belts by drivers of, and passengers in, motor vehicles."

Redesignate the succeeding subsection accordingly.

Page 171, after line 14, insert the following new sections:

SAFETY BELT PROGRAM

SEC. 230. Each State shall expend each fiscal year not less than 3 per centum of the amount apportioned to it for such fiscal year of the sums authorized by section 202(1) of this title, for programs to encourage the use of safety belts by drivers of, and passengers in, motor vehicles.

SAFETY BELT STUDY

SEC. 231. The Secretary of Transportation shall undertake to enter into appropriate arrangements with the National Academy of Sciences to conduct a comprehensive study and investigation of methods of encouraging the use of safety belts by drivers of, and passengers in, motor vehicles, including, but not limited to, the use of various types of financial incentives and financial disincentives to encourage such use. In entering into any arrangement with the National Academy of Sciences for conducting such study and investigation, the Secretary shall request the National Academy of Sciences to report to the Secretary and the Congress not later than one year after the date of enactment of this Act on the results of such study and investigation, together with its recommendations. The Secretary shall furnish to such Academy at its request any information which the Academy deems necessary for the purpose of conducting the investigation and study authorized by this section.

Renumber the succeeding section and references thereto accordingly.

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

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

There was no objection.

Mr. CLEVELAND. Madam Chairman, as coauthor of this language with the gentleman from Georgia (Mr. GINN), I offer this amendment to remedy a grave defect in our highway safety program.

No one questions the fact that seatbelts are enormously effective in saving lives and reducing injuries. The National Highway Safety Needs Report ranks them No. 1 in both lifesaving potential and cost-effectiveness. If everyone used

belts, we might prevent 89,000 deaths and 3 million injuries over a 10-year period.

Yet, only a little over 18 percent of the public uses them, according to a recent study of 16 cities by the National Highway Traffic Safety Administration. Not nearly enough.

A problem in this country, a problem of government, is that we have an all-or-nothing approach. We mandate things, we require things, we apply the coercive force of law to promote their use. And it does not work. The public rebels. So we go back to nothing. In the absence of seatbelt laws in the States, government at State and Federal levels has done far too little to explore the potential of persuasion, incentives. Thus a vast middle ground out there is being ignored.

Incentives are the purpose of this amendment. Nothing in it mandates the use of seatbelts. All it requires is that States use 3 percent of their section 402 funds—$6 million a year—for programs to encourage seatbelt use. Thus, it adds nothing to the cost of the bill.

We are not telling the States how to go about it. We simply provide that those programs may include financial incentives and disincentives. Accordingly, an overall State program might include efforts to encourage—or even to require, if appropriate—insurance companies to recognize seatbelt use in the structuring of their premium schedules for automobile coverage.

We also direct the Secretary to enter into appropriate arrangements with the National Academy of Sciences to investigate methods of encouraging seatbelt use. These would include financial incentives for their use and disincentives for failure to use them.

This amendment is a direct outgrowth of hearings on seatbelt use in Puerto Rico, held by our Subcommittee on Investigations and Review, the only American jurisdiction with a mandatory seatbelt law. There, we learned the limitations of the mandatory and gained some insights into incentives. At followup hearings in Washington, we learned that at least four insurance companies offer incentives for belt use, mostly as an automatic increase in medical payments for a policyholder who is injured while wearing a seatbelt. But much more in this area obviously needs to be done.

In concluding, I want the legislative history clear that this provision in no way involves the airbag issue one way or another. Regardless of the merits of airbags, we must remember that their utility is limited to certain types of accidents. Even with airbags, drivers and occupants will need to wear seatbelts for full protection. Plus which, the airbag mandate will not start to bring them into use until the 1980's.

Seatbelt protection is needed now, in the 1980's and beyond. This amendment offers the opportunity to get a start on doing what needs doing now, providing the ground work for expansion of the incentives approach in future years. I urge adoption of my amendment.

Mr. GINN. Madam Chairman, will the gentleman yield?

Mr. CLEVELAND. I yield to the gentleman from Georgia (Mr. GINN), the distinguished chairman of the Subcommittee on Investigations and Review, who has done so much work on these seatbelt problems that our amendment addresses.

Mr. GINN. Madam Chairman, this amendment which Mr. CLEVELAND and I offer today does not call for any additional funds to be authorized for highway safety programs, nor does it require the development of new and exotic devices. What it does do is require that each of the States initiate programs to encourage the use of safety belts by drivers and passengers in motor vehicles. There is no attempt to make it mandatory that safety belts be worn, nor do we expect that any such attempt will be undertaken as a result of this amendment, and we certainly do not attempt to spell out what kind of program each State shall undertake. We recognize the freedom of choice which many motorists have stressed with regard to other safety requirements and that each State should be free to develop its own program.

This is not to say that we agree that anyone who chooses not to wear safety belts has made the wisest decision. It is to reflect our concern over a once more increasing death toll on our Nation's highways with the resultant drain on our national economy.

Some 4 years ago we applauded the reversal of a steadily increasing death toll which at that time had reached upwards of 55,000 deaths per annum. The credit for that reversal has been attributed to the oil embargo and the introduction of the national speed limit of 55 miles per hour. Some of the decline must also be attributed to the ongoing highway safety programs which emanated from the 1966 traffic safety and motor vehicle acts as amended, and also to the efforts of those who labored long and hard in the vineyards of traffic safety.

But once again the death toll is slowly and steadily climbing to the point where it now appears the 1978 figure will again surpass the 50,000 mark.

Madam Chairman, we can no longer stand either the multibillion dollar economic cost or this devastating drain on our greatest national resource—human life—or the uncounted misery and suffering endured by the accident victims and society in general.

The Secretary of Transportation in his recent report to the U.S. Congress on highway safety placed the 1977 annual cost of traffic accidents at $43 billion. We can ill afford to accept this as our annual tribute to this Nation's love affair with the automobile.

What then can we do? Traffic accidents are complex events. It would be foolish—no, tragic—to believe that we can wait until some magic formula is developed which will begin to stem the tide in this gruesome struggle. The measures to correct the problem must be practical, intelligently conceived, and suited to the need.

Madam Chairman, when we consider the fact that more Americans have died in traffic accidents since the advent of the automobile than have been killed in all the wars in which this Nation has ever been involved, we realize that our efforts to date, admirable as they might be, are simply ineffective.

A few years ago the Congress enacted the Highway Safety Act of 1973, a section of which required the U.S. Secretary of Transportation to report back to the Congress on the most cost effective countermeasures which could be employed to reduce the annual carnage on our highways. It was no surprise to the Public Works and Transportation Committee when the list was compiled revealing the most effective of 37 such countermeasures to be mandatory safety belt usage. What was a surprise, was the difference in the number of lives to be saved and the costs involved between that countermeasure and the second-ranked countermeasure—the 55-mile-per-hour speed limit. Safety belts were credited with having the potential to save 89,000 lives over a 10-year period, 57,000 more than the 55-mile-per-hour speed limit and more than the combined total of the next 10 listed countermeasures.

The Public Works and Transportation Committee had already become convinced that if more people used the safety belts already installed in their vehicles we could expect a marked reduction in traffic fatalities and serious disabling injuries. That same legislation authorized an incentive grant to any U.S. jurisdiction subsequently adopting legislation to require safety belt use.

Madam Chairman, earlier this year our Subcommittee on Investigations and Review undertook to examine the results of a mandatory safety belt use law which had been enacted in Puerto Rico in response to the 1973 act. While the results were somewhat less than we had hoped for, we heard excellent and reassuring testimony from medical doctors, who labor daily with traffic accident victims, that safety belts are extremely effective when used.

In their hospitals, these trauma unit physicians have a practice of questioning each accident victim as to whether or not they were wearing safety belts. Suffice it to say their testimony clearly showed that when safety belts were used the injuries were far less serious. Testimony of other witnesses reenforced and strengthened the doctors' statements.

In June the subcommittee held 3 days of hearings in Washington on safety belt usage. Once again the testimony clearly showed that in those countries where mandatory safety belt laws are in effect, these statistics on death and serious disabling injuries have begun a downward trend. The purpose of our hearings was twofold. First, to demonstrate that safety belts can and do perform well when properly used, and second, to see if we could develop information on how better to inform our motorists that safety belts are as important and as useful as stereos, tape decks, and citizen band radios.

We heard a number of proposals, including mandatory use laws. I'm certain this approach is not the answer, simply because of the enormous task of enforcing what would surely be an unpopular law.

But it was somewhat disheartening to

hear the Federal officials charged with responsibility for traffic safety programs echo the often repeated claim that their previous campaigns have come to naught and that usage remains at only 15 to 20 percent. Obviously a large portion of the population does not wear safety belts and seemingly does not want to wear them.

Madam Chairman, there was a disturbing overtone to much of what we heard, an aura of defeatism and resignation. We simply cannot congratulate ourselves and walk away from the problem in smug satisfaction now that passive restraints have been mandated. There is no quarrel here with air bags or other passive restraints, nor are we attempting to Monday morning quarterback a Department of Transportation decision.

Those devices will surely help, but what about the 100 million plus vehicles on the road today which are equipped with safety belts? Do we just continue to write off human lives for the next 15 or 16 years until 100 percent of the Nation's motor vehicles have passive restraint systems? We think not. To do so would be to refrain from our task to influence citizens to do what is socially responsible and consistent with the highest aspirations of a democratic society.

Madam Chairman, we believe a positive approach must be made to make the public realize the total price we now pay for this indifferent attitude toward the use of safety belts—the deaths, the disabling and disfiguring injuries and yes, even the erosion in the soul of a society that such indifference represents.

We can go before our citizens with better information, with education efforts, with appeals to commonsense and prudent behavior, but we should not wait until tomorrow.

The National Highway Traffic Safety Administration has a clear leadership role in this regard, and we expect to see more of an effort out of that Agency than has heretofore been the case, and that Agency must work in unison with the respective Governor's representative in each State.

Just because certain endeavors have not achieved maximum success in the past does not mean we should stop trying. Public attitudes can be changed and they must be. There may be incremental gains to be had by directing safety belt campaigns on certain population groups, for example, teenagers, those undergoing driver education, and the users of Government vehicles at all levels.

Madam Chairman, we have also included in our amendment section 231 to require the Secretary of Transportation to enter into an appropriate agreement with the National Academy of Sciences to conduct a comprehensive study and investigation of methods of encouraging the use of safety belts by drivers and passengers and to report back to the Congress not later than 1 year from the date of enactment of this act. We believe the Transportation Research Board of the National Academy of Sciences to be eminently equipped to undertake and fulfill the study.

Mr. HOWARD. Madam Chairman, will the gentleman yield?

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

Mr. HOWARD. I thank the gentleman for yielding.

Madam Chairman, I would like to thank the gentleman from Georgia (Mr. GINN), the chairman of the Subcommittee on Investigations and Review, and the gentleman from New Hampshire (Mr. CLEVELAND) for the work they have done concerning seatbelts and seatbelt safety. This is an amendment that will provide for a study in depth on seatbelts and their use in the Nation, and it would also provide that 3 percent of the 402 safety money would be utilized to promote the use of seatbelts by people in the country.

I wish to congratulate the gentlemen and the subcommittee, and we accept the amendment.

Mr. SHUSTER. Madam Chairman, will the gentleman yield?

Mr. CLEVELAND. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Madam Chairman, the evidence is overwhelming that if more people wore seatbelts, more lives would be saved. This amendment goes to that problem. We vigorously support it and urge adoption of this amendment.

Mr. CLEVELAND. I thank the gentleman from Pennsylvania.

Mr. JOHN T. MYERS. Madam Chairman, will the gentleman yield?

Mr. CLEVELAND. I yield to the gentleman from Indiana.

Mr. JOHN T. MYERS. Madam Chairman, does this have anything to do with the other safety devices such as airbags and all that business?

Mr. CLEVELAND. No, it does not. In fact our hearings proved conclusively that the safety people downtown, because they are so enamored of those airbags, are ignoring the seatbelts, and this is an attempt to address that problem.

Mr. JOHN T. MYERS. If the gentleman will yield further, it has only to do with examining into the use of seatbelts?

Mr. CLEVELAND. And encouraging the use of the seatbelts.

Mr. JOHN T. MYERS. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Hampshire (Mr. CLEVELAND).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. HARSHA

Mr. HARSHA. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HARSHA: Page 155, strike out line 19 and all that follows down and including line 18 on page 158, and insert in lieu thereof the following:

"(e) Each State shall submit to the Secretary such data as the Secretary determines by rule is necessary to support its certification under section 141 of this title for the twelve-month period ending on September 30 before the date the certification is required, including data on the percentage of motor vehicles exceeding fifty-five miles per hour on public highways with speed limits posted at fifty-five miles per hour in accordance with criteria to be established by the Secretary, including criteria which takes into account the variability of speedometer readings and criteria based upon the speeds of all vehicles or a representative sample of all vehicles.

"(f)(1) For the twelve-month period ending September 30, 1979, if the data submitted by a State pursuant to subsection (e) of this section show that the percentage of motor vehicles exceeding fifty-five miles per hour is greater than 70 per centum, the Secretary shall reduce the State's apportionment of Federal-aid highway funds under each of sections 104(b)(1), 104(b)(2), and 104(b)(6) of this title in an aggregate amount of up to 5 per centum of the amount to be apportioned for the fiscal year ending September 30, 1981.

"(2) For the twelve-month period ending September 30, 1980, if the data submitted by a State pursuant to subsection (e) of this section show that the percentage of motor vehicles exceeding fifty-five miles per hour is greater than 60 per centum, the Secretary shall reduce the State's apportionment of Federal-aid highway funds under each of sections 104(b)(1), 104(b)(2), and 104(b)(6) of this title in an aggregate amount of up to 5 per centum of the amount to be apportioned for the fiscal year ending September 30, 1982.

"(3) For the twelve-month period ending September 30, 1981, if the data submitted by a State pursuant to subsection (e) of this section for that year show that the percentage of motor vehicles exceeding fifty-five miles per hour is greater than 50 per centum, the Secretary shall reduce the State's apportionment of Federal-aid highway funds under each of sections 104(b)(1), 104(b)(2), and 104(b)(6) of this title in an aggregate amount of up to 5 per centum of the amount to be apportioned for the fiscal year ending September 30, 1983.

"(4) For the twelve-month period ending September 30, 1982, if the data submitted by a State pursuant to subsection (e) of this section for that year show that the percentage of motor vehicles exceeding fifty-five miles per hour is greater than 40 per centum, the Secretary shall reduce the State's apportionment of Federal-aid highway funds under each of sections 104(b)(1), 104(b)(2), and 104(b)(6) of this title in an aggregate amount of up to 10 per centum of the amount to be apportioned for the fiscal year ending September 30, 1984.

"(5) For the twelve-month period ending September 30, 1983, and for each succeeding twelve-month period thereafter, if the data submitted by a State pursuant to subsection (e) of this section for that year show that the percentage of motor vehicles exceeding fifty-five miles per hour is greater than 30 per centum, the Secretary shall reduce the State's apportionment of Federal-aid highway funds under each of sections 104(b)(1), 104(b)(2), and 104(b)(6), of this title in an aggregate amount of up to 10 per centum of the amount to be apportioned for the fiscal year ending September 30, 1985, and for each succeeding fiscal year thereafter.

"(g) In any case where the Secretary determines, in accordance with criteria established by the Secretary, that a reduction in apportionment required by subsection (f) of this section would result in hardship to a State, the fiscal year apportionment reduced for such State shall be the apportionment for one fiscal year later than the fiscal year to which such reduction would apply under subsection (f) but for such hardship determination.

"(h) The Secretary shall promptly apportion to a State any funds which have been withheld pursuant to subsection (f) of this section if he determines that the percentage of motor vehicles in such State exceeding fifty-five miles per hour has dropped to the level specified for the fiscal year for which the funds were withheld.

"(i)(1) For the twelve-month period ending September 30, 1979, if the data submitted by a State pursuant to subsection

(e) of this section for that year show that the percentage of motor vehicles exceeding fifty-five miles per hour is less than 60 per centum, the Secretary shall make an incentive grant to such State.

"(2) For the twelve-month period ending September 30, 1980, if the data submitted by a State pursuant to subsection (e) of this section for that year show that the percentage of motor vehicles exceeding fifty-five miles per hour is less than 50 per centum, the Secretary shall make an incentive grant to such State.

"(3) For the twelve-month period ending September 30, 1981, if the data submitted by a State pursuant to subsection (e) of this section for that year show that the percentage of motor vehicles exceeding fifty-five miles per hour is less than 40 per centum, the Secretary shall make an incentive grant to such State.

"(4) For the twelve-month period ending September 30, 1982, if the data submitted by a State pursuant to subsection (e) of this section for that year show that the percentage of motor vehicles exceeding fifty-five miles per hour is less than 30 per centum, the Secretary shall make an incentive grant to such State.

"(5) For the twelve-month period ending September 30, 1983, and for each succeeding twelve-month period thereafter, if the data submitted by a State pursuant to subsection (e) of this section for that year show that the percentage of motor vehicles exceeding fifty-five miles per hour is less than 20 per centum, the Secretary shall make an incentive grant to such State.

"(6) An incentive grant made to a State under this subsection shall be equal to 12.5 per centum of the apportionment to such State for the fiscal year on the basis of the data for which such incentive grant is to be made. The apportionment on which such incentive grant is based shall be that made under section 402(c) of this title for carrying out those provisions of section 402 relating to highway safety programs administered by the National Highway Traffic Safety Administration. Incentive grants made under this subsection may be expended for carrying out any provision of section 402 of this title.".

Page 152, line 14, after the parenthesis insert the following: ", other than subsection (1)".

Page 152, line 15, strike out "$100,000,000" and insert in lieu thereof "$75,000,000".

Page 152, line 17, after the period add the following:

For carrying out in accordance with section 402 of title 23, United States Code, section 154(1) of such title, out of the Highway Trust Fund, $25,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

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

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

There was no objection.

Mr. HARSHA. Madam Chairman, the purpose of this amendment is to improve enforcement of the 55-mile-per-hour speed limit, while at the same time taking steps to insure that we preserve this important safety measure.

I have thoroughly reviewed the provision in H.R. 11733 relating to the 55-mile-per-hour speed limit. While I agree with the general thrust of the provision, I have concluded that certain changes need to be made.

I fear that the strict compliance schedule in the bill, and the penalties associated with it, will imperil the national speed limit because of the opposition which is sure to develop when the penalties are assessed, as they are sure to be.

Madam Chairman, the 55-mile-per-hour speed limit was not enacted into law solely as a safety measure. It was proposed as a device to conserve fuel. And, to a modest degree, it has accomplished that objective.

But it has also produced a huge life-saving bonus. Estimates indicate that 36,000 Americans may owe their lives to the 55-mile-per-hour speed limit.

In addition to saving lives, it has reduced the number of significant injuries. The Epilepsy Foundation of America recently issued a report that states:

> The 55-mile-per-hour speed limit has proved to be the single most important preventive for new cases of epilepsy because it has reduced the number of head trauma injuries resulting from automobile accidents.

The report estimated that the speed limit has prevented at least 90,000 epilepsy-causing head injuries each year.

Yet, it is extremely doubtful that the country would ever have accepted a national speed limit if advanced solely as a safety measure. Absent the stimulus of the fuel crisis, I don't think 55 would ever have been approved.

Now, despite the splendid results being achieved, in frustration over lack of enforcement by some States, the administration has proposed—and the committee has incorporated in H.R. 11733—a series of cumulative penalties to force all States to raise adherence to the 85 percentile. I applaud the end sought to be served by this measure. But I do not think that penalties alone are wise or will accomplish the results intended.

My observation convince me that penalties alone don't work. Attempts to enforce them against the States inevitably move opponents to organze to wipe the slate clean of the offending penalty. That's what happened when NHTSA threatened to impose penalties against States to require them to pass motorcycle helmet laws. And that's what happened with the interlock.

There is open hostility to the 55-mile-per-hour speed limit in certain quarters in this country. Some motorists and some drivers strenuously oppose it. Even some police organizations around the country are less than enthusiastic—despite the life-saving record achieved.

What I fear is that if the proposed provision requiring increased compliance under threat of cumulative penalties goes on the statute books and is sought to be enforced, the enemies of 55 will organize and, because of their strength and influence, and the antagonisms engendered by these penalties, may succeed in making changes whose practical effect will be to kill the 55-mile-per-hour speed limit. If that happens, 9,000 American lives will be forfeited each year.

So I ask: In view of our past experience with using penalties alone, is it worth it to risk this marvelous lifesaving tool in the quest for full enforcement—a laudable but unachievable goal? I think not.

To say this, however, does not mean that we should curtail our efforts to encourage adherence to the national speed limit. The 55-mile-per-hour speed limit has proven to be the most effective highway safety measure ever devised. I strongly support it and I believe that we must take firm measures to insure its continued effectiveness.

Therefore, I have developed an amendment to improve enforcement of the 55-mile-per-hour speed limit, while at the same time providing additional flexibility and establishing more realistic deadlines and goals. My amendment would do six things:

First, the final deadline for compliance is extended from the end of fiscal year 1982 to the end of fiscal year 1983.

The 5-year compliance schedule currently in the bill starts in fiscal year 1978 and runs through fiscal year 1982. I propose to shift the compliance schedule by 1 year, so that it would run from fiscal year 1979 through fiscal year 1983. This will give NHTSA and the States time to gear up for this program and will allow the States to revise as necessary their data collection system.

Second, the final compliance goal would be lowered from 85 percent compliance to 70 percent compliance. The compliance goals under my amendment would be as follows:

[Percent compliance]

Fiscal year:	
1978	--
1979	30
1980	40
1981	50
1982	60
1983	70

Lowering the compliance goal from 85 percent to 70 percent gives the States a goal within their grasp. The 85 percent figure has been used historically as a way of determining what the speed limit on a road ought to be. If 85 percent of the motorists on a road tend to drive at or below a particular speed, that speed has been considered a reasonable speed. With the 55-mile-per-hour speed limit, we have imposed a limit much lower than that usually determined by the 85th percentile method, and I believe we must acknowledge this fact in the goals we set for the States. This is not to say that the speeds will not in many States continue to drop so that fewer than 30 percent of the motorists are exceeding 55, but only that 30 percent is a reasonable goal for a nationwide program.

Third, the penalty approach in the committee bill would be augmented by a system of incentives.

My amendment provides incentive grants for any State which achieves 10 percent greater compliance than is called for by the compliance schedule. The incentive grant would be equal to 12½ percent of the highway safety funds apportioned to the State and could be used for any highway safety purpose under section 402 of title 23, United States Code.

I submit that in addition to using the

"stick" to encourage enforcement, we should try the "carrot." After all, a spoonful of sugar not only helps the medicine go down, it may even make the patient eager to take it. We can do this through the use of incentives.

Incentives are tried and true mechanisms which have frequently been used with great success to encourage positive action in both the public and private sector.

Tax deductions encourage home ownership. Tax credits encourage business expansion. Tax supports encourage farmers to grow or not to grow crops.

President Carter in his recent State of the Union message announced his intention to use incentives in several new legislative areas. For example, his new policy for urban areas contains an incentive program likely to run as high as $3 billion a year for States that develop coherent growth plans which target public investment to communities in need.

Incentives also receive high marks from the private sector. Commenting on Government regulation, Henry Ford II had this to say in a recent speech:

> It seems to me that we have made too little use of incentives in attempting to resolve many of our most difficult social and environmental problems . . . even a donkey will respond to a carrot as well as a stick.

Given their proven record of success in stimulating action, and given the stakes involved in the 55-mile-per-hour speed limit, we should use incentives, as well as penalties, to encourage enforcement action by the States.

Fourth, $25 million of the $100 million annual authorization for enforcement of the 55-mile-per-hour speed limit would be earmarked for the incentive grants provided for in my amendment. No additional funding would be required.

Fifth, the method used to measure speeds would be changed to reflect the speeds of all vehicles, not just the fastest.

Currently, statistics on compliance are based on the "free-flow" monitoring system. Basically, this means that only certain vehicles are measured—vehicles driving under the best road conditions, without cars in front of them, on straight, flat roads. Obviously, this produces artificially high statistics on the speeds of vehicles and lowers the level of compliance with the 55-mile-per-hour speed limit. Now that we are going to start penalizing States for noncompliance, it is important that we change our statistical base to include the speeds of all vehicles. In addition, the amendment requires that statistics take into account the effect of inaccurate speedometers on speed.

And finally, the Secretary would be given the authority to postpone the imposition of sanctions for 1 year in situations where a State was faced with an unusually difficult compliance problem. In my view, such a safety value provision is necessary to reduce friction in the administration of the program.

Madam Chairman, these changes in no way limit our commitment to the 55-mile-per-hour speed limit. They do, however, establish more realistic compliance goals as well as a more realistic time frame for reaching those goals.

I have discussed these changes with the NHTSA Administrator Joan Claybrook. She has no objections and generally agrees that they would be a positive step forward in our efforts to improve enforcement of the 55-mile-per-hour speed limit.

In closing, Madam Chairman, I would like to urge my colleagues to adopt this amendment. By doing so, we would be sure to preserve the national speed limit as we improve enforcement.

Mr. HOWARD. Madam Chairman, will the gentleman yield?

Mr. HARSHA. I yield to the chairman of the subcommittee.

Mr. HOWARD. Madam Chairman, I thank the gentleman for yielding.

We have gone over this for quite some time and we do know the number of lives that have been saved year after year by at least some partial adherence to the 55-mile-per-hour speed limit. What we hope to do is to be able to provide the States with the tools so that they will be able to better enforce this program and provide incentives for the States which will meet the goals or exceed the goals we state in the bill by at least 10 percent, so it is not throwing money away.

I congratulate the gentleman for working it out and hope more lives will be saved in the future.

We accept the amendment on this side of the aisle.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. HARSHA).

The amendment was agreed to.

AMENDMENTS OFFERED BY MR. HARSHA

Mr. HARSHA. Madam Chairman, I offer a series of amendments dealing with this same section. They are in the nature of technical amendments and I ask unanimous consent that they be considered en bloc.

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

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. HARSHA: Page 160, line 8, after "States" insert ", political subdivisions thereof, and nonprofit organizations".

Page 160, line 10, after "States" insert ", political subdivisions thereof, and such nonprofit organizations as the Secretary deems appropriate".

Page 160, line 16, strike out "private" and insert in lieu thereof "nonprofit".

Page 160, line 17, after "State" insert ", political subdivision thereof and nonprofit organization".

Page 161, line 2, strike out "and" and insert in lieu thereof the following: "of each application received for a grant under this section and an".

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

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

There was no objection.

Mr. HARSHA. Madam Chairman, this is a noncontroversial technical amendment and is intended to remedy an oversight in this bill; namely, the inadvertent exclusion of local government and nonprofit organizations from a constructive role in the innovative grants program being instituted by H.R. 11733.

This is the program, established by section 208 of the bill, designed to support and stimulate the focus of greater imagination and energy on development of innovative approaches to highway safety.

I am convinced that local government and nonprofit organizations represent an important source of innovative ideas in the field of highway safety. Yet, since its establishment in 1966, the overall program has been dominated by Federal and State Government, principally the former.

Surely, at a time when we are launching an effort to infuse new thinking into the program, it is particularly appropriate to correct the imbalance at least to the extent of including these entities as eligible participants.

As written, section 208 limits eligible participants to the States. Therefore, my amendment would make political subdivisions of the States and nonprofit organizations eligible to apply for and receive project grants under criteria devised by the Secretary. And, as in the case of the States, the Secretary would be required to consult with these entities in developing procedures for selection of grant applications.

Another provision of section 208 in the bill as reported needs strengthening. I refer to subsection (e), which requires the Secretary to submit a report to the Congress annually, including a description and evaluation of projects selected and carried out under this section. To provide the Congress greater insight into the potential of this program—and the manner in which it is being administered—my amendment also would require the Secretary to include a description of all applications rather than just those approved for funding.

Madam Chairman, nonprofit organizations have proven themselves to be deeply dedicated to—and thoroughly informed on—highway safety and the needs of the program. They have earned enormous credibility with the public. For their part, units of local government, are often closer to the everyday problems of real life; they now have some share in the program and this role should be expanded as appropriate.

To exclude them from this new initiative could well limit the program's achievements right from the outset.

I urge the adoption of my amendment.

Mr. HOWARD. Madam Chairman, will the gentleman yield?

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

Mr. HOWARD. Madam Chairman, we thank the gentleman from Ohio. Certainly in this country he is a leading force concerning highway safety and has been for many years. As I understand it, this broadens and enlarges the innovative grants program regarding safety to the nonprofit organizations and other groups involved with safety.

It is a very acceptable amendment on this side of the aisle.

Mr. HARSHA. I thank the gentleman.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Ohio (Mr. HARSHA).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. GARY A. MYERS

Mr. GARY A. MYERS. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GARY A. MYERS: Page 169, after line 17, insert the following new section:

"MARIJUANA REPORT

"SEC. 229. The Secretary shall report to Congress not later than December 31, 1979, concerning the progress of efforts to detect and prevent marijuana use by operators of motor vehicles. Such report shall include, but not be limited to, information concerning the frequency of marijuana use by motor vehicle operators, capabilities of law enforcement officials to detect the use of marijuana by motor vehicle operators, and a description of Federal and State projects undertaken into methods of detection and prevention. The report shall include the Secretary's recommendations on the need for legislation and specific programs aimed at reducing marijuana use by motor vehicle operators."

Page 169, line 19, renumber Sec. 229; delete "230" and insert in lieu thereof "231".

Page 171, line 16, renumber Sec. 230; delete "230" and insert in lieu thereof "231".

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

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

There was no objection.

Mr. GARY A. MYERS. Madam Chairman, I am offering a modest amendment to simply require a report from the Secretary of Transportation on the current status of efforts to detect and prevent marihuana use by drivers on our Nation's highways.

In August of this year, I read a statement by the former Director of the National Institute on Drug Abuse indicating that "probably 15 percent of the auto accidents in this country today are associated with marijuana intoxication." I asked my staff to dig out additional information on marijuana use and driving and the results of my inquiries indicate to me a need for the type of amendment I offer today.

The area of marihuana use by drivers, as well as the detection and prevention of that use, is a complex subject fraught with contradictory evidence and theories. The same former Director of NIDA whom I quoted earlier has stated that "we are left to guess at the impact of marijuana use on highway safety," but he then went on to say that "our best guesses are frightening."

According to NIDA, 34 percent of citizens of driving age have used marihuana at some time, while 60 to 80 percent of regular users indicate that they sometimes drive while cannabis intoxicated. Alcohol, of course, continues to be our No. 1 driving intoxication problem, but it is unsettling to note (once again according to NIDA) that 8 percent of recent high school graduates use marihuana daily as opposed to 5.9 percent who report daily alcohol use.

Madam Chairman, virtually everyone studying the subject of driving and intoxication cites the need for more study on marihuana and driving, and this amendment is intended to stimulate further research.

I am aware, Madam Chairman, that some researchers have argued that marihuana merely causes intellectual or emotional changes without "disrupting the everyday efficiencies of skilled sensory-motor acts" (Heimann, Reed, and Witt). Others have claimed that marihuana may even improve perceptual acuity among regular users (Weil, Zinberg, and Nelson), or that marihuana users compensate for intoxicating effects by exercising extra care.

The overwhelming evidence is to the contrary, however. I ask my colleagues to listen for just a moment to these comments from studies compiled by NIDA: A 1975 study by the American Association of Automotive Medicine: "impairment by marihuana presents considerable risk in driving * * * driving skills are likely to be impaired * * *"

A 1969 article from Science: "When subjects experienced a marihuana 'high', they accumulated significantly more speedometer errors on a simulator * * *"

A 1974 study on "alcohol, marihuana, and risktaking:" "The marihuana subjects tended to overestimate time required to complete passes (of other vehicles)".

human motor and mental performance". macologia: "results confirm * * * impairment on the ability to detect central and peripheral signals when the operator has to divide his attention between two signal sources."

A 1970 study in Clinical Pharmacology: "Smoking a * * * marihuana cigarette produced significant decrements in human motor and mental performance".

The 1972 book Current Research in Marihuana: "Marihuana does impair visual perceptual performance to a large degree and potential users should be warned that it is likely to lead to accidents."

Madam Chairman, I could go on with a listing of these studies, but the implication is clear. Marihuana and driving do not mix, and the more we know about detecting and preventing marihuana use by vehicle operators, the more we will be able to develop programs to prevent deaths and maiming injuries on our Nation's roads.

I urge support for this amendment requiring a departmental status report on this subject.

Mr. HOWARD. Madam Chairman, if the gentleman will yield, let me say that we know we do have a problem with alcohol because we have been studying it a great deal, as to alcohol-related automobile accidents in this country and we know that it is involved in over 50 percent of all fatalities on our highways. As to marihuana and its effect on the highway users, as yet we do not know that much. As I understand it, the gentleman's amendment would direct the Secretary of Transportation to make a study as to that 15 percent, or it may be more, and to see what we can do to try to save lives. I do not know which highway Assistant Secretary of Transportation might be involved in reporting to the Congress after the study is made. However, I believe the amendment is a worthy amendment and we were certainly happy to accept it on this side.

Mr. GARY A. MYERS. Madam Chairman, I thank the gentleman.

Mr. SHUSTER. Madam Chairman, will the gentleman yield?

Mr. GARY A. MYERS. I yield to the gentleman from Pennsylvania (Mr. SHUSTER).

Mr. SHUSTER. Madam Chairman, we have studied the amendment proposed by our colleague, the gentleman from Pennsylvania (Mr. GARY A. MYERS). We think it is a good amendment and urge its adoption.

Mr. EDGAR. Madam Chairman, will the gentleman yield?

Mr. GARY A. MYERS. I yield to the gentleman from Pennsylvania (Mr. EDGAR).

Mr. EDGAR. Madam Chairman, I thank the gentleman for yielding, and I want to commend him on offering this amendment. I also want to indicate that the gentleman has served well in the Committee on Public Works and Transportation. I know that the gentleman is retiring from the Congress this year, and I want to thank him for all of the hard work that he has done on that particular committee.

Mr. GARY A. MYERS. I thank the gentleman.

Mr. MINETA. Madam Chairman, will the gentleman yield?

Mr. GARY A. MYERS. I yield to the gentleman from California (Mr. MINETA).

Mr. MINETA. Madam Chairman, I rise in support of the amendment offered by the gentleman from Pennsylvania (Mr. GARY A. MYERS) and to thank the gentleman for the work that he has done in this field.

Madam Chairman, I believe Mr. MYERS' amendment requiring the Secretary of Transportation to report to Congress on the status of Federal efforts to detect and prevent marihuana use by vehicle drivers is a good amendment.

As my colleagues may be aware, one of the numerous States which have recently decriminalized the possession of marihuana is my own State of California. In fact, California itself has begun to conduct tests to determine the incidence of marihuana use in traffic accidents. As more States decriminalize the possession of marihuana, I believe it will be important to have in place a reasonable—and responsible—policy relating to drug use while driving. This policy should be one which recognizes and establishes standards to evaluate intoxication.

I am sure our predecessors here in Congress had to deal in much the same way with the issue of alcohol use by vehicle drivers. The underlying issue—that is, the necessity to protect an individual's civil liberties—has been addressed with respect to alcohol use by establishing standards which approximate intoxication.

With regard to the amendment offered

by Mr. MYERS, I believe it would be prudent to indicate to the Secretary that the study required by the Myers amendment also focus on an evaluation of the level of marihuana intoxication which would interfere with driving. The ultimate goal, of course, would be to establish standards of THC levels in the blood which would approximate inebriation. This is an important factor since studies have shown that traces of THC can exist in the blood up to 8 days after use.

I hope that my colleague (Mr. GARY A. MYERS) shares my views in this matter, and will agree that this discussion should serve to create legislative history to advise the Secretary to include in his study an evaluation of the level of marihuana intoxication which would interfere with driving.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. GARY A. MYERS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. GOLDWATER

Mr. GOLDWATER. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GOLDWATER: Page 166, line 5, insert the following new subsection:

"(c) Any report submitted to the Secretary shall be updated at least once each year following the date of enactment of this act by the chief motor vehicle official of the State involved, except in instances where no further official action by such State official regarding the status of the individual's operator's license or driving history remains to be taken."

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

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

There was no objection.

Mr. OBERSTAR. Madam Chairman, will the gentleman yield?

Mr. GOLDWATER. Madam Chairman, I yield to my colleague, the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Madam Chairman, I would ask the gentleman whether this is the amendment that is numbered 1, combined with the gentleman's previously noted amendment, No. 3?

Mr. GOLDWATER. Yes, that is correct. It requires the Secretary to update the National Driver Register on a yearly basis so that we can be assured of the accuracy of the information. I offer this amendment because of my concern for the protection of a person's privacy.

Mr. OBERSTAR. The gentleman from California (Mr. GOLDWATER) and I have discussed this amendment at great length and I share the gentleman's concern for accuracy and currency in information and I, on behalf of the chairman of the full committee and the subcommittee, I am prepared to accept the amendment.

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

The amendment was agreed to.

AMENDMENT OFFERED BY MR. GOLDWATER

Mr. GOLDWATER. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GOLDWATER: Page 167, line 24, after "SEC. 225." and before the word "effective" insert "(a)".

And, on page 168, after line 16, insert the following new subsection:

"(b) Any individual who knowingly transmits or causes to be transmitted to the Secretary for inclusion in the files, records, or reports of the National Driver Registry any information regarding the operator's license status or driving history of any individual which is inaccurate or false shall be liable for criminal prosecution for such act, and, upon conviction, shall be fined in an amount not to exceed $10,000, or sentenced to a prison term not to exceed five years, or both."

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

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

There was no objection.

Mr. GOLDWATER. Madam Chairman, the purpose of this amendment is to, again, comply with the intent and the purpose of the Privacy Act of 1974 as well as the recommendation of the Privacy Commission of July of 1977.

Madam Chairman, I have discussed this amendment with my colleague, the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Madam Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Madam Chairman, I thank the gentleman for yielding.

We have had an extensive discussion. It has been my purpose, in writing this provision in the bill, to extend the Privacy Act to it and to make sure that the Privacy Act covers the National Driver Registry.

The gentleman from California (Mr. GOLDWATER) has a concern based on his considerable experience with the Privacy Act that it may not cover some aspects, including the acceptance of State officials. We have agreed to discuss the matter further, to look into it, and if the provisions of the Privacy Act apply in the way I understand them to, we can agree to adopt this provision in the conference.

Mr. GOLDWATER. Madam Chairman, the gentleman is correct. The purpose is to try to cover all the bases so as to cover any individual, including private citizens, who would knowingly abuse the National Driver Registry or influence an official to misuse it. This is to put some kind of teeth into the law.

Madam Chairman, the gentleman is absolutely correct. If we find, upon further examination, that we can make some modification prior to the conference, I certainly agree to that.

Mr. OBERSTAR. However, we are clear that the amendment applies to Federal officials or that the Privacy Act applies to Federal officials administering the National Driver Registry, and the question is with respect to State officials.

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

The amendment was agreed to.

AMENDMENT OFFERED BY MR. GOLDWATER

Mr. GOLDWATER. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GOLDWATER: Page 168, line 21, after the word "title" strike out the period and insert the following new proviso: "; *Provided*, That, no funds authorized for the procurement of automatic data processing equipment and electronic communication equipment under this section shall be expended until the Secretary has reported to the Public Works and Transportation Committee of the House of Representatives, and the Commerce, Science, and Transportation Committee of the Senate the total procurement and installation costs of such equipment, and the anticipated costs to be or already incurred by the States in meeting the requirements of Sections 221, 222, 223 and 227 of this title;

"*And provided further*, That such report shall have been before such committees for 30 legislative days prior to procurement."

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

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

There was no objection.

Mr. GOLDWATER. Madam Chairman, I will be brief with respect to this amendment. We are in this bill creating fully computerized National Driver Registry which will provide message switching services. We already have a National Driver Registry, which is a manual system. I would suggest that it leaves something to be desired.

Madam Chairman, that is why the gentleman from Minnesota (Mr. OBERSTAR) is offering to automate this system through his amendments to this particular bill.

My rising in the well as I do is to register concern for the potential invasion of privacy that may occur due to this automation. In addition to that, we are going into the procurement of a new system of computers nationwide, with terminals across the country.

Madam Chairman, it is my intent by this amendment to require the Secretary to submit to the Congress the Department of Transportation plans, programs, and most particularly, total system costs, as well as total costs to the State, and allow that submission to lay over for 30 days so that Members of Congress will have an opportunity to review its cost figures and to review its implications.

Also, I am concerned that we establish proper safeguards to protect personal privacy. It gives the Congress 30 days to look things over, prior to the Secretary's going ahead with bids and buying this multimillion dollar computer system on a nationwide basis. I think it is reasonable to assure the Congress, in view of its oversight responsibility, 30 days in which to review this program

prior to going out for bids, and I would be hopeful that the committee would accept this amendment.

Mr. OBERSTAR. Madam Chairman, will the gentleman yield?

Mr. GOLDWATER. I would be very happy to yield to the gentleman.

Mr. OBERSTAR. I thank the gentleman for yielding.

My only concern with the provision that the gentleman offers is that it interrupts a continuous flow of action on the driver register, and that we can still accomplish the purposes of the gentleman by appropriate committee review as the NDR is going through the motions of acquiring this computer equipment. I understand the gentleman's amendment to mean that the committee would take a look at the status of plans of the National Driver Registry, that the committee might want to hold a hearing at an appropriate time, might decide that there is nothing amiss with what the NDR is proposing to do with its computer programing, but that this is not intended to be a stop-and-go process, that the NDR program will continue looking ahead with adapted information from the existing register to the automated one while perhaps we are taking a more careful look at it.

Mr. GOLDWATER. That is correct. The gentleman is absolutely correct. It is giving the Congress an opportunity just to take a look before we spend millions of dollars for a new nationwide computer and communications system. I think we owe it to our constituents to at least be able to tell them what this is going to cost.

Mr. OBERSTAR. In that sense, so long as we are sure that we can have a continuous flow of the development of this new program, I am prepared to accept the gentleman's amendment.

Mr. GOLDWATER. It is not the intention of the amendment to interrupt or disrupt the process of automating this system because obviously it will give us greater capacity to track down all the drunks, the alcoholics, and those abusing our system of driver's license registration. I support the gentleman's intent. It is just an effort on my part by this amendment to account for the expenditures and the program itself, not to disrupt it but to allow us to take a look.

Mr. OBERSTAR. If the gentleman would yield, I said I am prepared to accept the amendment.

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

The amendment was agreed to.

AMENDMENT OFFERED BY MR. GOLDWATER

Mr. GOLDWATER. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GOLDWATER: Page 170, after line 8, strike out lines 9 through 14, inclusive and renumber succeeding lines accordingly.

Mr. OBERSTAR. Madam Chairman, if the gentleman would yield, this is the amendment dealing with the Federal Aviation Administration?

Mr. GOLDWATER. That is correct.

Mr. OBERSTAR. It is our understanding that we will, during the committee hearings next year on the authorization for FAA, come back to this provision and hold hearings on it as the NDR would apply to the FAA.

Mr. GOLDWATER. That is my understanding.

Mr. OBERSTAR. In that sense, I accept the gentleman's amendment.

Mr. GOLDWATER. I can give the gentleman my word that I will follow up with the FAA to find out why they want this information and what the implications of their proposal is as well. I will give the gentleman my word, but I think before we authorize the FAA access to this information, we ought to know first why they need it, what they are going to use it for, and during the current authorization hearings we will pursue that.

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

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SHUSTER

Mr. SHUSTER. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SHUSTER: Page 171, after line 14, insert the following:

PROHIBITION

SEC. 230. None of the funds authorized by this title (including any amendment made by this title) shall be expended for the purchase, directly or indirectly, of any passive restraint system for any motor vehicle owned by any State (including a political subdivision of a State) or by the United States, except for a motor vehicle primarily used in an educational program.

Redesignate the succeeding section and references thereto accordingly.

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

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

There was no objection.

Mr. SHUSTER. Madam Chairman, this is a simple amendment. It says that none of the funds authorized by this title shall be expended for the purchase of any passive restraint system for any motor vehicle owned by any State or by the United States, except for a motor vehicle primarily used in an educational program.

Madam Chairman, a year ago, National Highway Traffic Safety Administrator advised the States that section 402 safety funds could be used to equip State and local government vehicles with airbags. That ruling is not consistent with congressional intent regarding the use of 402 funds.

Regardless of how you feel about airbags—and there are Members supporting my amendment who favor and oppose airbags—regardless of your position on airbags, it is impossible to justify the use of these safety grant funds to purchase airbags for State fleets. It is not a legitimate use of these funds.

Madam Chairman, 402 funds are intended to carry out State highway safety programs designed to reduce traffic accidents and deaths. Driver training programs are an example of the kind of program that would qualify for 402 funds. The safety projects must have the capability of resulting in statewide improvement in traffic accident and death statistics.

The use of 402 funds for airbags has never been authorized by the Public Works and Transportation Committee or the Congress which has jurisdiction over 402 funds nor were we ever consulted about using these safety funds for that purpose.

The NHTSA simply overstepped its bounds in authorizing this use in its zealous effort to promote airbags.

The safety needs of the States are enormous. We are still slaughtering 45,000 people on our highways every year. Alcohol is still a leading cause of traffic deaths. There are still plenty of "killer curves" and "dead man's bluffs" and "cemetery stretches" around. We have more safety needs than we have safety funds to address those needs.

We cannot permit a further dilution of these important funds. We cannot permit them to be used to try to make the case for airbags.

I do want to point out, however, that my amendment would not totally prohibit the use of highway safety funds for the installation of passive restraints. Safety funds could be used for passive restraints in driver education programs and police training programs. And of course, in those limited situations where safety funds are used to purchase the entire vehicle—such as an ambulance—passive restraints would be eligible for Federal assistance.

Madam Chairman, I urge the adoption of my amendment.

Mr. HOWARD. Madam Chairman, will the gentleman yield?

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

Mr. HOWARD. Madam Chairman, I believe it says that the 402 general safety information money may not be used for the States to be able to put airbags into State-owned vehicles.

I believe what we are hoping to do, and the gentleman and I are on opposite sides of the airbag issue itself, but I believe if we are going to try to promote airbags and get people around the country to pay $300 or $400 to put them in, I do not think we should be using our educational funds to put them in State-owned vehicles.

Madam Chairman, I agree with the gentleman. We accept the amendment.

Mr. SHUSTER. The use of State funds is improper in this regard.

Mr. ECKHARDT. Madam Chairman, will the gentleman yield?

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

Mr. ECKHARDT. Madam Chairman, I would like to set forth my understanding of the language being used. It says that no funds during the 4-year period of authorization be expended for the purpose of a passive restraint system for any motor vehicle owned by the State or the Federal Government.

I believe that this language would prohibit the funding of restraint system equipment to be installed on State vehi-

cles that are not funded as part of a State safety program.

I would agree that "any passive restraint for any vehicle" makes this clear; however, the purchase of a vehicle that comes equipped with a passive restraint system is not prohibited by this language. Other language in the amendment being offered could be confused to suggest that the purchase of vehicles originally equipped with these safety devices is somehow touched by the proposal of the gentleman from Pennsylvania (Mr. SHUSTER).

I presume, however, that the sentence does not intend to reduce the level of safety equipment available to the public by such a reading; is that correct?

Mr. SHUSTER. Madam Chairman, the gentleman's interpretation is absolutely correct.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. SHUSTER).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. GOLDWATER

Mr. GOLDWATER. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GOLDWATER: Page 166, after line 21, insert the following proviso: "*Provided*, That no chief motor vehicle official of a State shall include in any report the Social Security number of any individual, unless the individual's social security number is the official operator's license identification number and the use of such number by the State is specifically provided for and required by State law."

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

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

There was no objection.

Mr. GOLDWATER. Madam Chairman, the purpose of my amendment was to clarify the intent of the provisions of the act which require, as part of the information to be submitted to the National Driver Register, the social security number and any other identifying number of such license.

I have a deep concern, and I think I speak for many Americans, over the pervasive use of the social security number to identify people in the society. It is the intent of my amendment that this not be a mandatory requirement, but that it only apply to those States where, in fact, it is required by State law and is already in use.

Mr. OBERSTAR. Madam Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Madam Chairman, as with the other amendments, we have discussed this extensively. It is the purpose of our discussion here to make it clear for the legislative history that as the bill language itself states, this is only an optional provision. There is nothing required of the States.

The history of this language here is the section 1211 of the Tax Reform Act of 1976, which permitted States to use the social security number for licensing purposes, if a State chooses to do so. It does not require it. It is permissive.

All we are doing in the NDR is building on that previous record of legislative history. Therefore, section 222 of this bill does not force a State to use a social security number.

I think that responds to the gentleman's argument.

Mr. GOLDWATER. Madam Chairman, therefore, it is not mandatory under the provisions of this bill. Section 222 would only apply where required by State law and we are not by enactment of this act requiring each and every State to request the social security number of its licensees?

Mr. OBERSTAR. Madam Chairman, the gentleman's understanding is correct.

Mr. JOHN T. MYERS. Madam Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentleman from Indiana.

Mr. JOHN T. MYERS. Madam Chairman, it appears that the intention of this provision is that drivers ineligible to drive in one State would not be eligible to drive or obtain a license in another State.

What protection does society have to make sure just because people have the same name, without any other identification, how can we be sure we have the right individual and protect the innocent?

Mr. GOLDWATER. Madam Chairman, the gentleman asks a good question. There are ways of identifying people other than by numbers.

For instance, the National Drivers Register today, as it exists, first uses the name and the date of birth as primary identifiers and then uses sex, height, weight, and eye color to discriminate among records of people with similar or identical names and birth dates. The social security number is in some cases used to facilitate this discrimination process, but it is not available for all drivers listed in the system.

So, therefore, the point I am making is that the system today does not require the social security number to identify people. They are using such identifiers as sex and height and weight, as well as other identifying features. This works very well without the social security number, and the social security number facilitates this identification.

Mr. JOHN T. MYERS. Madam Chairman, if the gentleman will yield, let me ask this:

In States that do use social security numbers, then, the numbers would be given in those instances; is that correct?

Mr. GOLDWATER. That is my understanding. This act does not require every State to solicit or to impose a social security number on its licenses, but if the State does require it now, then that is part of the identifying information which is submitted to the National Drivers Register.

Mr. JOHN T. MYERS. It does not prohibit the use of social security numbers?

Mr. GOLDWATER. That is correct.

Mr. JOHN T. MYERS. If the States do use them, they will be used as part of this information?

Mr. GOLDWATER. The gentleman's understanding is accurate.

Madam Chairman, with that understanding, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. The gentleman from California (Mr. GOLDWATER) asks unanimous consent to withdraw his amendment.

Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Are there further amendments to title II?

If not, the Clerk will read.

The Clerk read as follows:

TITLE III

SHORT TITLE

SEC. 301. This title may be cited as the "Urban Mass Transportation Act Amendments of 1978".

LOAN PROGRAM

SEC. 302. The first sentence of subsection (b) of section 3 of the Urban Mass Transportation Act of 1964 is amended by striking out "including the net cost of property management" and inserting in lieu thereof the following: "including reconstruction, renovation, the net cost of property management,".

REPEAL

SEC. 303. Subsection (h) of section 3 of the Urban Mass Transportation Act of 1964 is hereby repealed.

FEDERAL FINANCIAL ASSISTANCE AUTHORIZATIONS

SEC. 304. Subsection (c) of section 4 of the Urban Mass Transportation Act of 1964 is amended by inserting "(1)" immediately after "(c)" and by adding at the end thereof the following new paragraphs:

"(2) Notwithstanding paragraph (1) of this subsection or any other provision of this Act, no part of the authorizations contained in paragraph (1) of this subsection shall be obligated after September 30, 1978.

"(3) There is authorized to be appropriated for grants and loans under sections 3 and 9 of this Act, per fiscal year, for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, not to exceed $1,860,000,000.

"(4) Each fiscal year during the four-year term of the authority provided under paragraph (3), 3½ per centum of appropriations pursuant to such authority shall be available for grants under section 9 of this Act.

"(5) Each fiscal year during the four-year term of the authority provided under paragraph (3), 30 per centum of appropriations pursuant to such authority shall be available for grants for the modernization and rehabilitation of existing public mass transportation systems.

"(6) Each fiscal year during the four-year term of the authority provided under paragraph (3), 12 per centum of appropriations pursuant to such authority shall be available for purchase of rolling stock used in all varieties of fixed-rail public mass transportation service assisted under this Act.

"(7) Each fiscal year during the four-year term of the authority provided under paragraph (3), 38 per centum of appropriations pursuant to such authority shall be available for construction of new fixed-guideway public mass transportation systems and extensions of existing fixed-guideway public mass transportation systems.

"(8) The remainder of appropriations each fiscal year pursuant to the authority of paragraph (3), after subtracting the reservations required by paragraphs (4), (5), (6), and (7) shall be available for grants and loans under section 3 of this Act including, but not limited to, grants and loans for the

acquisition of buses and bus-related facilities (in those cases where applicants have exhausted capital assistance funds under section 5 of this Act for bus and related facilities acquisition), emergency needs, multimodal transportation facilities, and transit-related urban development activities.

"(9) The amount made available each fiscal year under each of the paragraphs (4), (5), (6), (7), and (8) of this subsection may be transferred by the Secretary from one paragraph to another paragraph except that the total of all amounts transferred in any one fiscal year from one paragraph shall not exceed 15 per centum of the amount available for such fiscal year under that paragraph.

"(10) Within one year after the date of enactment of this paragraph, the Secretary of Transportation shall report to the President and the Congress the level of need for transit capital expenditures for each year during the ten-year period beginning after the end of such one-year period, and, thereafter, shall submit an update of such report at the end of each succeeding year for the ten-year period beginning after the end of such succeeding year.".

ADVANCE APPROPRIATIONS

SEC. 305. Section 4 of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new subsection:

"(e) Appropriations authorized by subsection (c) of this section and section 319 of the Urban Mass Transportation Act Amendments of 1978, may be made in an appropriation Act for a fiscal year preceding the fiscal year in which the appropriation is to be available for obligation, and shall remain available for three years following the close of the fiscal year for which such appropriation is made.".

URBAN MASS TRANSIT PROGRAM

SEC. 306. (a) The first sentence of paragraph (1) of subsection (b) of section 5 of the Urban Mass Transportation Act of 1964 is amended by striking out "1980" and inserting in lieu thereof "1982", and by striking out "subsection (c)." and inserting in lieu thereof "subsection (c) (1) and (2).".

(b) Paragraphs (2) and (3) of subsection (b) of section 5 of such Act of 1964 are amended to read as follows:

"(2) The Secretary shall apportion for expenditure in fiscal years 1979 through 1982 the sums authorized by subsection (c)(3). Eighty-five per centum of such sums shall be made available for expenditure in only those urbanized areas or parts thereof with a population of 750,000 or more, and on the basis of a formula under which such urbanized areas or parts thereof will be entitled to receive an amount equal to the sum of—

"(A) one-half of the total amount so apportioned multiplied by the ratio which the population of such an urbanized area or part thereof, as designated by the Bureau of the Census, bears to the total population of all such urbanized areas in all the States as shown by the latest available Federal census; and

"(B) one-half of the total amount so apportioned multiplied by a ratio for that urbanized area determined on the basis of population weighted by a factor of density, as determined by the Secretary.

As used in the preceding sentence, the term 'density' means the number of inhabitants per square mile.

"(3) The Secretary shall apportion for expenditure in fiscal years 1979 through 1982 the sums authorized by subsection (c)(3). Fifteen per centum of such sums shall be made available for expenditure in only those urbanized areas or parts thereof with a population of less than 750,000 and on the basis of a formula under which such urbanized areas or parts thereof will be entitled to receive an amount equal to the sum of—

"(A) one-half of the total amount so apportioned multiplied by the ratio which the population of such an urbanized area or part thereof, as designated by the Bureau of the Census, bears to the total population of all such urbanized areas in all the States as shown by the latest available Federal census; and

"(B) one-half of the total amount so apportioned multiplied by a ratio for that urbanized area determined on the basis of population weighted by a factor of density, as determined by the Secretary.

As used in the preceding sentence, the term 'density' means the number of inhabitants per square mile.

"(4) The Governor, responsible local officials, and publicly owned operators of mass tranportation services, in accordance with the procedures required under subsection (g)(1), with the concurrence of the Secretary, shall designate a recipient to receive and dispense all funds apportioned under paragraphs (1) and (3) that are attributable to urbanized areas of two hundred thousand or more population and to receive and disepnse all funds apportioned under paragraph (2). In any case in which a statewide or regional agency or instrumentality is responsible under State laws for the financing, construction, and operation, directly by lease, contract, or otherwise, of public transportation services, such agency or instrumentality shall be the recipient to receive and dispense such funds. The term 'designated recipient' as used in this Act shall refer to the recipient selected according to the procedures required by this paragraph.

"(5) Sums apportioned under paragraphs (1) and (3), not made available for expenditure by designated recipients in accordance with the terms of paragraph (4) shall be made available to the Governor for expenditure in urbanized areas or parts thereof in accordance with the procedures required under subsection (g)(1).".

(c) Paragraph (1) of subsection (c) of section 5 of such Act of 1964 is amended by adding at the end thereof the following new sentences: "In addition to all other sums authorized to be appropriated for carrying out this section for the fiscal year 1980, there is authorized to be appropriated for such fiscal year the additional amount of $125,000,000. There is authorized to be appropriated for grants under this section $900,000,000, per fiscal year for the fiscal years ending September 30, 1981 and September 30, 1982.".

(d) Paragraph (2) of subsection (c) of section 5 of such Act of 1964 is amended to read as follows:

"(3) There is authorized to be appropriated to be expended only for grants for the purchase of buses $400,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

"(3) There is authorized to be appropriated for grants under this section, $250,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

"(4) Sums apportioned under this section shall be available for obligation by the Governor or designated recipient for a period of three years following the close of the fiscal year for which such sums are apportioned. Any amounts so apportioned remaining unobligated at the end of such period shall be reapportioned in accordance with paragraph (1) of subsection (b) of this section and shall be available for the same period as apportionments made for the fiscal year during which such reapportionment is made, except that any funds authorized by paragraph (2) of this subsection which are so reapportioned shall remain subject to the limitations applicable to the original appointment of such funds.".

FELLOWSHIP ASSISTANCE

SEC. 307. Section 10 of the Urban Mass Transportation Act of 1964 is amended to read as follows:

"GRANTS FOR TRAINING PROGRAMS

"SEC. 10. The Secretary is authorized to make grants to States, local public bodies, and agencies thereof (and operators of public transportation services) to provide fellowships for training of personnel employed in managerial, technical, and professional positions in the public transportation field. Fellowships shall be for not more than one year of training in public or private training institutions offering programs having application in the public transportation industry. The recipient of a fellowship under this section shall be selected by the grantee on the basis of demonstrated ability and for the contribution which he or she can be reasonably expected to make an efficient public transportation operation. The assistance under this section toward each fellowship shall not exceed the lesser of $12,000 or 75 per centum of the sum of (1) tuition and other charges to the fellowship recipient, (2) any additional costs incurred by the training institution in connection with the fellowship and billed to the grant recipient, and (3) the regular salary of the fellowship recipient for the period of the fellowship (to the extent that salary is actually paid or reimbursed by the grant recipient).".

LIFE CYCLE COSTS

SEC. 308. (a) Subsection (b) of section 12 of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following: "After September 30, 1979, contracts for the acquisition of rolling stock, including buses, which will result in the expenditure of Federal financial assistance under this Act, may be awarded based on consideration of performance, standardization, life-cycle costs, and other factors the Secretary may deem relevant, in addition to the consideration of initial capital costs. Where necessary, the Secretary shall assist grantees in making such evaluations.".

(b) The Secretary of Transportation shall make an evaluation of the procurement process utilized for the purchase of rolling stock and other technical equipment purchased with Federal financial assistance under the Urban Mass Transportation Act of 1964, and from whom purchased. Such evaluation shall consider the benefits of more widespread utilization of negotiated procurements. The Secretary shall, not later than July 1, 1979, report to Congress the results of such evaluation together with his recommendations for necessary legislation.

DEFINITIONS

SEC. 309. (a) Section 12(c) of the Urban Mass Transportation Act of 1964 is amended—

(1) by striking out "and" at the end of clause (4);

(2) by striking out the period at the end of clause (5) and inserting in lieu thereof a semicolon; and

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

"(6) the term 'construction' means the supervising, inspecting, actual building, and all expenses incidental to the construction, reconstruction, or acquisition of facilities and equipment for use in public mass transportation, including designing, engineering, location surveying, mapping, acquisition of right-of-way, relocation assistance, acquisition of replacement housing sites, acquisition and rehabilitation, relocation, and construction of replacement housing;

"(7) the term 'elderly person' means any person who is sixty years of age or older;

"(8) the term 'handicapped person' means any individual who, by reason of illness, injury, age, congenital malfunction, or other permanent or temporary incapacity or disability, including any individual who is wheelchair bound, or who has semiambulatory capabilities, is unable without special facilities or special planning or design to utilize mass transportation facilities and services effectively;

"(9) the term 'Governor' means the Governor, or his designate, of any one of the fifty States or of Puerto Rico, and the Mayor of the District of Columbia; and

"(10) the term 'urbanized area' means an area so designated by the Bureau of the Census, within boundaries which shall be fixed by responsible State and local officials in cooperation with each other, subject to approval by the Secretary, and which shall at a minimum, in the case of any such area, encompass the entire urbanized area within the State as designated by the Bureau of the Census.".

(b) Subsection (a) of section 5 of the Urban Mass Transportation Act of 1964 is hereby repealed.

GENERAL AUTHORIZATION

SEC. 310. Subsection (d) of section 12 of the Urban Mass Transportation Act of 1964 is amended to read as follows:

"(d) There is authorized to be appropriated to carry out this Act, other than sections 3, 5, 9, 11(b), 16, 18, 20, 21, and 22, $150,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.".

INTERSTATE COMMERCE ACT EXEMPTION

SEC. 311. Subsection (e) of section 12 of the Urban Mass Transportation Act of 1964 is amended by inserting "(1)" immediately after "(e)"; and by adding at the end thereof the following new paragraphs:

"(2) A State or a local public body may petition the Interstate Commerce Commission for an exemption from part II of the Interstate Commerce Act for mass transportation services provided by such State or local public body or provided to such State or local public body by contract. Not later than one hundred and eighty days after the date such petition is received by the Commission, the Commission shall, after notice and reasonable opportunity for a hearing on such petition, by order, exempt such State or local public body or contractor from part II of the Interstate Commerce Act with respect to such mass transportation services to the extent and for such time as it specifies in such order, unless such Commission finds that—

"(A) the public interest would not be served by such exemption,

"(B) the exemption requested would result in an undue burden on the interstate or foreign commerce, or

"(C) the mass transportation services, including rates, proposed to be exempt are not subject to regulation by any State or local public agency.

"(3) Any State or local public body granted an exemption under paragraph (2) of this subsection shall be subject to all applicable Federal laws pertaining to (A) safety, (B) the representation of employees for purposes of collective bargaining, (C) retirement, annuities, and unemployment systems, and (D) all other provisions of law relating to employee-employer relations. The Commission, upon its own initiative or upon petition of an interested party, may alter, amend, or revoke any exemption under paragraph (2) of this subsection if it subsequently finds that new evidence, material error, or changed circumstances exist which materially affect its original order.".

REPORT OF FUNDING

SEC. 312. Section 12 of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new subsection:

"(g) The Secretary shall submit to Congress not later than the twentieth day of each calendar month which begins after the date of enactment of this subsection a report on (1) obligations, commitments, and reservations by State, designated recipient, and applicant, made under authority of this Act during the preceding calendar months, (2) the cumulative amount of obligations, commitments, and reservations by State, designated recipient, and applicant, for that fiscal year, (3) the balance as of the last day of such preceding month of the unobligated, uncommitted, and unreserved apportionments of each State under this Act, by fiscal year, and (4) the balance of unobligated, uncommitted, and unreserved sums available for expenditure at the discretion of the Secretary under this Act for that fiscal year.".

REPORTING SYSTEM

SEC. 313. Section 15 of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new subsection:

"(c) The Secretary shall, not later January 1, 1979, report to Congress on the systems prescribed under authority of this section, together with his recomemndations for any further legislation, if any, he deems necessary in connection with such systems.".

SET ASIDE FOR ELDERLY AND HANDICAPPED

SEC. 314. The last sentence of subsection (b) of section 16 of the Urban Mass Transportation Act of 1964 is amended to read as follows: "Of the total amount authorized to be appropriated pursuant to section 4(c)(3) of this Act, 2 per centum may be set aside and used exclusively to finance the programs and activities authorized by this subsection (including administrative costs)."

RAIL PASSENGER SERVICE

SEC. 315. (a) Section 17 of the Urban Mass Transportation Act of 1964 is hereby repealed.

(b) Subsection (b) of section 18 of the Urban Mass Transportation Act of 1964 is amended by striking out "(1)" and "; and (2) rail passenger service required by section 304(e)(4) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 744(e))".

(c) Subsection (d) of section 18 of the Urban Mass Transportation Act of 1964 is hereby repealed.

(d)(1) Subsection (a) of section 18 of the Urban Mass Transportation Act of 1964 is amended by inserting immediately after "for the cost of" the following: "modernizing and rehabilitating rolling stock, publicly owned road bed, and".

(2) Such subsection (a) of such section 18 is further amended by striking out "rail passenger service provided by railroads designated as Class I." and inserting in lieu thereof "commuter rail passenger service.".

(e) Subsection (c) of section 18 of the Urban Mass Transportation Act of 1964 is amended to read as follows:

"(c)(1) The Secretary shall equitably distribute financial assistance authorized by subsection (a) of this section on the basis of an apportionment formula which the Secretary shall establish not later than 90 days after the date of enactment of the Urban Mass Transportation Act Amendments of 1978, except that no eligible applicant shall receive in any fiscal year less than one-half of 1 per centum or more than 30 per centum of the amount authorized for such fiscal year to carry out this section. As soon as practicable after the establishment of such apportionment formula all sums authorized by this Act for the fiscal years 1979 through 1982 shall be apportioned in accordance with such formula.

"(2) No Federal grant for the payment of subsidies for operating expenses shall exceed 50 per centum of the total operating losses of rail passenger service eligible for assistance under this section. No Federal grant for modernizing or rehabilitating rolling stock or publicly owned road bed shall exceed 80 per centum of the cost of such modernization or rehabilitation.".

(f) Subsection (f) of section 18 of the Urban Mass Transportation Act of 1964 is amended to read as follows:

"(f) There is authorized to be appropriated to carry out this section not to exceed $100,000,000 for the period beginning November, 16, 1977, and ending September 30, 1979, and $100,000,000 per fiscal year for the fiscal years ending September 30, 1980, September 30, 1981, and September 30, 1982. Such sums shall remain available until expended.".

LONG-TERM AUTHORIZATIONS

SEC. 316. The Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new section:

"AUTHORIZATIONS

"SEC. 19. There is authorized to be appropriated to carry out this Act and section 315 of the Urban Mass Transportation Act Amendments of 1978, $4,500,000,000 per fiscal year, for each of the fiscal years ending September 30, 1983, September 30, 1984, September 30, 1985, September 30, 1986, September 30, 1987, and September 30, 1988.".

TERMINAL DEVELOPMENT PROGRAM

SEC. 317. The Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new section:

"TERMINAL DEVELOPMENT PROGRAM

"SEC. 20. (a) The Secretary is authorized, in accordance with this Act, and on such other terms and conditions as he may prescribe, to make grants to States and local bodies and agencies thereof to acquire, construct, or alter facilities (directly operated, operated through a lease, or otherwise) primarily for use in providing intercity bus service and in coordinating such service with other modes of transportation. Eligible facilities include, but are not limited to, real property, bus terminals, intermodal terminals, and bus passenger loading areas (including shelters). No grants shall be provided under this section unless the Secretary determines the applicant has or will have (1) the legal, financial, and technical capacity to carry out the proposed project, and (2) satisfactory continuing control, through operation, lease, or otherwise, over the use of the facilities.

"(b) The Secretary is further authorized, in accordance with this Act, and on such other terms and conditions as he may prescribe, to make grants to States and local bodies and agencies thereof to acquire, construct, or alter facilities (directly operated, operated through a lease, or otherwise) to improve the coordination between public transportation and other forms of transportation, and to enhance urban economic development. Eligible items include, but are not limited to, real property, facilities and equipment for intermodal transfer facilities, joint development projects, and other public transportation related projects which enhance urban development and incorporate private investment.

"(c) No financial assistance shall be provided under this section to any State or local public body or agency thereof for the acquisition, contruction, or alteration of eligible facilities unless the Secretary finds that fair and equitable arrangements have been made for the use of such facilities by privately

owned bus companies. Assistance under this section shall encourage, to the maximum extent feasible, the participation of private enterprise and the use of the facilities assisted under this section by other modes of transportation.

"(d) A grant for a project under this section shall be for 80 per centum of the net project cost determined in accordane with section 4(a) of this Act. The remainder of the net project cost shall be provided, in cash, from sources other than Federal funds.

"(e) There is authorized to be appropriated to carry out subsection (a) of this section $50,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982; and to carry out subsection (b) of this section there is authorized to be appropriated $50,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.".

INTERCITY BUS SERVICE

SEC. 318. The Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new section:

"INTERCITY BUS SERVICE

"SEC. 21. (a) The Secretary is authorized to make grants for the initiation, improvement, or continuation of intercity bus service for residents of rural areas and residents of urban places designated by the Bureau of the Census as having a population of five thousand or more which are not within an urbanized area as defined in section 12 of this Act. As used in this subsection and subsection (b) of this section, the term 'intercity bus service' means transportation provided to the public by a private bus operator authorized to transport passengers in interstate commerce by the Interstate Commerce Commission or in intrastate commerce by a State regulatory commission or comparable State agency (1) between one urban place as designated under this subsection and another such urban place, (2) between an urban place designated in accordance with this subsection and an urbanized area, or (3) between one urbanized area and another urbanized area, through rural areas or urban places, or both. Such term does not include local service.

"(b) Grants for the initiation, improvement, or continuation of intercity bus service under subsection (a) of this section shall be made only to States and local public bodies and agencies thereof, only for payment of operating expenses incurred in furnishing such intercity bus service, and shall not exceed 50 per centum of the net cost of such an operating expense project. The remainder of such cost shall be provided in cash from sources other than Federal funds and other than revenues from the operation of such intercity bus service. Such grants shall be subject to such other terms, conditions, and requirements as the Secretary may deem necessary to promote the initiation, improvement, or continuation of privately owned and operated intercity bus service. In making any such grant, preference shall be given to a private bus operator who lawfully has provided intercity bus service to a rural area or urban place during the one-year period preceding the date of application for such a grant over routes or within the general area for which financial assistance is to be provided, over any other operator to provide such service in such area or place.

"(c) There is authorized to be appropriated to carry out subsections (a) and (b) of this section not to exceed $50,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

"(d) The Secretary shall, in cooperation with States, local public bodies, and intercity bus carriers, make an evaluation of the needs of the intercity bus industry for public subsidy of expenses incurred in the provision of intercity bus service as it serves local transportation needs in areas other than urbanized areas. The Secretary shall, not later than September 30, 1979, report to Congress the results of this evaluation together with his recommendations for necessary legislation.".

SUBSTITUTE PUBLIC MASS TRANSIT PROJECTS

SEC. 319. (a) There is authorized to be appropriated, for liquidation of obligations incurred for public mass transit projects substituted for routes on the Interstate System under section 103(e)(4) of title 23, United States Code, $675,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(b) Notwithstanding the seventh sentence of section 103(e)(4) of title 23, United States Code, the authorization contained in subsection (a) of this section shall be the only authority for appropriations for liquidation of obligations incurred for public mass transit projects substituted for routes on the Interstate System under such section 103 (e)(4) of title 23, United States Code.

LOAN FORGIVENESS

SEC. 320. (a) The Secretary of Transportation may convert equipment and facilities loans heretofore made under section 3(a) of the Urban Mass Transportation Act of 1964 or title II of the Housing Amendments of 1955 (42 U.S.C. 1492), to grants under the conditions set forth below. A grant agreement for the acquisition, construction, reconstruction, or improvement of facilities and equipment under section 3(a) may provide for forgiveness of principal and interest on a loan previously made in lieu of a cash grant in the amount forgiven. Such grant shall be subject to such terms and conditions as the Secretary may deem necessary and appropriate, taking into account the degree of completion of the project financed with the loan.

(b) In lieu of the local matching share otherwise required, the grant agreement may provide that State or local funds shall be committed to mass transportation projects in the urbanized area, on a schedule acceptable to the Secretary, in an amount equal to the local share that would have been required had the amount of principal and interest forgiven been the Federal share of a capital grant made when the original loan was made. The State or local funds contributed under the terms of the preceding sentence shall be made available for projects eligible for funding under section 3(a), and may not be used to satisfy the local matching requirements for any other grant project.

BASIC TRANSPORTATION SYSTEM STUDY

SEC. 321. The Secretary of Transportation shall make a full and complete investigation and study of establishing and operating a mass transportation system, in whole or in part, which would provide basic services with a minimum of amenities, at low costs. Such Secretary shall report to the Congress the results of such investigation and study not later than one year after the date of enactment of this section.

WATERBORNE TRANSPORTATION DEMONSTRATION PROJECT

SEC. 322. (a) The Secretary of Transportation shall carry out a demonstration project using high-speed waterborne transportation equipment and facilities and operating in, and in the vicinity of, New York, New York, for the purpose of determining the feasibility of utilizing this technology in providing certain public mass transportation service. Such Secretary shall report to Congress the results of such project no later than September 30, 1980, together with his recommendations.

(b) There is authorized to be appropriated, not to exceed $30,000,000 to carry out this section.

RULE REEVALUATION

SEC. 323. (a) The Secretary shall reevaluate the rule relating to buses which is set forth in section 609.15 of title 49, Code of Federal Regulations and report to Congress the results of such reevaluation not later than January 1, 1979.

(b) The reevaluation required by subsection (a) of this section shall include a three-month inservice test to compare the effectiveness of a front door ramp with a low floor and a lift device at either door with current floor heights. Such test shall be conducted under the supervision of the National Academy of Engineering in cooperation with interested groups and organizations.

MAINTENANCE OF EFFORT

SEC. 324. Subsection (f) of section 5 of the Urban Mass Transportation Act of 1964 is amended by inserting immediately after "and property leases," the following "excluding reimbursement payments for the transportation of school children,".

RURAL ASSISTANCE PROGRAM

SEC. 325. The Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new section:

"RURAL ASSISTANCE PROGRAM

"SEC. 22. (a) The Secretary is authorized to make grants to States, local public bodies, and nonprofit corporations for public transportation assistance (including construction and operating assistance) in areas other than urbanized areas, as defined under section 12 of this Act. To finance grants under this section, there is authorized to be appropriated not to exceed $125,000,000 per fiscal year, for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982. Appropriations pursuant to the authority of this section may be made in the appropriation Act for a fiscal year preceding the fiscal year in which the appropriation is to be available for obligation, and small remain available until expended.

"(b) On or before the commencement of each fiscal year the Secretary shall apportion the remainder of the sums appropriated under this section for that fiscal year, among the States in the ratio which the population of areas other than urbanized areas in each State bears to the total population of areas other than urbanized areas in all the States as shown by the latest available Federal Census. Sums apportioned under this subsection shall be available for obligation by the Governor for a period of three years following the close of the fiscal year for which the sums are apportioned, and any amounts remaining unobligated at the end of such period shall be reapportioned among the States for the succeeding fiscal year. States may utilize sums apportioned under this section for purchase of service agreements with private providers of public transportation service to provide local transportation service, as defined by the Secretary, in areas other than urbanized areas. The funds apportioned to any State under this section shall be expended within such State on a fair and equitable basis. The State may distribute funds to eligible recipients within the State to carry out the purposes of this section. Eligible recipients may include State agencies, local public bodies and agencies thereof (including counties and Indian tribes), nonprofit organizations, and public operators of public transportation services.

"(c) Whenever an apportionment is made of sums apportioned under this section, the Secretary may permit a sum, in such amount not to exceed 15 per centum of the amount apportioned, to be used by each State for administering this section and for providing technical assistance to recipients of funds under this section. Such technical assistance may include project planning program development, management development, coordination of public transportation programs (public and private), and such research as the State may deem appropriate to promote effective means of delivering public transportation service in areas other than urbanized areas.

"(d) Grants under this section shall be subject to such terms and conditions as the Secretary may prescribe. In setting forth such terms and conditions, the Secretary is authorized to waive such provisions of this Act as he may deem inconsistent with the special needs of public transportation in areas other than urbanized areas. Nothing under this subsection shall affect or discharge any responsibility of the Secretary under any other provision of Federal law.

(e) The Federal grant for any construction project under this section shall not exceed 80 per centum of the net cost of such construction project, as determined by the Secretary. Federal grants for any project for the payment of subsidies for operating expenses, as defined by the Secretary, shall not exceed 50 per centum of the net cost of such operating expense project.

(f) The Secretary shall, in cooperation with State regulatory commissions, make an evaluation of the escalation if insurance rates for operators of public transportation in rural areas and for providers of special transportation services for elderly and handicapped persons. The Secretary shall, not later than January 1, 1979, report to Congress the results of this evaluation together with his recommendations for necessary legislation.".

RAIL RETROFIT EVALUATION

SEC. 326. (a) Beginning in fiscal year 1979, the Secretary of Transportation shall provide Federal financial assistance under section 9 of the Urban Mass Transportation Act of 1964 to operators of fixed-guideway public mass transportation systems for the purpose of developing detailed estimates of the cost of making improvements to existing fixed-guideway public mass transportation systems (excluding light-rail systems) to make such systems accessible to and usable by handicapped persons. Not later than January 30, 1980, the Secretary shall compile the results of these evaluations and report to Congress the results, together with his recommendations for such legislation as may be necessary to finance the improvements set forth in the cost estimates.

(b) In developing detailed estimates of the cost of improvements needed to make existing fixed-guideway public mass transportation systems accessible to and usable by handicapped persons, operators of such system shall provide comments on the desirability of the improvements, taking into account projected use of the improvements, the operational characteristics of the system, and such other factors as the operators may deem appropriate. Under rules set forth by the Secretary of Transportation, operators shall submit all such comments and cost estimates to organizations representing handicapped persons. Such organizations shall be afforded ninety days to submit comments to the Secretary.

(c) Cost estimates developed with assistance under this section, to the extent they are not deemed unreasonable by the Secretary of Transportation, may serve as the basis for cost estimates in plans required by the Secretary for meeting the requirements of section 504 of the Rehabilitation Act of 1973.

LIGHT RAIL EVALUATION

SEC. 327. (a) The Secretary of Transportation shall make an evaluation of the light-rail public mass transportation mode (including trolleys, streetcars, cablecars, and other fixed-guideway conveyances utilizing at-grade rights-of-way portions of which are shared with other street traffic) and the commuter rail public mass transportation mode to determine ways to make, and the desirability of making, such modes accessible to and usable by handicapped persons. The Secretary shall report to Congress the results of this evaluation not later than September 30, 1980, together with his recommendations for legislation necessary to clarify or to change Federal laws or provisions pertaining to accessibility requirements affecting the light-rail and commuter rail modes.

(b) Notwithstanding any provision of the Rehabilitation Act of 1973 or the Urban Mass Transportation Act of 1964, pending completion of the evaluation conducted pursuant to subsection (a) of this section and six months following the date such evaluation is submitted by the Secretary to Congress, projects involving the construction or improvement of light-rail or commuter rail public mass transportation systems (or involving purchase of rolling stock for such systems) shall not be disapproved or otherwise delayed by the Secretary of Transportation as a result of failure to comply with Federal handicapped accessibility requirements provided that such projects do not create conditions which will preclude, at some future date, use of any facility by handicapped persons.

TRANSPORTATION CENTERS

SEC. 328. Subsection (b) of section 11 of the Urban Mass Transportation Act of 1964 is amended to read as follows:

"(b)(1) In addition to grants authorized by subsection (a) of this section, the Secretary is authorized to make grants for the purpose of establishing and operating transportation centers at nonprofit institutions of higher learning.

"(2) The institutions receiving assistance under this subsection shall be selected by the Secretary, in coordination with State transportation agencies or departments, on the basis of demonstrated research and extension resources capable of contributing to the solution of State and regional transportation problems. A private institution may be selected for assistance under this subsection if no public institution in the region meets the selection criteria.

"(3) The responsibilities and duties of each transportation center shall include, but not be limited to, the conduct of competent research investigations, both scientific and policy oriented, and experiments of either a basic or practical nature in relation to transportation problems.

"(4) In order for an institution to receive Federal funds under this subsection, subject to the conditions set forth therein, such institution, in coordination with the State in which the institution is located (or, in the case of multi-institutional programs authorized under paragraph (6) of this subsection, in coordination with the States in which the participating institutions are located) shall submit to the Secretary for his approval a program or programs of proposed projects for the academic year for the utilization of such funds. The Secretary shall act upon programs submitted to him by March 15 preceding the fiscal year for which application for assistance is made (except in the case of fiscal year 1979, for which the Secretary shall act upon programs submitted to him as soon as practicable).

"(5) As a condition to project approval, the State in which a selected institution is located must equally match from other than Federal funds, the amount of the Federal grant.

"(6) Upon the joint application of two or more institutions of higher learning, the Secretary may approve a multi-institutional program to address regional transportation problems, subject to conditions set forth in this subsection.

"(7) On or before July 1 of each fiscal year for which funds have been appropriated under this subsection, each participating institution shall submit a report to the Secretary on its activities and progress in solving transportation problems. On or before October 1 of each such fiscal year, the Secretary shall submit a report to Congress on the activities and progress of the program authorized by this subsection in solving transportation problems and achieving national transportation policy objectives.

"(8) For purposes of carrying out this subsection, there is authorized to be appropriated $10,000,000 per fiscal year for the fiscal years 1979, 1980, 1981, and 1982. Such sums shall remain available until expended.".

Mr. HOWARD (during the reading). Madam Chairman, I ask unanimous consent that title III be considered as read, printed in the RECORD, and open to amendment at any point.

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

There was no objection.

● Mr. KEMP. Madam Chairman, I am very happy to give my full support to this Surface Transportation Assistance Act which is being considered here tonight. And I particularly commend my colleaque, Congressman NOWAK, for sponsoring an amendment in the committee to include the first 4.2-mile segment of the proposed Lockport Expressway in Amherst, N.Y., as part of the Interstate Highway System, so important to my district and our community development.

The people of Amherst and Erie County have fought long and hard for this proposed roadway and Congressman NOWAK is to be congratulated for spearheading the action necessary to realize this objective. Particularly important was his having obtained the committee's specific listing of the Lockport Expressway in the bill to make certain it was given priority claim.

The $12.5 million which will be made available by this designation should be enough to hasten the construction start and will save taxpayer's money by diverting traffic and reducing maintenance costs on town and county roads. As a member of the Appropriations Committee, I will do all I can to see that the necessary funds are forthcoming to make this section of the Interstate Highway System a reality.●

Mr. HOWARD. Madam Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. WRIGHT) having assumed the Chair, Miss JORDAN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 11733) to authorize appropriations for the construction of certain highways in accordance with title 23 of the United

States Code, for highway safety, for mass transportation in urban and in rural areas, and for other purposes, had come to no resolution thereon.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5289) entitled "An act for the relief of Joe Cortina of Tampa, Florida."

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate numbered 8 to the foregoing bill.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12928) entitled "An act making appropriations for public works for water and power development and energy research for the fiscal year ending September 30, 1979, and for other purposes.".

The message also announced that the Senate agree to the House amendments to the Senate amendments numbered 2 and 24, to the above-entitled bill.

GOVERNOR BROWN DEMANDS AN IMPERIAL AND DICTATORIAL PRESIDENCY

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

Mr. ASHBROOK. Mr. Speaker, Governor Brown of California advocates far more power for Federal regulatory agencies—the OSHA's and EPA's which are interfering with and disrupting every part of our productive economic life. Worse, he wants to use these agencies' rulemaking authority to prevent Congress from exerting its constitutional powers to set national policy. That is the only interpretation one can give his speech to the liberal National Urban League.

Speaking to the National Urban League, Governor Brown said:

> I think if you want the business muscle of America to go into the inner cities, then I think what you've got to do is get the Federal Reserve Board to get the Antitrust Division, to get the Internal Revenue Service, to get the Interstate Committee Commission, to get the Comptroller of the Currency, to get the Federal Home Loan Bank, the Federal Trade Commission, the Federal Communications Commission—that's where the muscle is. Corporate America depends on the regulatory power of Washington. And if that regulatory power was used not just for profit and to prop up existing privilege but to renew the cities of America, they'd be renewed.
>
> They won't be renewed until those powers are used for that purpose. It's just that simple. And I think a tax incentive is just one small piece. Because the life blood of corporate America is in the hands of the Executive Branch of America. And when those hands start squeezing, the corporate life blood will flow in the right direction.

It is impossible to mistake what this statement amounts to. Nowhere in it is there any mention of the Congress. Quite the opposite: The whole purpose is to put pressure on business for inner city projects which Congress would refuse to approve.

Nobory should be surprised that Brown takes this position. Brown at first opposed Proposition 13, but when it passed, he acted as if he had invented it. He was against nuclear power, but when the people of California approved it 2 to 1, he suddenly came out for it. But for all that opportunism, Brown is in fact a hardline, standard liberal, just like President Carter and Teddy Kennedy.

Like Carter in 1976, Brown will talk about being for tax cuts and limited Government. But once in office, he will pull the same aboutface Mr. Carter did, and use the powers of regulatory agencies against the businessman and the working man, just as Mr. Carter has done.

The facts of political life are very, very simple: If you want conservative policies, you are going to have to vote conservative. Businessmen's Political Action Committees (PAC) usually play what they think is a smart game: They give equally to both parties, and they give as generously to a liberal Republican as to a conservative one. Then they receive 200 pages of forms to fill out, and a book of business-destroying regulations from the Environmental Protection Agency. Soon after, JOHN ASHBROOK and other conservatives, get stacks of letters from businessmen, demanding to know "where this outrage came from."

Well, Mr. Businessman, you remember that PAC you sent your money to, the one that played the smart, middle-of-the-road game? That is where those regulations came from. Because of such "smart" policies, there were not enough conservatives in Congress to protect the businessman and worker from power-grabs by the anti-industry bureaucrats. Politics, like medicine, is nine-tenths prevention. Once you let a disease like liberalism go until it is too advanced to ignore, treatment does little good. In political terms, this means that once the program has gotten by a liberal and middle-road Congress, and is in the hands of the bureaucrats, it is too late to do much about it.

The problem is that liberals play even smarter games. The people of California voted 2 to 1 for nuclear power, and Brown switched his public position and came out for it. But the State Energy Board of California, one of those regulatory agencies Mr. Brown recommends so highly to the Urban League, simply overruled the people of California. They refused to license a single new power facility in the State of California. The result is that the votes of Californians do not make a bit of difference.

The no-growth, antinuclear lobby is happy with California's Democratic Administration. At the same time, hundreds of thousands of pronuclear power Californians will vote for their publically pronuclear friend, Governor Brown. A few years from now, these voters will be writing their conservative representatives, demanding to know why jobs are disappearing, because of the growing energy shortage in California. The answer is that jobs will disappear, because people tried to get conservative policies by voting for a liberal opportunist.

What is happening is that regulatory agencies are doing the dirty work, while Governor Brown poses as a conservative. So when Jerry Brown tells his fellow liberals they can use regulatory agencies to defy the will of the people, he knows exactly what he is talking about.

PRESIDENT CARTER'S FOREIGN POLICY FAILURE IN LATIN AMERICA

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

Mr. RUDD. Mr. Speaker, while President Carter is being praised for his apparent success so far in providing a framework for peace in the Middle East, his foreign policy closer to home in Latin America has been a failure of tragic proportions.

This foreign policy failure was initiated by the President's error in putting the entire weight and prestige of his office behind new treaties to turn over U.S. sovereignty and control of the Panama Canal to an unstable country ruled by a dictator sympathetic to Fidel Castro.

Underscoring the President's naivete and the misguided nature of his administration's entire program in Latin America, he was quoted by United Press International last weekend as boastfully saying that his efforts to obtain U.S. Senate approval of the new Panama treaties to surrender this vitally strategic waterway to Panama was "the most difficult undertaking of my political life, including my campaign for the Presidency itself.

As he made this statement to UPI, Panama's dictator was personally involved in helping the current Communist insurgency to topple the government on a longtime United States ally in Nicaragua.

Panama dictator Omar Torrijos has played a key role in this insurgency, by giving support and sanctuary to the Sandinista guerrillas who recently seized the President's National Palace in Nicaragua, and then fled to Panama with $500,000 in cash which they extorted in exchange for their 1,000 hostages.

Torrijos is expected to help the Sandinista terrorists to return to Nicaragua, where they will no doubt resume their guerrilla warfare, by making it possible for them to slip into Costa Rica as they did in 1974 when they returned from guerrilla training in Cuba.

Arizona Republic Latin affairs editor, Harold K. Milks, noted in a news analysis last Sunday that U.S. withdrawal from its military facilities adjoining the Panama Canal is also symbolic of the further erosion of U.S. influence and power throughout Latin America.

That power is being supplanted by the involvement and control of the Soviet Union, which Mr. Milks reports has more military advisers in just one country than the United States has U.S. personnel administering defense assistance programs throughout Latin America.

Moreover, the U.S. decision to cut off military aid and credit arrangements for purchase of U.S. weapons by longtime allies, such as Nicaragua, on the questionable grounds of "human rights" considerations, has caused these countries to seek such support elsewhere, further deteriorating our influence and position.

The President has followed the line set down by far left elements in our own country and abroad, who have so far succeeded in their efforts to have our Government disavow and thereby help topple the duly constituted Government of Nicaragua, and maybe other Latin American countries.

These extremist critics of Nicaragua's constitutional government have made wild and irresponsible statements to the effect that U.S. support for the Sandinistas, or anyone opposing President Somoza, is necessary in order to avert another Castro-type revolutionary government from coming to power in Latin America.

This is pure propaganda. The Sandinistas are Castro-type revolutionaries. And they will be more likely to succeed in putting together a successful Communist revolution—in terrorizing the people in order to overthrow the legitimate Government of Nicaragua—if the United States continues to fail to speak out vigorously in support of our longtime friends who are confronted by guerrilla insurrection.

Undoubtedly other Latin American nations will also fall under Communist rule if Nicaragua goes. Communist guerrillas being trained elsewhere in Latin America will be encouraged and incited by revolutionary successes in Central America.

Even guerrilla setbacks, as in Nicaragua, will be perceived as a temporary defeat of a so-called "popular democratic movement" by more powerful opposition, unless our own Government honestly and properly speaks out and acts in behalf of a legitimate government subjected to armed guerrilla insurrection.

Mr. Speaker, the President has attempted to mislead our people, and the people of the world, by stating that he seeks stability and "human rights" in Latin America, but does not want the United States to intervene in the affairs of sovereign nations.

Continued instability or outright Communist rule is inevitable in Nicaragua and elsewhere in Latin America, unless the United States vigorously supports in every possible way the current legitimate government's right to defend itself against guerrilla insurgency.

Withdrawal of U.S. support from Nicaragua's Government in the face of such insurgency is the most blatant kind of action in behalf of that country's pro-Communist enemies.

Failure to publicly condemn support for the guerrilla insurgency by Panama Dictator Torrijos, or any other foreign government, is a reckless and immoral abdication of responsibility and leadership by our Nation's top Government leaders.

It is important for us to recognize the seriously adverse impact of these actions, for the people of the affected countries in Latin America and for our own long-range security and freedom.

The President and his administration, through their negligent foreign policy in Latin America as well as in Africa, are opening the way for Soviet military domination throughout the world.

That impact in Latin America is already well known by keen observers, such as the Arizona Republic's Harold Milks, who recently toured throughout Central America. I would like to include his latest analysis confirming these unfavorable trends at this point in the RECORD:

(From the Arizona Republic, Sept. 24, 1978)

UNITED STATES CUTBACKS HURT RELATIONS IN SOUTH AMERICA

(By Harold K. Milks)

Albrook Field, a long-time U.S. Air Force base on the edge of the Panama Canal Zone facing Panama City, for many years was a symbol of U.S. power in Latin America.

Today, it is little more than an elongated landing pad for Army helicopters attached to the U.S. Southern Command in Panama.

Similary eroded under the influence of Washington policies, sharply questioned by military leaders, has been the influence of the United States on the guiding and training of military forces in South America and Central America. The U.S. position as the prime supplier of military equipment including handguns, fighter planes and warships also in endangered.

Military men with whom this writer talked during a recent swing through Central America agreed that current U.S. policies have cost them valuable contacts with the men who someday may be the military leaders of their Latin American nations.

There was a time when senior officers in Latin America prized the opportunity to take courses in our higher military schools in the states, or to send their younger officers to the Canal Zone to the U.S. Army's School of the Americas," said one ranking officer in the Canal Zone.

"Today, for a variety of reasons, we have lost or are losing those contacts. Some countries have turned to others for training and assistance. In Peru today, you can probably find more Soviet military advisers than there are U.S. officers and men administrating defense assistance programs in all of Latin America."

Some U.S. officers in Panama said approval of the treaties signaling the end of U.S. domination in the Canal Zone by the year 2000 "is definitely speeding the end of an era in which we worked with, trained and knew on a first-name basis our opposite numbers in the armed forces throughout Latin America."

Part of the change resulted from Washington's refusal to supply requested military equipment to various Latin American nations.

Another reason, military officers said, was President Carter's human rights campaign, which drew sharp opposition from military governments in Latin America.

The Army's School of the Americas was so popular in the 1960s that many applicants were turned away. Colombia, unable to send as many candidates as it wished started one of its own, which has been highly successful.

Today, with the changed political climate, teams of U.S. army officers have toured Latin America, seeking candidates for the school. Enrollment has dropped from a high of 1,700 to 901 last year.

"This school and our general staff schools in the United States were, in the past, valuable means of maintaining contact with the governments and leaders of Latin America," a high-ranking U.S. Navy officer said.

"Since its foundation in 1946, over 36,000 Latin Americans have passed through the School of the Americas. They include the present heads of government of six Latin American nations among them Gen. Omar Torrijos Herrera of Panama."

U.S. military leaders stationed in Latin America who would discuss the loss of military guidance and of the sales of military equipment in the area were sharply critical of U.S. policies.

Several recalled that four countries in the area—Argentina, Brazil, El Salvador and Guatemala—renounced U.S. military assistance last year in disputing Carter's human rights campaign. The U.S. State Department refused approval for arms exports to other Latin American countries.

"These countries will obtain the arms they want elsewhere," one officer said. "Our factories will lose the business and the arms makers in France, Britain, West Germany, Israel, and even the Soviet Union will benefit. Peru already has made major purchases from Russia, and others may follow suit."

Under the canal treaties, the United States and Panama have five years to decide whether the School of the Americas should be continued.

Unless there is a sharp change in attitudes between Washington and most Latin American countries, there may be no need for such a school long before then.

SOVIET SPACE ACTIVITY SHOULD NOT BE IGNORED

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

● Mr. GOLDWATER. Mr. Speaker, I have had an opportunity to read a most worthwhile article by Allen Neuharth, president and chief executive of Gannet News. Writing in the trade publication for the National Space Institute, Insight, Neuharth warns of the consequence of surrendering to the Soviets our leadership in the space race. I believe Mr. Neuharth is raising an issue which we in Congress have ignored for too long.

When President Kennedy took office, he set as a national goal the exploration of space. As Theodore Sorenson wrote:

> President Kennedy was convinced that a second rate, second place space effort was inconsistent with the country's security, with its role as a world leader and with the New Frontier spirit of discovery.

The 1960's were a most productive era in the realization of this goal.

Since our Moon landing, however, it seems as if we have abandoned our commitment to proceed with a viable space program. As Mr. Neuharth points out, we have ceremoniously commemorated our achievements in the space program, but should we not devote equal attention to our inaction in the space program over the past several years?

The Soviet Union, over the past 5 years, has averaged more than 107 space missions annually. The United States, on the other hand, has averaged only 24.

The advancements of the Soviets are cause for concern, Mr. Speaker. Our budget for NASA has dropped dramatically over recent years, to the extent that the present funding levels would operate the Department of Health, Education, and Welfare for just 9 days.

Our complacency in recent years has given the Russians a decided advantage in the space race. This is a dangerous prospect, because the Soviet Union is clearly taking this opportunity to develop its space technology for military purposes. At the present time, there are approximately 15 Russian satellites orbiting overhead with nuclear reactors.

On our own planet, we have seen how difficult it is to compete with the Russians in the area of national defense. Already we are trying to reach an agreement to limit the buildup of arms in the Soviet Union. By allowing the Soviets to get such a jump in the space race, we will be at a strategic disadvantage in any efforts to limit the advancement of technology beyond our planet.

Planning by the Congress to avoid the consequences of a Soviet advantage in the space race is a priority we should not disregard, Mr. Speaker. Our NASA budget should be reviewed seriously, keeping in mind the problems we will encounter by our continued inactivity.●

HIGH HOLY DAYS 5739

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

● Mr. ANNUNZIO. Mr. Speaker, the Jewish high holy days begin this year on October 1 and 2 with Rosh Hashanah and conclude on October 11 with Yom Kippur. This is a period of piety, holiness, and spirituality for Jewish people all over the world, and I am happy to join my colleagues in the Congress and my constituents and friends of the Jewish faith in observing the advent of this significant holiday period.

Rosh Hashanah marks the beginning of the Jewish New Year, and traditionally, is a joyous holiday. On Rosh Hashanah, religious services are conducted in synagogues throughout the world where Jews pray for forgiveness and a year of peace and happiness for themselves and the world. It is also a time spent with family and friends discussing the events of the past year.

The high point of Rosh Hashanah is the blowing of the shofar, or ram's horn, which symbolizes the beginning of the high holidays, and its shattering sound is meant to awaken man's conscience to renew his faith and return to his God.

October 11, the Day of Atonement, or Yom Kippur, is the climax of 10 days of penitence and is the holiest of all the Jewish holidays. The entire day is spent in prayer, fasting, and worship. On the Day of Atonement, the Jewish people seek to be in harmony with the world by expressing a true feeling of repentence through prayer. It is a day during which years gone by are recalled and loved ones who have passed away are remembered in prayer.

Rosh Hashanah and Yom Kippur evoke in the Jewish people a sense of awe, high seriousness, and especially obedience to God's law. The meaningful practice of the Jewish faith, I believe, has influenced Jewish moral law far beyond the confines of practicing Judaism. The historic Jewish concepts of social justice and individual human dignity have done much to guide the course of Western democracy and, in particular, to shape the philosophical system of government created by the American Founding Fathers.

Especially during the High Holy Days, the Jewish people look to the universal establishment of the principles of compassion and tolerance for which Judaism has so long and painfully fought. Unfortunately, the Jews have not received this same compassion and tolerance, but instead, under Nazi persecution, have suffered incomprehensible brutality and have been the subject of mass murders. It was for this reason that I strongly supported House Joint Resolution 1014, which passed the House on August 17 and is now Public Law 95–371. This legislation designates April 27–29, 1979, as "Days of Remembrance of Victims of the Holocaust," and authorizes and requests the President to issue a proclamation calling upon the people of the United States to observe those days with appropriate ceremonies and activities.

I should like, on this occasion, as the Congressman for the 11th District of Illinois, to extend my greetings and best wishes for the holiday season to my constituents and my many friends of the Jewish faith. Let us continue our hopes and prayers for a lasting Mideast peace, the prospects of which were so brightened by the recent Camp David summit conference. In the coming year, may the Jewish people know freedom from persecution, from which they have particularly suffered, and may they experience peace, well-being, prosperity, and spiritual enlightenment.●

THE 1978 CAPTIVE NATIONS WEEK

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

● Mr. FLOOD. Mr. Speaker, the 1978 Captive Nations Week made its imprint on our national life, as had the preceding nineteen annual observances. Its main imprint is the constant structure of international life—the basic division between the totalitarian world and the nontotalitarian one. The captive nations under Communist domination clearly and unambiguously make up the totalitarian world. The observance of Captive Nations Week never allows our citizens to confuse this reality with authoritarian abuses that may occur in the nontotalitarian world.

Further examples of this fact have been reported for the 1978 Captive Nations Week by the Central National Captive Nations Committee, and I append them to my remarks as follows: First, a proclamation by Gov. Brendan Byrne of New Jersey; second, Resolution 407 of the Texas American Legion delegation; third, July 25 editorial in the China Post, "Successful Conclusion of Captive Nations Week"; fourth, an editorial in the Hartford, Conn., Courant, "Cruelty and Captive Nations"; and fifth, an address by Dr. Henry Lane Hall at the congressional seminar on captive nations, as published in the Rappahannock Record, Kilmarnock, Va.:

PROCLAMATION

Whereas, the greatness of the United States is in large part attributable to its ability through the democratic process to achieve a harmonious national unity of its people, even though they stem from the most diverse of racial, religious, and ethnic backgrounds; and

Whereas, this harmonious unification of the diverse elements of our free society has led the people of the United States to possess a warm understanding and sympathy for the aspirations of peoples everywhere and to recognize the natural interdependency of the peoples and nations of the world; and

Whereas, the enslavement of a substantial part of the world's populations by communist imperialism makes a mockery of the idea of peaceful coexistence between nations and constitutes a detriment to the natural bonds of understanding between the people of the United States and other peoples; and

Whereas, submerged nations look to the United States, as the citadel of human, freedom, for leadership in bringing about their liberation and independence and in restoring to them the enjoyment of their Christian, Jewish, Moslem, Buddhist, or other religious freedoms, and of their individual liberties; and

Whereas, it is fitting to manifest to such peoples through an appropriate and official means the historic fact that the people of the United States share with them their aspirations for the recovery of their freedom and independence;

Now, therefore, I Brendan Byrne, Governor of the State of New Jersey, do hereby proclaim July 16–22, 1978 "Captive Nations Week" in New Jersey.

RESOLUTION 407 (TEXAS)—CAPTIVE NATIONS

Whereas, the Captive Nations now represent the enslavement of more than one billion people, more than 30% of the world's inhabitants, and all are oppressed by communist-led dictatorships; and

Whereas, people living in the Captive Nations are denied such basic human rights as free speech, free press, freedom to vote for a choice, freedom of assembly and freedom to criticize those in authority; and

Whereas, the Captive Nations now include Armenia, Azerbaijan, Byelorussia, Cossakia, Georgia, Idel-Ural, North Caucasia, Ukraine, Far Eastern Republic, Turkestan, Mongolia, and the Soviet Union, known as the Union of Soviet Socialist Republics; plus the fiercely independent Baltic Republics of Latvia, Lithuania, and Estonia; plus the Eastern European Nations of Albania, Bulgaria, Yugoslavia, Poland, Romania, Czechoslovakia, Hungary, East Germany; plus the Asian nations of Mainland China, Tibet, North Korea, North Vietnam, South Vietnam, Cambodia and Laos; plus the Western Hemisphere's Cuba; and

Whereas, other nations including Panama, Angola, Mozambique, Somalia and Ethiopia are seriously threatened with communist enslavement; and

Whereas, such anti-communist governments as Taiwan, South Korea, Rhodesia, Republic of South Africa, Republic of Transkei, the Kingdoms of Lesotho and Swaziland are under heavy pressure to surrender to communist pressures; now, therefore, be it

Resolved, by The American Legion in National Convention assembled in New Orleans, Louisiana, August 22, 23, 24, 1978, that we urge the leaders of the United States Government as the world symbol of life, liberty and the pursuit of happiness to speak out forthrightly in support of human rights for those enslaved inside the Captive Nations whose communist leaders deny the existence of God

and the spiritual dimension of life, and whose avowed purpose is to destabilize non-communist governments by destroying their purpose, values, traditions and social systems; and, be it further

Resolved, that we call upon the President and the Congress of the United States to exert the same political and economic pressures against communist governments on behalf of human rights as has been done against non-communist governments.

[From the China Post, July 25, 1978]

SUCCESSFUL CONCLUSION OF CAPTIVE NATIONS WEEK

The Captive Nations Week observance was successfully concluded last Saturday evening with a gigantic rally at the Taipei Municipal Stadium with the attendance of 50,000 people from all walks of life.

The successful observance was unprecedented in both the large number of outstanding anti-Communist leaders from many nations and the colorful programs smoothly carried out during the week. It was easily one of the best observances of the Captive Nations Week since its inauguration in 1959.

All the speakers, however, reminded the free people that unfortunately during that period of nearly two decades, except for the freedom seekers none of the captive people were freed from their enslavement and none of the captive nations had gained freedom and independence. Instead more free nations lost their freedom as a result of the ill-advised policy of detente which replaced containment and confrontation by negotiation. The loss of the three Indochinese states was a catastrophe of major proportions which tipped the balance of freedom and slavery in favor of the Communists. The Communist manipulation on the continent of Africa is another effort to put the free world in a disadvantageous position.

It is quite obvious that unless the free nations and people wake up to the dire peril of Communist advances and resist further encroachment, more free nations and people will be captured by the Communist slave masters and freedom will face even greater danger. If so the people will surely be mercilessly slaughtered as the Cambodians, South Vietnamese and Laotians were killed after their countries were overrun by the Communists.

President Jimmy Carter was urged not to recognize the inhuman Chinese Communist regime because "diplomatic recognition of such a regime would amount to an open statement that the Chinese Communists can continue their enslavement of the 800 million innocent individuals." The message to President Carter by the Captive Nations Week rally was accompanied by another message to the U.S. Congressional leaders urging them to see to it that "the U.S. will abide by her treaty obligations and defense commitments toward the ROC so as to safeguard the common security of the entire Asian-Pacific region."

The futility of detente has received ample proof by the Soviet anti-American attitude and moves. It shows that negotiations with the Communists will only lead to irreparable losses by the free world while the Communists remain adamant in maintaining their position.

The importance of the Republic of China has received reaffirmation by the visiting anti-Communist leaders from all the continents of the world. They are convinced that if the 800 million people on the mainland should be liberated to rejoin the democratic camp, then the Communist threat to the free world will be greatly eased. They agreed with Dr. Ku Cheng-kang's view that "to liberate the 800 million captive people on the mainland is the key to solving the China problem."

The Captive Nations Week observance this year has been a great success. But we must not be limited to its observance once a year. As U.S. Congressman John M. Ashbrook so rightly pointed out that "Our brothers and sisters behind the iron and bamboo curtains live in slavery 52 weeks a year, not just one week. We must be freedom fighters 52 weeks a year, until our brothers and sisters are free."

In the United States, the Captive Nations Week was also observed by rallies in New York and Washington. In Washington, the U.S. House granted a one-hour special order to Congressman Daniel Flood (D. Penn.) during which he cited the Captive Nations Week Resolution of 1959. Congressman William Broomfield (R-Michigan) and Robert Lagomarsino (R-Calif.) also spoke against Chinese Communist enslavement and inhuman rule. Congressman Edward Derwinski (R-Illinois) emphasized the importance of the Captive Nations Week to the World freedom movement and described the mainland of China as "the largest prison camp in the world."

[From the Hartford, Conn., Courant, July 16, 1978]

CRUELTY AND CAPTIVE NATIONS

Captive Nations Week, which begins today, has a special significance this year. It comes at the conclusion of the infamous trials in Russia of two men accused of anti-Soviet activities. Their only real transgression is disagreeing with Communist tyranny. People can be kept cruelly captive as well as nations.

President Carter has condemned the trials of Anatoly B. Shcharansky and Alexander Ginzburg as "an attack on every human being who lives in the world who believes in basic human freedom and is willing to speak for these freedoms or fight for them." It was one of his strongest human rights statements to date.

The President's proclamation for Captive Nations Week went beyond the oppression of the Soviet Union. He championed liberty everywhere in the world and urged Americans "through appropriate ceremonies and activities . . . to renew their dedication to the cause of all people who seek freedom, independence and basic human rights."

Prime examples of captive countries are Latvia, Estonia and Lithuania, which were annexed by Russia in 1940, their national identities quickly crushed. East Germany, Czechoslovakia and other Communist bloc countries in Eastern Europe are nominally independent but the presence of large numbers of Soviet troops keeps them captive, too.

Oppression of the kind denounced by Mr. Carter is not limited to the Communist orbit. The United Nations Commission on Human Rights has condemned the lack of liberty in such widely-separated countries as Idi Amin's Uganda, Chile, Iran and Israeli-occupied Arab lands.

Captivity occurs whenever mankind is entrapped by tyrannical government—a condition to be particularly deplored in this commemorative week.

[From the Kilmarnock (Va.) Rappahannock Record]

DR. HENRY LANE HULL ADDRESSES SEMINAR ON CAPTIVE NATIONS

This past week President Carter designated as National Captive Nations Week, following a custom begun in 1959 when Congress authorized the President to proclaim the third week in July each year as a period of recognition of the various peoples denied national self-determination by communist rule over them. As part of this year's observances the United States Senate and the House of Representatives each sponsored commemorative programs.

The following is the text of the remarks delivered by Dr. Henry Lane Hull, a resident of Wicomico Church, who is a professor at the University of Alabama in Huntsville, at the program held in the Rayburn House Office Building in Washington on July 20.

Today as we address ourselves to the topic of Human Rights and Captive Nations, it is interesting to begin by focusing our attention on some of the parallel developments over the twenty years in which Captive Nations Week has been commemorated. Analogously, then, we can see what developments have transpired over this period. First, however, at the risk of sublime oversimplification, let us state: the Captive Nations are there. They are no fantasy as was recently charged by Mr. Stephen S. Rosenfeld of the Washington Post in his editorial. While we have been making our annual observances the peoples who comprise the membership of the Captive Nations List have made little progress in liberating themselves from the militarily-imposed, totalitarian yoke of Marxian imperialism.

They may have a few more consumer goods to lessen slightly the toil and utter grayness of life under such a system, but by our Western standards their plight is no better; in truth it is worse. Their lives are more rigidly surveyed by computers and other means of technology provided in many cases by Western firms gleefully selling the ropes with which capitalism will be hanged, to paraphrase Lenin. Their system "protects" them more competently than twenty years ago with a burgeoning military capacity and a navy of frightening proportions in every sea on the face of the globe, by an "International" abroad staffed by Soviets, Cubans or other surrogates, undermining freedom wherever and whenever a crack in its breastplate may be found, and by orbiting devices designed to spread their dominion even to the stars. Also, let us not forget that their shoreline and borders are more proficiently clogged with merchanisms to isolate them from the message of freedom. Nevertheless, under this monolith, the peoples remain; they suffer; they endure.

On the other side, what has the West achieved over the last twenty years? Most dramatically, in 1960 President Kennedy, then a candidate, promised to put a man on the moon before the end of that decade. Nine years ago today that pledge was fulfilled. Civil rights and liberties comprising a plethora of social legislations have been brought forth in this country to preserve and advance liberty, the most all-encompassing of human rights. Yet in the end, despite this impressive record over these twenty years, not a single Captive Nation has been set free. On the contrary, the List of Captive Nations has grown significantly: Cuba, Cambodia, Laos, South Vietnam. Even such mild aberrations as Czechoslovakia-1968 have been brutally blotted out, and the hopes for national fulfillment in much of the world remain unredeemed.

Thus if we as a people, a nation, have not succeeded in producing concrete results in the Captive Nations, to what may we attribute our failure, and how may we improve in the period of renewed attention to human rights just now unfolding? For a start, we can listen. The Captive Nations speak to us today, sometimes in oblique tones with muted resonances, but more often in martial cadences for all the world to hear. The Poles who loudly respond to the prayers of their priests at Masses in churches always packed to the doors, the Georgians who demand that their native language be given precedence over Russian, a foreign tongue, in their homeland, the East Germans who still give their lives to get over, or under, or through,

the Wall—all give testimony to the survival of nationalism and freedom. In the last two weeks alone Alexander Ginzberg and Anatoly Sharansky have left us in awe over the majesty of their quest for freedom, dignity, and truth.

Each of the Captive Nations is telling us that Marxism has failed, and that nationalism has survived as the strongest collective statement of freedom, just as it did under Tsarist domination before and under Nazi rule during the Second World War. Thus let us listen to the captive peoples aware that their voices of protest need our support and encouragement.

Secondly, let us remember that legitimate nationalism has not only survived in the U.S.S.R., but remains our strongest weapon against Soviet totalitarianism. This concept is particularly difficult for Americans to understand. Our national evolution has been unique. We have not shared in the traditional process common to most European states. If we look at modern nations such as Italy, Germany, Belgium, we see that the peoples of those countries first recognized their common identity, be it of language, religion, culture, economy, and then set out to establish a state as the political expression of that national existence. In our case the Founding Fathers also recognized their commonness apart from the Mother Country, but the State that they created from 1776 until 1789 has expanded the definition of nationalism far beyond any consciousness they may have envisioned. Their legacy became the melting pot nation of freedom, the unique example of a governmental structure in which all people were bound together by the desire to be free. Hence the American foundation was able to draw from many sources to form a single nation: E PLURIBUS UNUM. We Americans tend to overlook the nature of national formations which were historically different from our own, and which unfolded differently from their origins. The words of John Dos Passos written nearly forty year ago are still accurate: "In spite of the ritual invocation of the names of the Founding Fathers round election time, Americans as a people notably lack a sense of history." (The Ground We Stand On, p. 3). Thus if our knowledge is wanting on the nature of our own national composition, how much weaker we must be about the national heritage of the various Captive Nations. The abiding nationalism within each of the Captive Nations forms the weakest link in the chain of totalitarianism.

Thirdly, if the Captive Nations speak to us, we in turn must not only listen, but speak back to them as well. It is important, however, that our speech be true. We cannot continue to apply a double standard towards different peoples denied human rights. The rights are the same for all mankind. The truths we hold concerning human rights have universal application. They are not true because we hold them, but rather we hold them because they are true. As we apply our basic beliefs in analyzing and defining human rights in one country we must be consistent and follow the same methodology for each other country. If we are concerned about oppression in one area of the world, we must be equally concerned everywhere. We cannot expect to be treated as a Great Power, to be respected as the Light of Freedom, if we condone political persecution, whether it be at the individual or the national level, in one state and overlook it in another.

Most particularly, our own national aspirations, not to mention those of the Captive Nations, are grossly violated by irresponsible and untrue pronouncements by uninformed Americans, whether from a President or an Ambassador. Mr. Ford's denial of Soviet domination of Eastern Europe in his debate with Mr. Carter during the 1976 presidential election and Mr. Young's remark last week about "political prisoners" in the United States offer two vivid examples of the dangers of treating the subject of the Captive peoples ignorantly or carelessly. The war of words and ideology between totalitarianism and freedom is waged each and every day; our public officials must learn to accept the responsibilities entrusted to them and speak accordingly. President Carter is to be commended for his genuine concern for human rights, and encouraged to probe more deeply, to sharpen his definition, and to see the historical roots of structures that block the path to freedom at the personal and at the national levels.

It is totally erroneous to surmise that "captive nationality" will wither away within the Marxian milenium. Marxist ideology finds this dilemma to be its greatest contradiction. If the state is to wither with the triumph of the dictatorship of the proletariat, and if man is to emerge in a post-national mode of existence, then why is nationalism today strongest in those peoples under communist domination? Imperialism may have triumphed militarily, but it has never triumphed spiritually. The consent of the governed has never been achieved in the Captive Nations. Regardless of whether we examine the Tsarist or the Soviet model, the imperial structure has been unpopular and foreign to the peoples over whom it rules, especially to the non-Russian minorities of the U.S.S.R. "Moscow III Rome," the bedrock ideology of Muscovite and Russian imperialism, appears today with its Marxian cover-up, but its psychology remains constant. If we can contain its spread, the national structures engulfed therein may have a chance for expression, but if we fall before it in its path towards world domination, how will future generations know the meaning of freedom? There will surely be no books to tell them about it and the course of twenty-five hundred years of intellectual growth from the Ancient Greek philosophers down to the present will have to be cut from the rock again. As the Captive Nations struggle to exist, to be free, to prevail under oppression, we should join with them in manifesting the courage to be free. We possess the nucleus of all liberty, namely, intellectual freedom. It allows us to examine any subject we choose with the blessings of freedom of inquiry, freedom of analysis, and freedom of conclusion. These gifts are the birthright of all mankind. Let us use them wisely and morally; if we do, someday all men and all nations may possess them as well.●

MEMBERS OF CONGRESS INTRODUCE HOUSE CONCURRENT RESOLUTION 720, TO PROTEST PLAN OF SOUTH AFRICAN GOVERNMENT TO DESTROY "CROSSROADS"

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

● Mr. BRADEMAS. Mr. Speaker, on September 20, 1978, I introduced, together with my distinguished colleagues, the gentleman from Illinois, the Honorable JOHN ANDERSON, chairman of the House Republican Conference; the gentleman from Maryland, the Honorable PARREN MITCHELL, chairman of the Congressional Black Caucus; the gentleman from New Jersey, the Honorable PETER RODINO, chairman of the Judiciary Committee; the gentleman from New Jersey, the Honorable ANDREW MAGUIRE, and the gentleman from New York, the Honorable THOMAS DOWNEY, cochairmen of the Ad Hoc Monitoring Group on South Africa; the gentleman from Michigan, the Honorable CHARLES DIGGS, chairman of the Subcommittee on Africa of the Committee on International Relations; and 72 other Members of the House of Representatives, House Concurrent Resolution 720, which expresses the concern of Congress for the safety of the residents of the black community in South Africa known as Crossroads.

The concurrent resolution urges the Government of South Africa to reconsider its plan to destroy Crossroads and calls upon that government to recognize the rights of the residents of Crossroads to continue to live there.

Mr. Speaker, Crossroads is a community of 20,000 black people who reside just outside Cape Town, South Africa. The South African Government has declared its intention to destroy the community in the very near future, despite the protests of the residents of the community, thousands of residents of Cape Town, church leaders and other concerned people inside and outside South Africa.

Mr. Speaker, Crossroads was established in 1975 for squatters who have lived, on the average, for over a decade in the Western Cape region. Some have lived in Cape Town for over 25 years. Most of the residents moved to Crossroads after having been evicted from other squatter camps in the area. The people live in 3,000 shanties which they have built.

It is estimated that over 84 percent of the men and 45 percent of the women of Crossroads are gainfuly employed and are members of the productive labor force in the Cape Town area. In fact, estimates are that only 6 percent of the heads of households in Crossroads are unemployed—a lower unemployment rate than prevails nationally in South Africa. The average household head in Crossroads has been living in Cape Town for 18 years and his wife has been in Cape Town for over 11 years.

Most of the wives live in Crossroads illegally. They chose to live in the squatter community in order to be with their husbands and families. Most of the men arrested during the recent South African police raids on Crossroads were charged with illegally harboring their wives.

It should be noted, Mr. Speaker, that the residents of Crossroads have begun to form a community of self-government. There is an elected committee which is responsible for overseeing the community. The community has built its own educational, recreational, and sanitary facilities.

Mr. Speaker, the residents of Crossroads have taken a barren and ugly area and have sought to turn it into a flourishing, thriving community. They have made a courageous attempt to convert something of baseness into something of beauty. The residents now ask nothing more than to be able to continue to live in the homes they have created.

Mr. Speaker, the situation in Cross-

roads and the impending confrontation between the Government and the squatters represent another example of the effects on human life of the South African policy of apartheid. In this connection, I note that the Government of South Africa is now preparing to change its leadership as Prime Minister Vorster plans to leave the stage of South African politics. In an editorial in the Christian Science Monitor of September 22, 1978, on "South Africa's future," that newspaper notes of Mr. Vorster that "his commitment to separation of the races has been total and recent years have seen a brutal suppression of black leaders and of opponents of the present system. Only recently the Government cruelly raided a black squatter camp outside Cape Town in preparation for demolishing it."

Mr. Speaker, the camp to which the Christian Science Monitor refers is, of course, Crossroads, and it would not appear that the upcoming change in leadership in South Africa will mean significant moderation in the policy of separate development.

Moreover, with the announced intention of the South African Government unilaterally to proceed with elections in Namibia (Southwest Africa), neither does the government of South Africa appear to have any plans to moderate its policies in favor of any sort of government by majority rule.

This, Mr. Speaker, is some of the context in which this resolution is introduced.

Its sponsors hope that the resolution will be expeditiously considered by the Committee on International Relations in order to make clear to the government of South Africa that Members of Congress disapprove of the inhumane and undemocratic policies which it has followed of which the plan to destroy Crossroads is an example.

We can recall, Mr. Speaker, that just about a year ago, following the death, while in detention, of Stephen Biko, the black leader, and after the arrest of hundreds of South Africans who were opposed to the policy of apartheid, our Government expanded the arms embargo against South Africa.

The demolition of Crossroads and the probable loss of life that will result from the violent removal of the people who live there mean the potential of another tragedy in South Africa.

I hope very much, Mr. Speaker, that our own Government will urge the government of South Africa to avoid the violence and disruption that would occur with the physical destruction of Crossroads.

Mr. Speaker, I insert at this point in the RECORD the text of an article from the Christian Science Monitor of September 15, 1978, entitled "Conscience vs. Apartheid: Cape Town Police Raid Squatters Camp."

[From The Christian Science Monitor, Sept. 15, 1978]

CONSCIENCE VS. APARTHEID: CAPE TOWN POLICE RAID SQUATTERS CAMP

(By Humphrey Tyler)

CAPE TOWN.—It looks as if there is to be no mercy for Crossroads, the populous squatter camp on the fringe of Cape Town which has become a burning crisis of conscience for thousands of South Africans.

Hundreds of armed police raided the camp twice on Sept. 14 starting soon after midnight. When residents massed into angry crowds, tear gas and dogs were used to disperse them. One man was slain, and a woman was wounded. Hundreds have been arrested for being in the area "illegally."

Eyewitnesses also saw police hitting people with sticks.

The current raids, which followed another raid just eight days ago, is considered a clear indication that the government is determined to destroy the camp, as it has announced it will, before the end of the year.

"Better in fact that they come with bulldozers and knock our houses down than that they kill us," said one Crossroads resident, referring to the man who was shot dead.

TWO VERSIONS

According to the police, the man was killed when a policeman was cornered by residents. But another version is that the man in fact was simply running up a sand dune to see what was happening when he was shot.

South Africa is bitterly divided over Crossroads. To blacks and many whites, it is the symbol of resistance to unjust racial laws that prevent black migrant workers from distant country areas bringing their wives and children to live with them when they get jobs in the city.

Instead of moving into the bleak, barrack-like "single quarters" in the black townships as they should by law, the men of Crossroads have built simple wood and iron shacks for themselves and their families on open land in a clearing in the bush. About 20,000 people live there at present.

Technically, the women and children are there illegally, and must be sent away.

So to the government, Crossroads is the symbol of open defiance of its apartheid decrees, and Cabinet ministers and officials have given notice repeatedly that the camp will be demolished.

However, as a concession, the government did agree to delay this until after the winter rains and the worst of the cold weather.

Now the people of Crossroads are perhaps the only community anywhere who pray for cold and rain, and who shiver with apprehension when the sun shines.

But the winter is ending now. The days are growing longer and warmer. Spring flowers are out on the lovely mountains in the distance round the camp. And the police have come as well.

There have been determined attempts to dissuade the government from destroying Crossroads. Petitions have been circulated and signed by more than 30,000 people in and around Cape Town. The churches have sent deputations to see officials. And the main white opposition party, the Progressive Federal Party, has launched appeal after appeal.

NO "GIVE" OFFERED

But the government has refused to bend.

And among those arrested Sept. 14 were two church ministers.

One of the remarkable things about Crossroads is that in spite of its humble shacks, its winding streets full of holes, and its lack of most basic amenities, there is a remarkable community spirit. Two schools are packed daily with bright-eyed children, and the affairs of the camp are controlled very effectively by two committees, one male, the other female.

There also is a community guard—a sort of civilian police force—which enforces rules the residents make.

The community also has its own system for warning residents when a police raid is imminent.

However, they were caught unaware when the police left, then returned within a few hours, catching many of the residents in their beds. Then the police moved quickly from shack to shack, checking documents, and making arrests.

Mr. Speaker, I insert an article from the Washington Post of September 23, 1978, entitled "A Shantytown With Pride."

[From the Washington Post, Sept. 23, 1978]

A SHANTYTOWN WITH PRIDE

(By Peter Grothe)

In "Cry, the Beloved Country," Alan Paton's classic novel about South Africa, the black clergyman says about the whites:

"I have one great fear in my heart, that one day when they are turned to loving, they will find we are turned to hating."

Those words were written 32 years ago. As events like the recent shooting by the South African riot police at Crossroads, a black squatters' community outside Capetown, would suggest, the South African government is trying its best to make a prophet out of Paton.

Crossroads is a shantytown of 3,000 shacks housing approximately 20,000 blacks. The government has promised to bulldoze Crossroads within the very near future. What is it about Crossroads that has so profoundly moved so many of us international visitors who have been there? It is a squatters' camp, which connotes poverty and squalor, but it is much more.

It is a model of community development and community pride. And most important, and perhaps most threatening to the regime, it is a model of what black-white relations could be in South Africa. The relations between the blacks and the white church workers and white social workers at Crossroads are, to recall Paton's words, "lovely beyond any singing of it."

The blacks built shacks of corrugated iron in the scrub and sand dunes near the Capetown airport. They painted the outsides, wallpapered the insides, laid down solid flooring. They planted vegetable gardens. They built two schools, two churches and an adult center where literacy classes are taught.

Crossroads, until the police started arresting people, was not a depressing place. It had a vitality and vibrancy about it. According to a study, 94 percent of the heads of households are employed, either in Capetown or in the economic infrastructure of Crossroads. In short, Crossroads is a going concern. It provides housing in a city desperately short of housing. It is a viable community, making an economic contribution. There has been virtually no crime. Why then has the government pledged to demolish it?

The answer is that the very existence of Crossroads strikes at the heart of the government policy of separate development. Under that policy, the 70 percent of the population that is black will live in the so-called "independent homelands," which will constitute 13 percent of the land. The men can live legally in the cities on a year-to-year contract basis, but the great majority of the families must remain in the homelands and can only see the men two to three weeks a year. Thus, most of the women and children are at Crossroads illegally, and the husbands are guilty, according to the government, "of harboring their wives and children."

"Yes, I am here illegally, so that our children and I can live with my husband," a mother of four told me three weeks ago. "I wonder whether our government ministers would be content to see their families two weeks a year. I am having to go outside the law in order to uphold my marriage vows."

A woman leader said, "We just had a meeting with 220 women, and we vowed to stay in our shacks with our children when the bulldozers come. We can't fight the police. We have no arms. But we are prepared to die here."

If the women do what they vowed to do, Crossroads could become a flashpoint, another Sharpville or Soweto, and it is doubtful that the impact could be contained within South Africa's borders. There have already been demonstrations and prayer meetings about Crossroads in northern Europe. The American government has made representations to Pretoria, and last week 17 members of the House of Representatives pleaded for the saving of Crossroads. Rep. Andrew Maguire (D-N.J.) said the demolition of Crossroads would be "a *cause celebre* in this country and throughout the world. It would have a significant impact on the current debate in the Congress and in the nation on American investments in South Africa."

After an intensive month of speaking with whites and blacks throughout South Africa, I was struck by the fact that the black and white communities seem to be ships that pass in the night. Very little real communication takes place. The Afrikaners maintain their strange mixture of piety and callousness and the blacks—especially the younger ones—seem to be becoming more bitter and militant. It is not inconceivable that Crossroads—or another Crossroads a year or two down the road—could spark an explosion.●

Mr. Speaker, at this point in the RECORD I insert the text of House Concurrent Resolution 720 together with the list of the cosponsors of the resolution:

H. CON. RES. 720

Whereas the community of squatters known as Crossroads was established in 1975 near Cape Town, Republic of South Africa, so that black workers could live with their families;

Whereas Crossroads is the only remaining community in the Cape Town area where black workers are able to live with their families;

Whereas the twenty thousand residents of Crossroads have built their own homes; have provided their own educational, recreational, and sanitary facilities; and have contributed to the economic success of the area through the legally recognized employment of 73 per centum of the men and 25 per centum of the women and the informal employment of an additional 11 per centum of the men and 20 per centum of the women;

Whereas on September 5, 1978, armed riot police forces of the Republic of South Africa broke into homes in Crossroads and arrested between four hundred and five hundred individuals for illegal residency and for the illegal harboring of family members;

Whereas on September 14, 1978, in a massive show of force using tear gas and police dogs, members of the armed riot police forces of the Republic of South charged into Crossroads beating many residents of the community, arresting over one hundred and fifty individuals including community leaders and persons of all races who supported the continued existence of the community, and causing the death of three individuals and the injury to many others including women, children, and religious leaders;

Whereas, to enforce the racist policies of apartheid and separate development, the Government of the Republic of South Africa has repeatedly stated that it will demolish Crossroads by the end of 1978, an action which would cause families to be divided and individuals to be separated from their homes and jobs; and

Whereas political and religious leaders from many nations have condemned the callous actions of the Government of the Republic of South Africa regarding Crossroads: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress is deeply concerned for the safety of the residents of the South African black community known as "Crossroads" and strongly urges the Government of the Republic of South Africa to reconsider its plan to destroy Crossroads and to recognize the right of the residents of Crossroads to continue to live in the community which they built.●

STATEMENT OF CHAIRMAN AL ULLMAN, COMMITTEE ON WAYS AND MEANS, WITH RESPECT TO THE RULE TO BE REQUESTED FOR CONSIDERATION OF H.R. 9281, RELATING TO THE DEDUCTIBILITY OF FOREIGN CONVENTION EXPENSES

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

● Mr. ULLMAN. Mr. Speaker, on September 27, 1978, the Committee on Ways and Means ordered favorably reported to the House H.R. 9281 with amendments. The bill would replace the restrictions imposed on the deduction of foreign convention expenses by the Tax Reform Act of 1976 with a new set of rules which would be easier to understand by taxpayers and easier to enforce by the Internal Revenue Service.

I take this occasion to advise my Democratic colleagues as to the nature of the rule that I will request for consideration of H.R. 9281 on the floor of the House. The Committee on Ways and Means specifically instructed me to request the Committee on Rules to grant a closed rule which would provide:

First. Committee amendments, which would not be subject to amendment;

Second. One hour of general debate, to be equally divided;

Third. Waiving all necessary points of order; and

Fourth. One motion to recommit with or without instructions.

I anticipate that H.R. 9281 will be officially reported to the House and the committee report filed in the very near future. It is our intention to request a hearing before the Committee on Rules as expeditiously as possible.●

TOXIC SUBSTANCES

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

● Mr. LAFALCE. Mr. Speaker, I am inserting in the RECORD the following two articles from the Buffalo Courier-Express in order to delineate further for my colleagues the terrible problems we face across the country from toxic waste neglect.

The articles follow:

BURY NOW, PAY LATER: LOVE CANAL TOPS LIST OF DISASTERS

(By Michael Desmond)

New York State has a prominent place among centers of industry.

But, it is also the location of at least five major environmental disasters involving hazardous chemical wastes. They are:

1. The Love Canal area in Niagara Falls, where a closed waste dump has begun to leak a variety of dangerous chemicals, at least one of which cause human cancer, forcing the evacuation of hundreds of families.

2. Extensive contamination of the Hudson River and its fish with the toxic PCB chemical family.

3. Contamination of drinking water wells on Long Island with chemicals, including the cancer-causing vinyl chloride.

4. Spills into Lake Ontario from a bankrupt chemical waste processing plant in Oswego and an expensive program to clean up waste left behind by the company.

5. Contamination of Lake Ontario and its fish by the dangerous pesticide Mirex, a contamination so bad that at one point the state banned catching fish from the lake.

LOVE CANAL DUMP

The Love Canal, a chemical waste dump in Niagara Falls, was closed in 1953. About two years ago, the dump began to leak dangerous chemicals, at least one of which is known to cause cancer in humans. The leaking chemicals are forcing the evacuation of hundreds of families. It isn't known if they will ever be allowed to return.

As a result of the Hudson River PCB spill and the Lake Ontario Mirex situation, New York is probably far ahead of other states in its program to systematically sample and look for chemical contamination.

Yet the state still is in the early stages of finding out how serious its toxic waste problem really is.

Three days ago the State Department of Environmental Conservation said it has asked regional officials to find out where the hazardous waste dump sites are throughout the state.

The list is expected to be completed by the end of next week.

HEAD START FOR STATE

So, despite the head start afforded New York State by its series of environmental disasters, the state obviously is far from gaining the upper hand on its chemical waste mess.

Charles Goddard is chief of the Hazardous Waste Management Section of the Division of Solid Waste Management of the New York State Department of Environmental Conservation. He recently declared:

"In New York State, industry generates approximately one million metric tons of hazardous waste per year. In more descriptive terms this quantity would cover a square mile to a depth of slightly greater than one foot."

New York must control this waste carefully, not only because the material can be dangerous but also because the state has 5.2 million persons who obtain their water supply from ground water.

The most extreme example of this is on Long Island. In the heavily populated counties of Nassau and Suffolk, all 2.5 million people drink water which comes from wells. To protect this area the federal Environmental Protection agency established special regulations went into effect Sept. 1.

SPECIAL LIMITS

Limits on dissolved solids were established because the underground water table is the principal source of drinking water; if the water table were contaminated, it would create a significant hazard to public health.

Long Island became aware of drinking water problems in 1972, when taste and odor problems were reported at wells serving the 20,000 workers of the Grumman Aerospeace Corp. in Bethpage in Nassau County.

It was not until March 1974, that an in-

dustrial waste dump at Grumman was found to contain the human cancer causing chemical vinyl chloride and chemical solvents.

A nearby Nassau County plant of the Hooker Chemicals & Plastics Corp. that was making polyvinyl chloride was also found to have both vinyl chloride and chemical solvents in its wells. In Oct. 1975, two Grumman wells were found to contain the known animal cancer-causing solvent trichloroethylene along with tetrachloroethylene.

VINYL CHLORIDE FOUND

Vinyl chloride was found in one well. Both were immediately shut down. Further testing of wells across Nassau County showed a wide variety of chemicals, including chloroform and carbon tetrachloride, two other chemicals that can cause cancer in animals.

The County Health Department has limited use of a number of wells. Much of the contaminants apparently come from household and commercial activity that entered the ground water after being dumped down drains. The state and county are trying to remove many products from use and to limit casual commercial dumping.

New York's reaction to this is complicated by its knowledge that more than 200 lakes in the Adirondack State Park are too acidic for fish, apparently because airborne chemicals are washed from the sky by rain.

The Empire State has vast recreational programs, especially in fishing. In two areas, chemical waste has crippled those programs:

1. Several years ago, it was learned that the General Electric Co. had dumped significant amounts of PCBs from two plants near Albany.

BURNING PERMIT FOR PCBS

Now, GE has the only permit in the country to burn PCB in a special incinerator for its own use. It is not licensed to handle PCB for any one else.

But, the PCBs have ruined fishing in most of the Hudson because levels are so high. Apparently, the actual bottom of the river will have to be dredged in various places, and the material carried away some place to be buried.

2. Mirex is a different situation. Canadian scientists found this strong pesticide, used against fire ants in the South, in Lake Ontario fish. It is closely related to the pesticide Kepone which contaminated Virginia's James River and part of Chesapeake Bay, shutting their fishing industry.

Hooker has long since stopped making or processing mirex in its Niagara Falls plant. But, it has sent 153 tons of it to the SCA Pollution Control Services Corp. plant in the Niagara County Town of Porter for storage.

FISHING BAN

Initially, New York banned the taking of fish from Lake Ontario. Later, the ban was modified to advise to eat only a limited amount of Lake Ontario fish. Pregnant women were advised by the state to eat none of it. The state also has a program for women from Lake Ontario areas to check mother's milk for Mirex. The chemical is thought to cause liver damage in humans and is known to cause birth defects in animals.

Exactly what can be done about the chemical isn't really known.

Ironically, new research indicates the fire ant might not be such a bad thing after all. It apparently is the mortal enemy of boll weevils, the curse of cotton growers because they damage cotton crops.

The priority concern in New York right now is Pollution Abatement Services, the bankrupt chemical waste processing plant on the shore of Lake Ontario in Oswego. The Coast Guard has spent $1.9 million to try cleaning up the chemical mess.

SEEKING INFORMATION

"Right now, we are negotiating to find out what is there. The company has no records," Goddard said of the 15,000 drums of material left behind by the company.

The state's proposed supplemental budget contain $750,000 to pay for testing to find out what is in the drums. Then, the state will apparently have to pick up the tab for treating the chemicals and disposing of the drums.

Chemical waste drums can be cleaned and reused. But, usually the most decrepit drums are used to ship the materials to waste treatment sites.

Goddard claims New York now has its waste problem pretty well under control, saying: "Most of it now goes to proper disposal sites."

TWO DISPOSAL OPERATIONS

The state benefits from having two of the best known companies in the disposal field within its boundaries. SGA in the Town of Porter and Newco Chemical Waste Systems Inc. in Niagara Falls.

In addition, the state cooperates with other states to keep track of wastes shipped from one state to another. Without the rules under the Federal Resource Conservation and Recovery Act (RCRA), there is no system to keep track of wastes shipped across state lines.

For example, a company seeking to dispose of wastes could give New Jersey a form showing the material was sent to New York. But, without cooperation among the states, there would be no guarantee it actually went.

Goddard is annoyed at federal EPA for its delays in getting out the RCRA rules.

"MORE DISCOURAGED"

"I'm getting more and more discouraged at what I'm seeing of their time schedule," he said.

EPA was supposed to have the rules last April, 18 months after the act became law. Now EPA, headed by Douglas M. Costle, administrator, says it will not issue the rules until January 1980, 39 months after enactment.

Part of Goddard's unhappiness involves his state's Industrial Hazardous Management Act.

REGULATIONS DELAYED

As a result of bargaining with Associated Industries of New York, an industrial lobbying group, the state law will not take effect until the EPA rules are issued.

Currently, New York has increasingly tighter controls on industrial waste, including transportation and design rules for hazardous waste treatment facilities and secure dumps.

Goddard noted, "In the last few years and especially in recent months, industry has become acutely conscious of the problem."

TEXAS COAST ATTEMPTING COMEBACK AFTER YEARS OF TOXIC WASTE NEGLECT

(By Michael Desmond)

Working inland from the Gulf of Mexico along the Houston Ship Channel in Texas is one of the nation's greatest industrial complexes, a complex traditionally not fettered by any government rules on pollution controls.

Then a tropical storm or a hurricane would sweep in from the Gulf every once in a while and flush the channel clean for a new season of dumping.

In 1971, the Federal Environmental Protection Agency (EPA) said the Ship Channel each day was receiving 55,000 pounds of oil and grease, 7,900 pounds of zinc, 5,000 pounds of cadmium, 1,600 pounds of lead, 1,000 pounds of cyanide, 400 pounds of phenol and 200 pounds of chromium.

The only surprising thing is that one day the chemicals didn't mix and turn the whole thing solid.

After the EPA estimate, it called for a limit on dumping in the channel. "The Texas Water Quality Board scoffed at this," noted Keith Ozmore, environmental assistant to Rep. Bob Eckhardt, D-Texas, to The Courier-Express.

He added, "The Water Quality Board did not do very much about reductions from industry along the channel."

NEW DEPARTMENT SET UP

At the same time, a couple of environmental messes have attracted some attention.

The Houston Ship Channel was one, although it has been partially cleaned up. Another involved French Ltd. of Houston Inc., a waste disposal firm, with a dump in Crosby, near Houston.

"The odor would gag a maggot," a neighbor told a Courier-Express reporter when the dump was operating.

In discussing what happened there, EPA put it rather succinctly: "Environmental damage—Contamination of ground and surface waters. Air pollution from occasional fires. Destruction of local vegetation."

WASTES GO IN RIVER

Over a period of about six years at French Ltd., 70 million gallons of waste were dumped into an unlined sand pit near a truck stop. Then, on June 15, 1973, a heavy flood flushed the disposal site, removing most wastes into the San Jacinto River. Later, a $5,000 fine by a state court was ordered paid to Harris County. The site was turned over to the state instead of paying a separate state fine.

This may all be in the past, at least according to J. C. Newell, director of permits for the Waste Waters Division of the Texas Water Resources Department.

Texas now requires permits for dumping solid industrial waste, monitors the waste and requires a manifest system to indicate where it goes. The dump site permits also include the requirements for closing a site.

He cited the Ship Channel as an example, "It's not suitable for swimming. But, considerable progress has been made."

Eckhardt agrees. The Deer Park Democrat must balance between the environment and a district of which he admits, "I really do have more of the chemical industry in my district than any other congressman."

SPONSORED CONTROL ACT

He has been a leader against dumping of chemicals in the Gulf of Mexico and was the key sponsor of the Toxic Substances Control Act (TOSCA), one of the greatest forward steps ever by government in attempting to get a control on the alchemists of industry.

TOSCA gives EPA the authority to regulate the production and use of all chemicals harmful to public health or to the environment. The law requires EPA to list all such chemicals now on the market, to limit the use of those found to be harmful and if necessary to ban their production.

This law also banned the manufacture of PCB.

The EPA has been slow in implementing TOSCA.

It also has been slow in drawing up the regulations to implement the Resources Conservation and Recovery Act (RCRA) signed into law in 1976.

EPA SLOW TO START

That law gave EPA 18 months—until April, 1977—to draft the implementing regulations. The deadline has passed. Now, EPA—headed by Administrator Douglas M. Costle, an appointee of President Jimmy Carter—has announced it will not have the regulations

ready until January, 1980. That would be 39 months after enactment of RCRA and 21 months after the deadline established by Congress.

Meanwhile, EPA admits it doesn't have a handle on the problem of hazardous chemical wastes which the regulations would help to control.

TOSCA was written after scientists made public that vinyl chloride, a common industrial chemical, caused a rare and invariably fatal form of liver cancer in chemical workers.

There had already been several previous cases of common industrial chemicals or materials turning out to be cancer causing. These include asbestos and a series of coal tar dies.

TOSCA COMPLEMENTS RCRA

Ironically, the federal government has just discovered the EPA offices in New York City are located in a building filled with asbestos used in construction.

TOSCA amounts to a companion to RCRA. TOSCA will control what chemicals are allowed into industry and which should be removed; RCRA will regulate the disposal of industrial chemicals.

"Of course the toxic substances act is relatively new and it has a very small budget," Eckhardt noted. He hinted why it may have a small budget. "Perhaps industry is willing to go along and they feel they could kill it by not putting up money."

One area in which Eckhardt feels he has been successful is ocean dumping of chemical wastes. It's a long standing practice to dump drums of waste in the Gulf of Mexico. Many contain sodium sludge and will explode if exposed to water. The idea is to put holes in the drum and then it is supposed to explode under water. But, some have blown up in fishermen's nets or, in one case, on the boat itself.

It was open season for chemistry. Said Eckhardt: "I started to complain a long time ago. People were shipping drums down the Ohio River to dump in the Gulf of Mexico."

There is an underwater coral reef not far from Houston in a dump area, the congressman noted.

"Lord knows what damage they may have done in terms of the marine life and beauty of the area," he said.●

INTRODUCTION OF H.R. 14159

(Mr. RANGEL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. RANGEL. Mr. Speaker, on behalf of the Task Force on Employee/Independent Contractor Issues appointed by Chairman AL ULLMAN of the Committee on Ways and Means, I am introducing H.R. 14159, a bill to help taxpayers involved in employment tax status controversies with the Internal Revenue Service.

During the last 2 months, the task force held a series of meetings on problems arising from IRS reclassifications of individuals, whom taxpayers generally had treated as independent contractors, as employees. During these meetings, the task force considered the difficulties such reclassifications cause for taxpayers, as well as the concern of the Internal Revenue Service about compliance with the tax laws. The task force concluded that the short time remaining for legislative action in this session would not be sufficient to resolve the many complex issues involved in this problem. Therefore, the task force is recommending that full consideration of this area be deferred until next year when work to develop a comprehensive solution should be undertaken.

However, the task force believes that before this session ends, the Congress should provide interim relief for taxpayers facing large employment tax assessments resulting from reclassifications. The bill which I am introducing is cosponsored by all members of the task force as an interim measure for consideration by the full Committee on Ways and Means. The report of the Task Force on Employee/Independent Contractor Issues, which includes a technical explanation of H.R. 14159, has been forwarded to Chairman ULLMAN.

I include the task force report in the RECORD at this point.

HOUSE OF REPRESENTATIVES,
Washington, D.C., September 25, 1978.

Hon. AL ULLMAN,
Chairman, Committee on Ways and Means, Washington, D.C.

DEAR MR. CHAIRMAN: After a series of meetings during the last two months, the members of the Task Force on Employees/Independent Contractors concluded that the short time remaining for legislative action in this session would not be sufficient to resolve the many complex issues involved in this problem. Therefore, we recommend that full consideration of this area be deferred until next year when the Committee should work on the problem in order to formulate a proposal for a comprehensive solution.

However, the members of the Task Force agree that the Congress should provide interim relief for taxpayers who are involved in employment tax status controversies with the Internal Revenue Service and who face large assessments as a result of the Service's proposed reclassifications of workers whom the taxpayers generally treated as independent contractors.

On September 14, 1978, the Task Force adopted an interim measure for consideration by the full Committee on Ways and Means, a bill, H.R. 14159, to provide relief from employment tax liability to taxpayers involved in such controversies unless the taxpayers had no reasonable basis for not treating the workers as employees. Eligible taxpayers are relieved of all liability for Federal income tax withholding, Social Security (FICA) and unemployment (FUTA) taxes with respect to their workers for any period ending before January 1, 1979, during which time the workers were not treated as employees.

The Task Force also believes it necessary to minimize taxpayers' uncertainty about the proper employment tax treatment for workers during the year in which we intend to develop a comprehensive solution. Therefore, the bill also relieves taxpayers prospectively through December 31, 1979, of potential liabilities based on employment status classifications, unless the taxpayers have no reasonable basis for not treating the workers as employees. It is contemplated that legislation developed and adopted in 1979 would apply to taxable years beginning on or after January 1, 1980.

The bill does not change in any way the liabilities of an individual whose employment status is at issue. However, this issue also should be addressed next year in the context of a comprehensive solution.

In addition, the bill prohibits the Department of the Treasury (including the Internal Revenue Services) from publishing any regulation or Revenue Ruling, with respect to individuals' employment tax status, after enactment of this proposed legislation and before January 1, 1980, or the effective date of any legislation clarifying the employment tax status of individuals, whichever is earlier.

A report, including a copy of the bill, H.R. 14159, which is cosponsored by all the members of the Task Force and an explanation of the bill, is enclosed.

Sincerely yours,

CHARLES RANGEL,
Task Force Chairman.

Enclosures.

H.R. 14159

A bill relating to the interim treatment of controversies involving whether certain individuals are employees for purposes of the employment taxes

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

SECTION 1. TERMINATION OF CERTAIN EMPLOYMENT TAX LIABILITY FOR PERIODS BEFORE 1980.

(a) IN GENERAL.—If, for purposes of the employment taxes, the taxpayer did not treat an individual as an employee for any period ending before January 1, 1980, then, for purposes of applying such taxes for such period with respect to the taxpayer, the individual shall be deemed not to be an employee unless the taxpayer had no reasonable basis for not treating such individual as an employee.

(b) STATUTORY STANDARDS PROVIDING ONE METHOD OF SATISFYING THE REQUIREMENTS OF SUBSECTION (a).—For purposes of subsection (a), a taxpayer shall in any case be treated as having a reasonable basis for not treating an individual as an employee for a period if—

(1) all Federal tax returns (including information returns) required to be filed by the taxpayer with respect to such individual for such period were filed on a basis consistent with the taxpayer's treatment of such individual as not being an employee, and

(2) the taxpayer's treatment of such individual for such period was in reasonable reliance on any of the following:

(A) judicial precedent, published rulings, technical advice with respect to the taxpayer, or a letter ruling to the taxpayer;

(B) a past Internal Revenue Service audit of the taxpayer in which there was no assessment attributable to the treatment (for employment tax purposes) of the individuals holding positions substantially similar to the position held by this individual; or

(C) long-standing recognized practice of a significant segment of the industry in which such individual was engaged.

(c) CONSISTENCY REQUIRED IN THE CASE OF 1979 TAX TREATMENT.—Subsection (a) shall not apply with respect to the treatment of any individual for employment tax purposes for any period ending after December 31, 1978, and before January 1, 1980, if the taxpayer (or a predecessor) has treated any individual holding a substantially similar position as an employee for purposes of the employment taxes for any period beginning after December 31, 1977.

(d) REFUND OR CREDIT OF OVERPAYMENT.—If refund or credit of any overpayment of an employment tax resulting from the application of subsection (a) is not barred on the date of the enactment of this Act by any law or rule of law, the period for filing a claim for refund or credit of such overpayment (to the extent attributable to the application of subsection (a) shall not ex-

pire before the date 1 year after the date of the enactment of this Act.

SEC. 2. PROHIBITION AGAINST REGULATIONS AND RULINGS ON EMPLOYMENT STATUS.

No regulation or Revenue Ruling shall be published on or after the date of the enactment of this Act and before January 1, 1980 (or, if earlier, the effective date of any law hereafter enacted clarifying the employment status of individuals for purposes of the employment taxes) by the Department of the Treasury (including the Internal Revenue Service) with respect to the employment status of any individual for purposes of the employment taxes.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) EMPLOYMENT TAX.—The term "employment tax" means any tax imposed by subtitle C of the Internal Revenue Code of 1954.

(2) EMPLOYMENT STATUS.—The term "employment status" means the status of an individual, under the usual common law rules applicable in determining the employer-employee relationship, as an employee or as an independent contractor (or other individual who is not an employee).

INTERIM REPORT OF THE WAYS AND MEANS TASK FORCE ON EMPLOYEES/INDEPENDENT CONTRACTORS

A. BACKGROUND

Present law

With certain limited statutory exceptions, the classification of particular workers or classes of workers as employees or independent contractors (self-employed persons) for purposes of Federal employment taxes must be made under common law rules. A determination of an employer-employee relationship is important because a certain amount of wages paid to employees generally is subject to social security taxes imposed on the employer and employee under the Federal Insurance Contributions Act (FICA) and unemployment taxes imposed on the employer under the Federal Unemployment Tax Act (FUTA). On the other hand, payments to independent contractors are subject to the tax on self-employment income (SECA). In addition, Federal income tax must be withheld from compensation paid to employees, but payments to independent contractors are not subject to withholding.

For calendar year 1978, both employers and employees must pay FICA taxes amounting to 6.05 percent each on the first $17,700 of an employee's wages, that is, a maximum of $1,070.80 each. The FUTA tax is levied on employers at a rate of 3.4 percent currently on wages up to $6,000 paid to each employee for a maximum of $204 per employee. However, a 2.7 percent credit against Federal tax liability is provided to employers who pay State taxes under an approved State unemployment compensation program. If a State has an approved unemployment compensation program, the effective FUTA tax rate is 0.7 percent.

Individuals with annual net self-employment earnings in excess of $400 must pay a tax of 8.10 percent on self-employment earnings up to $17,700, that is, a maximum of $1,433.70 for calendar year 1978.

Generally, the basis for determining whether a particular worker is an employee or independent contractor is the common law test of control. Under Treasury regulations, if a person engaging the services of another has "the right to control and direct the individual who performs the services, not only as to the result to be accomplished by the work, but also as to the details and means by which the result is accomplished," the relationship of employer and employee is deemed to exist. On the other hand, the absence of a right to control generally indicates that the person performing the services is an independent contractor. In interpreting the Treasury regulations, twenty factors are used in determining whether workers are employees or independent contractors.

Enforcement of law

In the late 1960s, the IRS increased its enforcement of the employment tax laws. Previously, employment tax audits had been superficial or sporadic and only occasionally entailed examination of employment status issues. Many controversies developed between taxpayers and the Service about whether individuals treated as independent contractors should be reclassified as employees. If the IRS prevailed on a reclassification, the taxpayer became liable for employment taxes—withholding, social security, unemployment—which neither had been withheld nor paid to the Treasury.

In some cases, the assessments were for liabilities already paid directly by workers, who paid their own income and self-employment taxes. The IRS has agreed to allow taxpayers certain income tax and FICA-SECA offsets, if they provide the Service with their workers' names and social security numbers. However, many taxpayers lack such information about their workers and cannot benefit from this procedure.

Many taxpayers have complained that proposed reclassifications involve a change of position by the Internal Revenue Service in interpreting how the common law rules apply to their workers or industry. Some taxpayers have prior private letter rulings or technical advice memoranda from the Service in which the Service said that the workers were independent contractors. Others have pointed to prior audits in which their treatment of workers as independent contractors was not challenged. Before the 1970s, however, most audits did not focus on employment tax status determinations; so most taxpayers relied on their own judgment, industry practice, or, in a few industries, published revenue rulings.

During the last few years, the IRS published pairs or groups of revenue rulings which contain one or more restatements of earlier rulings determining workers to be independent contractors and other rulings determining that workers in the same general industry, but under somewhat different circumstances, are employees. Taxpayers also have pointed to these so-called "bracketed rulings" as evidence of changes in IRS positions.

Recent legislative action

Tax Reform Act of 1976

During the 1976 Tax Reform Act conference, House and Senate conferees included in the Statement of Managers a request that the IRS "not apply any changed position or any newly stated position in this general subject area to past, as opposed to future taxable years" until the completion of a study by the staff of the Joint Committee on Taxation on the problems of classifying persons as employees or independent contractors.

Senate action

On August 23, 1978, the Senate attached an amendment offered by Senator Dole to H.R. 7320. The amendment would prevent the Internal Revenue Service from applying any changed position or any newly stated position, which is inconsistent with a general audit position, a regulation, or a ruling in effect on January 1, 1976, in determining whether an individual is an employee for purposes of FICA taxes, FUTA taxes, and Federal income tax withholding.

In addition, the Internal Revenue Service would not be allowed to reclassify as employees any individuals whom a taxpayer, in good faith, consistently treated as independent contractors for employment tax purposes. If all Federal tax returns required to be filed by a taxpayer were filed on a basis consistent with his or her treatment of individuals as independent contractors, the taxpayer would be deemed to have acted in good faith provided that he or she treated the individuals as independent contractors in reasonable reliance on any of the following:

(1) prior Internal Revenue Service audit practice with respect to the taxpayer; (2) published rulings or judicial precedent; (3) recognized practice in the industry of which the taxpayer is a member; or (4) long-standing treatment by the taxpayer of such individuals as independent contractors for employment tax purposes. However, a taxpayer will not be considered to have acted in good faith if his or her treatment of individuals as independent contractors would, on the basis of the pertinent facts and circumstances, constitute negligence, intentional disregard of rules and regulations, or fraud within the meaning of section 6653 of the Code.

The provisions of the amendment would apply with respect to the determination of the employment status of individuals for all calendar quarters for which, as of the date of enactment, assessment of an underpayment of employment tax, or refund of an overpayment of employment tax, is not barred by the operation of any law or rule of law. They would remain in effect until the end of the calendar year in which Congress enacts terminating legislation.

B. EXPLANATION OF H.R. 11459

The Task Force bill, H.R. 14159, provides an interim solution for controversies between the Internal Revenue Service and taxpayers involving whether certain individuals are employees under interpretations of the common law by—

(1) terminating certain employment tax liabilities for periods ending before January 1, 1979,

(2) allowing taxpayers, who had a reasonable basis for not treating workers as employees in the past, to continue such treatment for periods ending before January 1, 1980, while the Committee works on a comprehensive solution, without incurring employment tax liabilities, and

(3) Prohibiting the issuance of Treasury regulations and Revenue Rulings on employment status before 1980.

1. Termination of Certain Pre-1979 Employment Tax Liability:

The Task Force bill provides relief from employment tax liability to certain taxpayers involved in employment tax status controversies with the Internal Revenue Service as a result of the Service's proposed reclassifications of workers, whom taxpayers have considered as having independent contractor status or some other status (e.g., customer), as employees. For purposes of determining such taxpayers' employment tax liabilities, the bill provides that workers shall be deemed not to be the taxpayers' employees, unless the taxpayers had no reasonable basis for not treating the workers as employees.

Liabilities terminated under the bill are those for Federal income tax withholding, Social Security (FICA), and unemployment (FUTA) taxes for any period ending before January 1, 1979, during which the taxpayers did not treat the workers as employees.

Generally, the bill grants relief if a tax-

payer had any reasonable basis for treating workers as other than employees. The Task Force intends that this reasonable basis requirement be construed liberally in favor of taxpayers.

In addition, the bill establishes several alternative statutory standards which constitute "safe havens," and thus, when met, qualify a taxpayer for the termination of employment tax liability. The bill provides that a taxpayer shall be treated as having had a reasonable basis for not treating an individual as an employee for a period if (1) the taxpayer filed all required Federal tax returns (including information returns) with respect to such individual on a basis consistent with the treatment of the individual as other than an employee, and (2) the taxpayer can demonstrate that he fulfilled one or more of three statutory "reasonable basis" tests.

The first statutory reasonable basis standard is met if a taxpayer's treatment of an individual as not being an employee for a period was due to reasonable reliance on judicial precedent, published rulings, technical advice with respect to the taxpayer, or a ruling, for example, a "letter ruling," or a "determination letter," issued to the taxpayer. Under this test, the precedent or published ruling upon which a taxpayer reasonably relied does not have to relate, necessarily, to the particular industry or business in which the taxpayer is engaged.

Under the second statutory "safe haven" standard, a taxpayer shall be treated as satisfying the reasonable basis test for the treatment of an individual for employment tax purposes, by showing reasonable reliance on a past Internal Revenue Service audit of the taxpayer. Such an audit need not have been for employment tax purposes. However, a prior audit would qualify as a "safe haven" basis for a taxpayer's reliance only if the audit entailed no assessment attributable to the taxpayer's treatment (for employment tax purposes) of individuals holding positions substantially similar to the position held by the individual whose treatment is at issue. However, a taxpayer does not meet this second test if in the conduct of a prior audit an assessment attributable to the taxpayer's treatment of an individual was offset by other claims asserted by the taxpayer.

The third statutory method for a taxpayer to establish a reasonable basis for the treatment of an individual as other than an employee is to show that such treatment coincided with a long-standing, recognized practice of a significant segment of the industry in which the individual whose status is at issue was engaged. This test does not require that a practice be uniform throughout an entire industry.

The three statutory methods for fulfilling the requirement that a taxpayer had a reasonable basis for the treatment of an individual as other than an employee are not the exclusive ways of meeting the bill's reasonable basis requirement. A taxpayer who can demonstrate a reasonable basis for the treatment of an individual in some other manner also is entitled to termination of employment tax liabilities.

Termination of employment tax liabilities under the bill is made available to taxpayers who are under audit by the Internal Revenue Service or who are involved in administrative or judicial processes with respect to assessments based on employment status reclassifications. Relief also is extended to any claim for a refund or for a credit of any overpayment of an employment tax resulting from the proposal's termination of liability, provided the claim is not barred on the bill's date of enactment by any law or rule of law.

Taxpayers who have entered into final closing agreements under section 7121 or compromises under section 7122 with respect to employment status controversies are ineligible for relief under the bill, unless they have not completely paid their liability. Thus, for example, a taxpayer who has agreed or compromised a liability for an amount which is to be paid in installments, but who still has one or more installments to pay, is relieved of liability for such outstanding installments. Taxpayers who settled employment status controversies administratively with the Internal Revenue Service or who unsuccessfully litigated such cases are eligible for relief, provided their claims are not barred by the statute of limitations or by the application of the doctrine of *res judicata*. However, an unsuccessful litigant in an employment status case who fulfills the bill's requirements, can avoid collection of any unpaid employment tax liabilities, regardless of the doctrine of *res judicata*.

2. Employment Tax Liability for 1979:

Until the Congress enacts legislation clarifying the employment tax status of individuals, taxpayers will remain uncertain about the proper treatment of many workers under common law interpretations. Therefore, the bill allows taxpayers to continue to treat workers as other than employees through 1979, unless the taxpayers have no reasonable basis for not treating the workers as employees. Thus, the bill prospectively relieves taxpayers of liabilities which they might incur next year. The Task Force believes that work on formulating comprehensive legislation on the employment tax status controversy should be undertaken during this period.

Taxpayers' eligibility for the prospective relief from 1979 liabilities shall be determined under the same tests and the same liberal interpretations of the tests which determine eligibility for pre-1979 relief.

It is expected that legislation developed during 1979 to clarify the employment tax status of individuals would become effective January 1, 1980, or the date of enactment of clarifying legislation, whichever is earlier, and would replace present law for all periods thereafter.

3. Anti-abuse Provision:

To prevent taxpayers from changing the way they treat workers for employment tax purposes solely to take advantage of the relief provisions, the bill denies relief in such circumstances. The bill prohibits the termination of any potential employment tax liability with respect to the treatment of any individual for employment tax purposes for any period ending after December 31, 1978, and before January 1, 1980, if the taxpayer (or a predecessor) has treated an individual holding a substantially similar position as an employee for any period beginning after December 31, 1977. The application of this provision to taxpayers and their predecessors is intended to prevent evasion of this rule, for example, by reincorporations.

4. Refunds or Credits of Overpayments:

The bill allows taxpayers at least a one-year period for filing claims for refunds or credits attributable to the relief provided in the bill. If a taxpayer's claim for refund or credit is not barred on the bill's date of enactment by any law or rule of law, the taxpayer will have at least until the date one year after the bill's date of enactment for filing a claim. If the taxpayer is entitled to a longer period under the general statute of limitations for filing such claims, the longer period will apply.

Generally, taxpayers should file refund or credit claims asserting grounds for relief under the bill with the Internal Revenue Service. If the taxpayer already has an open claim filed with the Service, or is involved in litigation over such a claim with the Department of Justice, the original claim shall qualify as a claim for relief under this bill, provided the taxpayer notifies either the Service or the Department of Justice, whichever is appropriate, within the proper time period, of the taxpayer's basis for relying on the bill for relief.

5. Penalties and Interest:

If a taxpayer is relieved of liability for any tax under this bill, any liability for interest or penalties attributable to such tax liability is forgiven automatically. This relief shall apply to all such interest and penalties for both pre-1979 and 1979 liabilities, whether charged directly against the taxpayer or personally against the taxpayer's officers.

The bill does not change in any way the liabilities of an individual whose employment status is at issue.

6. Prohibition Against IRS Revenue Rulings and Regulations:

In addition, the bill prohibits the Department of the Treasury (including the Internal Revenue Service) from publishing any regulation or Revenue Ruling classifying individuals for purposes of employment taxes under interpretations of the common law. This prohibition becomes effective on the date of enactment of the bill and would remain in effect until January 1, 1980, or, if earlier, the effective date of any law subsequently enacted to clarify the employment status of individuals for purposes of employment taxes.

The prohibition applies to Revenue Rulings having precedential status but does not apply to the issuance of private letter rulings requested by taxpayers. Moreover, the prohibition does not extend to regulations or Revenue Rulings based on statutory provisions dealing with the employment tax status of particular workers, such as certain fishermen, which do not involve the application of common law standards; nor does the prohibition apply to the determination of matters such as effective dates, which do not entail issues of common law employment status for purposes of employment taxes.

C. TASK FORCE VOTE

The Task Force agreed to this bill and recommended consideration of it by the full Committee on Ways and Means by voice vote. The bill, H.R. 14159, is co-sponsored by all members of the Task Force.

LEAVE OF ABSENCE

Mr. YOUNG of Alaska (at the request of Mr. RHODES) for September 27, 28, and 29 on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. GARY A. MYERS) to revise and extend his remarks and include extraneous materials:)

Mr. GOLDWATER, for 5 minutes, today.

(The following Members (at the request of Mr. SHARP) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO for 5 minutes today.

Mr. GONZALEZ for 5 minutes today.

Mr. FLOOD for 5 minutes today.

Mr. BRADEMAS for 5 minutes today.

Mr. ULLMAN for 5 minutes today.

Mr. LAFALCE for 5 minutes today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. RANGEL, and to include extraneous material notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $903.

Mr. WALSH, with respect to section 158, of H.R. 11733, immediately after the debate on the Gary A. Myers amendment to delete line 23 on page 150, through line 10 on page 151.

Mr. HANLEY, with respect to section 158, of H.R. 11733, immediately after the debate on the Gary A. Myers amendment to delete line 23 on page 150, through line 10 on page 151.

Mr. GREEN, immediately before the vote on the Fowler amendment to H.R. 11733 in the Committee of the Whole today.

(The following members (at the request of Mr. GARY A. MYERS), and to include extraneous matter:)

Mr. EMERY.
Mr. LENT.
Mrs. HECKLER.
Mr. GRASSLEY in two instances.
Mr. RUDD.
Mr. WHALEN.
Mr. JOHN T. MYERS.
Mr. WYDLER.
Mr. MICHEL.
Mr. CRANE.
Mr. SNYDER.
Mr. DORNAN.
Mr. STEERS.
Mr. BROWN of Michigan.
Mr. KEMP in three instances.
Mr. MARTIN.
Mr. MCCLORY.
Mr. GARY A. MYERS.
Mr. DERWINSKI.
Mr. BROWN of Ohio in four instances.
Mr. KELLY.

(The following Members (at the request of Mr. SHARP) and to include extraneous material:)

Mr. ANDERSON of California in three instances.
Mr. GONZALEZ in three instances.
Mr. FARY.
Mr. DOWNEY.
Mr. PEPPER in two instances.
Mr. MATHIS.
Mr. GAYDOS in six instances.
Mr. BENJAMIN.
Mr. HAMILTON.
Mr. HARRIS.
Mr. MCDONALD.
Mr. APPLEGATE.
Mr. FASCELL in five instances.
Ms. MIKULSKI.
Mr. SOLARZ in two instances.
Mr. VANIK in two instances.
Mr. D'AMOURS.
Mr. RYAN.
Mr. SIKES.
Mr. GINN.
Mr. CARNEY.
Mr. LAFALCE in two instances.
Mr. LEHMAN.
Mr. SANTINI.
Mr. ROGERS.
Mr. MINETA.
Mr. FISHER.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1398. An act for the relief of Jin Suk Park; to the Committee on the Judiciary;

S. 1778. An act for the relief of Luzbella Y. Imasa, doctor of medicine; to the Committee on the Judiciary;

S. 2315. An act for the relief of Savita Nandini; to the Committee on the Judiciary;

S. 2451. An act for the relief of Tso Tung Tang; to the Committee on the Judiciary;

S. 2670. An act for the relief of Janet Abraham, also known as Janet Susan Abraham; to the Commitee on the Judiciary;

S. 2834. An act for the relief of Kyung Hee Kim, Dong Choon Kim, and Dong Ho Kim; to the Commitee on the Judiciary;

S. 2841. An act for the relief of Yang Soo Ko; to the Committee on the Judicary;

S. 3106. An act for the relief of Debbie Agatta Hepburn; to the Committee on the Judiciary; and

S. 3169. An act for the relief of Rocio Edmondson; to the Committee on the Judiciary.

BILLS AND JOINT RESOLUTIONS PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on September 26, 1978 present to the President, for his approval, bills and joint resolutions of the House of the following titles:

H.R. 3702. To amend title 10, United States Code, to make certain changes in the Retired Serviceman's Family Protection Plan and the Survivor Benefit Plan as authorized by chapter 73 of that title, and for other purposes;

H.R. 8449. For the relief of Lourdes Hudson;

H.R. 8812. To name a certain Federal building in Jonesboro, Ark., the "E. C. 'Took' Gathings Building";

H.R. 9071. To confer jurisdiction upon the U.S. Court of Claims to hear, determine, and render judgment upon the claim of John T. Knight;

H.R. 11291. To authorize appropriations for the Federal Fire Prevention and Control Act of 1974, and to change the name of the National Fire Prevention and Control Administration to the United States Fire Administration;

H.R. 11567. To amend the Securities Exchange Act of 1934 to authorize appropriations for the Securities and Exchange Commission for fiscal years 1979 and 1980, and for other purposes;

H.R. 12222. To amend the Foreign Assistance Act of 1961 to authorize development and economic assistance programs for fiscal year 1979, to make certain changes in the authorities of that Act and the Agricultural Trade Development and Assistance Act of 1954, to improve the coordination and administration of U.S. development-related policies and programs, and for other purposes;

H.R. 12443. To amend section 201(a), 202 (c), and 203(a) of the Immigration and Nationality Act, as amended, and to establish a Select Commission on Immigration and Refugee Policy;

H.R. 12508. To amend the Immigration and Nationality Act to facilitate the admission into the United States of more than two adopted children, and to provide for the expeditious naturalization of adopted children;

H.R. 12598. To authorize appropriations for fiscal year 1979 for the Department of State, the International Communication Agency, and the Board for International Broadcasting, to make changes in the laws relating to those agencies, to make changes in the Foreign Service personnel system, to establish policies and responsibilities with respect to science, technology, and American diplomacy, and for other purposes;

H.R. 12841. To prohibit the issuance of regulations on the taxation of fringe benefits, and for other purposes;

H.R. 12936. Making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1979, and for other purposes;

H.J. Res. 1007. Authorizing and requesting the President to proclaim the 7-day period beginning on May 4, 1979, as "Asian/Pacific American Heritage Week"; and

H.J. Res. 1088. Providing financial assistance for the city of New York.

SENATE ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to enrolled bills and a joint resolution of the Senate of the following title:

S. 286. An act to repeal certain requirements relating to notice of animal and plant quarantines, and for other purposes;

S. 409. An act to designate the Meat Animal Research Center located near Clay Center, Neb., as the "Roman L. Hruska Meat Animal Research Center";

S. 425. An act to authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Lt. Gen. Ira C. Eaker, U.S. Air Force (retired);

S. 1267. An act to amend section 3303a and 1503 of title 44, United States Code, to require mandatory application of the General Records Schedules to all Federal agencies and to resolve conflicts between authorizations for disposal and to provide for the disposal of Federal Register documents;

S. 2946. An act to authorize the Secretary of Agriculture to relinquish exclusive legislative jurisdiction over lands or interests under his control;

S. 2951. An act to authorize the Secretary of Agriculture to accept and administer on behalf of the United States gifts or devises of real and personal property for the benefit of the Department of Agriculture or any of its programs;

S. 3036. An act to amend the Coinage Act of 1965 to change the size, weight, and design of the one-dollar coin, and for other purposes;

Examined and found truly enrolled Sept. 27, 1978.

S. 3045. An act to amend the Farm Credit Act of 1971 to extend the term for production credit association loans to producers or harvesters of aquatic products;

S. 3274. An act to designate the U.S. Department of Agriculture's Bee Research Laboratory in Tucson, Ariz., as the Carl Hayden Bee Research Center";

S. 3342. An act to name a lake which has been completed as part of the Papillion Creek basin project as the Standing Bear Lake"; and

S.J. Res. 154. Joint resolution authorizing the President to invite the States of the Union and foreign nations to participate in the International Petroleum Exposition to be held at Tulsa, Okla., from September 10, 1979, through September 13, 1979.

ADJOURNMENT

Mr. SHARP. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 6 minutes p.m.), the House adjourned until tomorrow, Thursday, September 28, 1978, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS,

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

5041. A letter from the Secretary of Health, Education, and Welfare, transmitting a report of a violation of the Antiefficiency Act, pursuant to section 3679(i)(2) of the Revised Statutes, as amended; to the Committee on Appropriations.

5042. A letter from the Mayor of the District of Columbia, transmitting his response to the Comptroller General's report entitled "District of Columbia's Rent Establishment Policies and Procedures Need Improvement," pursuant to section 736(b)(3) of Public Law 93-198; to the Committee on the District of Columbia.

5043. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Ambassadors-designate Goodwin C. Cooke and Donald K. Petterson, and by members of their families, pursuant to section 6 of Public Law 93-2126; to the Committee on International Relations.

5044. A letter from the Administration, Agency for International Development, Department of State, transmitting a determination waiving the prohibition against use of Southern African Special Requirements Funds in Zambia, pursuant to section 533 (c)(2) of the Foreign Assistance Act of 1961, as amended (91 Stat. 618); to the Committee on International Relations.

5045. A letter from the Secretary of Commerce, transmitting the annual report of the U.S. Travel Service for calendar year 1977, pursuant to section 5 of the International Travel Act of 1961, as amended; to the Committee on Interstate and Foreign Commerce.

5046. A letter from the General Counsel, Department of Energy, transmitting notice of a meeting relating to the International Energy Program to be held on September 28 and 29, 1978, in Pittsburgh, Pa.; to the Committee on Interstate and Foreign Commerce.

5047. A letter from the Director, Bureau of the Census, Department of Commerce, transmitting the final results of the 1976 survey of registration and voting, pursuant to section 207(c) of the Voting Rights Act of 1965, as amended (89 Stat. 404); to the Committee on the Judiciary.

5048. A letter from the president, Jewish War Veterans U.S.A. National Memorial, transmitting a report on the organization's audit for the year ended March 31, 1978, pursuant to section 3 of Public Law 88-504; to the Committee on the Judiciary.

5049. A letter from the Comptroller General of the United States, transmitting a report on St. Elizabeths Hospital (HRD-78-31, September 27, 1978); jointly, to the Committees on Government Operations, and the District of Columbia.

5050. A letter from the Comptroller General of the United States, transmitting a report on efforts to recover U.S. Government costs in foreign military sales (ID-77-56, September 27, 1978); jointly, to the Committees on Government Operations, and International Relations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 13553. A bill to further amend the Mineral Leasing Act of 1920 (30 U.S.C. 201(a)), to authorize the Secretary of the Interior to exchange Federal coal leases and to encourage recovery of certain coal deposits, and for other purposes; with amendment (Rept. No. 95-1635). Referred to the Committee of the Whole House on the State of the Union.

Mr. DANIELSON: Committee on the Judiciary. H.R. 13692. A bill granting the consent of Congress to the Historic Chattahoochee Compact between the States of Alabama and Georgia. (Rept. No. 95-1636). Referred to the House Calendar.

Mr. DANIELSON: Committee on the Judiciary. H.R. 11580. A bill to amend title 18 of the United States Code to make lawful certain activities concerning certain foreign and domestic legal lotteries; with amendment (Rept. No. 95-1637). Referred to the Committee of the Whole House on the State of the Union.

Mr. DANIELSON: Committee on the Judiciary. H.R. 11035. A bill to incorporate the United States Capitol Historical Society; with amendment (Rept. No. 95-1638). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. COCHRAN of Mississippi:

H.R. 14179. A bill to establish maximum hours of service for air-traffic-control-tower operators; to the Committee on Public Works and Transportation.

By Mr. LAGOMARSINO:

H.R. 14180. A bill to amend the Surface Mining Control and Reclamation Act of 1977 with respect to designation of lands unsuitable for noncoal mining; to the Committee on Interior and Insular Affairs.

By Mr. McDADE:

H.R. 14181. A bill to amend title XVIII of the Social Security Act with respect to reimbursement of physicians' services in teaching hospitals; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. McDONALD:

H.R. 14182. A bill to amend section 154 of title 23, United States Code, to increase the national maximum speed limit to 65 miles per hour; to the Committee on Public Works and Transportation.

By Mr. NOWAK:

H.R. 14183. A bill to amend the Internal Revenue Code of 1954 to allow a deduction of the portion of certain charges which is allocable to the construction and maintenance of waste treatment works; to the Committee on Ways and Means.

By Mr. PERKINS:

H.R. 14184. A bill to amend the Social Security Act to provide for inclusion of the services of licensed practical nurses under medicare and medicaid; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. TRIBLE (for himself and Mr. SARASIN):

H.R. 14185. A bill to amend the Internal Revenue Code of 1954 to allow individuals to compute the amount of the deduction for payments into retirement savings on the basis of the compensation of their spouses, and for other purposes; to the Committee on Ways and Means.

By Mr. WYDLER:

H.R. 14186. A bill to improve the congressional budget process by the establishment in the House of Representatives of a two-step budget procedure for the consideration of a first required concurrent resolution on the budget; to the Committee on Rules.

By Mr. BROWN of Ohio (for himself, Mr. ROUSSELOT, and Mr. WHITEHURST):

H.R. 14187. A bill to amend the Internal Revenue Code of 1954 to provide individuals a credit against income tax for certain amounts of savings; to the Committee on Ways and Means.

By Mr. PICKLE (for himself, Mr. JENKINS, Mr. TUCKER, Mr. ROSE, and Mr. LEACH):

H.R. 14188. A bill to amend the Internal Revenue Code of 1954 to clarify the application of the investment tax credit to certain single purpose enclosures or structures for raising poultry or hogs or for use as greenhouses; to the Committee on Ways and Means.

By Mr. RANGEL (for himself and Mr. PANETTA):

H.R. 14189 A bill relating to the interim treatment of controversies involving whether certain individuals are employees for purposes of the employment taxes; to the Committee on Ways and Means.

By Mr. ERTEL (for himself, Mr. MURPHY of Pennsylvania, Mr. GAMMAGE, Mr. EVANS of Georgia, Mr. CAVANAUGH, Mr. DUNCAN of Oregon, Mr. RINALDO, Mr. CORCORAN of Illinois, Mr. RYAN, Mr. SKELTON, Mr. GLICKMAN, Mr. GOODLING, Mr. PEASE, Mr. QUAYLE, Mr. D'AMOURS, Mr. EDWARDS of Oklahoma, Mr. GUDGER, Mr. RUSSO, and Mr. GORE):

H. Res. 1384. Resolution to amend the Rules of the House of Representatives to provide that a motion to suspend the rules and pass a bill or resolution shall not be in order if it makes or authorizes appropriations which may be in excess of $100 million for any fiscal year; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII,

484. The SPEAKER presented a memorial of the Legislature of the State of California, relative to Santa Ana River flood control, to the Committee on Public Works and Transportation.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BEILENSON:

H.R. 14190. A bill for the relief of Solomon Mani; to the Committee on the Judiciary.

By Mr. McCLORY:

H.R. 14191. A bill for relief of Junior Edmund Moncrieffe; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

545. By the SPEAKER: Petition of the City Council, New York, N.Y., relative to direct funding by the Department of Defense for the publication "Stars and Stripes"; to the Committee on Armed Services.

546. Also, petition of the Military Order of the Purple Heart, Arlington, Va., relative to characterization of military discharges; to the Committee on Armed Services.

547. Also, petition of the Military Order of the Purple Heart, Arlington, Va., relative to representation of veterans' organizations on local prime sponsors planning councils and State manpower services councils under the Comprehensive Employment and Training Act; to the Committee on Education and Labor.

548. Also, petition of the Military Order of the Purple Heart, Arlington, Va., relative to the Veterans Preference Act; to the Committee on Post Office and Civil Service.

549. Also, petition of the Military Order of the Purple Heart, Arlington, Va., relative to indexing of veterans benefits to consumer prices; to the Committee on Veterans' Affairs.

550. Also, petition of the Military Order of the Purple Heart, Arlington, Va., relative to defense posture; jointly, to the Committees on Armed Services, International Relations, and Merchant Marine and Fisheries.

551. Also, petition of the Military Order of the Purple Heart, Arlington, Va., relative to Cuba; jointly, to the Committees on International Relations, and Ways and Means.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 10909

By Mr. SATTERFIELD:

—Page 11, line 5, strike out "not more than five".

H.R. 11488

By Mr. ROGERS:

—Page 67, line 18, insert after "Act" the following: "(other than in section 115(i))".

Page 71, strike out the close quotation marks and the period following in line 18 and insert after that line the following:

"(13) The elimination of inappropriate placement in institutions of persons with mental health problems and the improvement of the quality of care provided those with mental health problems for whom institutional care is appropriate.

"(14) Assurance of access to community mental health centers and other mental health care providers for needed mental health services to emphasize the provision of outpatient as a preferable alternative to inpatient mental health services.".

Page 83, beginning in line 17, strike out "subclauses (III) and (IV)" and insert in lieu thereof "subclauses (IV) and (V)".

Page 84, line 2, strike out the close quotation marks and the period following and insert after that line the following:

"(III) include (through consumer and provider members) individuals who are knowledgeable about mental health services (including services for substance abuse),".

Page 84, line 3, strike out "(III)" and insert in lieu thereof "(IV)".

Page 84, line 8, strike out "(IV)" and insert in lieu thereof "(V)".

Page 84, line 10, strike out "(IV)" and insert in lieu thereof "(V)".

Page 84, line 18, strike out "(V)" and insert in lieu thereof "(VI)".

Page 85, line 1, strike out "(IV)" and insert in lieu thereof "(V)".

Page 94, line 5, insert "(1)" after "amended", and insert before the period in line 8 the following: ", and (2) by inserting after the first sentence the following: "The HSP of the agency shall include goals for the delivery of mental health services in its health service area which goals shall be developed under a procedure under which persons (acting as an advisory group or subcommittee appointed by the agency or, if the agency requests and is authorized by order of the Secretary to use an existing group, acting as part of such a group) knowledgeable about such services (including services for substance abuse) will be consulted with respect to such goals.".".

Page 94, line 11, strike out "and (B)" and all that follows through line 13 and insert in lieu thereof the following: "and (B) determine the statewide health needs of the State after providing reasonable opportunity for the submission of written recommendations respecting such needs by the State health authority, the State mental health authority, and other agencies of the State government, designated by the Governor for the purpose of making such recommendations, and after consulting with the Statewide Health Coordinating Council".".

Page 94, line 14, insert "(1)" after "amended" and insert before the period in line 16 the following: ", and (2) by inserting after the first sentence the following: "In carrying out its functions under this paragraph, the State Agency shall refer the HSP's to the State health authority, the State mental health authority, and other agencies of the State government (designated by the Governor to make the review prescribed by this sentence) to review the goals and related resource requirements of the HSP's and to make written recommendations to the State Agency respecting such goals and requirements.".".

Page 94, insert after line 16 the following:

(C) Subsection (a) of section 1523 is amended by adding after and below the last paragraph the following: "If in determining the statewide health needs under paragraph (1)(B) or in preparing or revising a preliminary State health plan under paragraph (2) the State Agency does not take an action proposed in a recommendation submitted under the applicable paragraph, the State Agency shall when publishing such needs or health plan make available to the public a written statement of its reasons for not taking such action.".

Page 97, line 24, strike out the close quotation marks and the period following and insert after that line the following:

"(D) In carrying out its functions with respect to the goals and resource requirements for mental health services of the State health plan, the SHCC may establish a procedure under which persons (acting as or as part of an advisory group or subcommittee appointed by the SHCC) knowledgeable about mental health services (including services for substance abuse) will have the opportunity to make recommendations to the SHCC respecting such services.

"(E) The State health authority, the State mental health authority, and other agencies of the State government, designated by the Governor, shall carry out those parts of the State health plan which relate to the government of the State.".

(i)(1) Section 303(a) of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 is amended by adding after and below paragraph (16) the following: "Such plan shall be consistent with the State health plan in effect for such State under section 1524(c) of the Public Health Service Act.".

(2) Section 409(e) of the Drug Abuse Office and Treatment Act of 1972 is amended by adding after and below paragraph (13) the following: "Such plan shall be consistent with the State health plan in effect for such State under section 1524(c) of the Public Health Service Act.".

Page 112, strike out lines 6 through 8 and insert in lieu thereof the following:

(3) The first sentence of section 1513(e)(1)(B) is amended by striking out "under title IV, VII, or VIII of this Act" and all that follows in such sentence and inserting in lieu thereof the following: "for research or training unless the grants or contracts are to be made, entered into, or used for the development, expansion, or support of health resources which, in the case of grants or contracts for training, would make a significant change in the health services available in the health service area or which, in the case of grants or contracts for research, would change the delivery of health services, or the distribution or extent of health resources, available to persons in the health service area other than those who are participants in such research."

Page 121, line 11, strike out "107" and insert in lieu thereof "106".

Page 122, line 8, strike out "and"; line 13, strike out the period and insert in lieu thereof ", and", and after line 13 insert the following:

(3) by adding at the end the following: "The authority of the Secretary to enter into contracts under subsection (a) shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.".

Page 123, line 20, strike out "such" and insert in lieu thereof "health systems".

Page 127, line 4, insert "private" after "nonprofit".

H.R. 13471

By Mr. UDALL:

—Page 85, line 15: Immediately following "Sec. 112.", add "(a)".

Page 86, following line 3: Add the following new subsection (b):

(b) Section 4(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)) is amended by striking the word "or" at the end of subsection (12), striking the period at the end of subsection (13), and inserting "; or" at the end of subsection (13), and insert the following new subsection (14):

(14) shares of a savings and loan association if not less than 20 per centum of such shares was owned by such bank holding company on June 30, 1968 and if such association was a subsidiary of such bank holding company on June 30, 1969.

H.R. 14042

By Mr. SNYDER:

On page 39 add the following new section:

COMMISSARY BAGGERS

SEC. 818. Notwithstanding any other provision of law, an individual who performs bagger or carryout service for patrons of a commissary of a military department or the Panama Canal Company may not be considered to be an employee for purposes of the Fair Labor Standards Act of 1938 by virtue of such service if the sole compensation of such individual for such service is derived from tips.